

# Wayne County Public Library

## Wayne County Memory Project

### TERMS OF SERVICE

#### INTRODUCTION: CONSENT TO TERMS

Your use of the Wayne County Memory website (“Wayne County Memory website” or the “Service”) is subject to these Terms of Service. Please read the Terms of Service carefully before accessing or using the Wayne County Memory Project website. By accessing or using the Wayne County Memory Project website, you agree to be bound by these Terms of Service. If you do not agree to these Terms of Service, please exit the Wayne County Memory Project website.

We reserve the right, at our discretion, to modify, add or delete portions of these terms at any time by posting updated Terms of Service on the Wayne County Memory Project website. Please check these terms frequently for updates. Any modifications, additions or deletions to these terms shall be effective immediately upon posting of updated Terms of Service. Your continued use of the Wayne County Memory Project website following the posting of updated Terms of Service will mean that you agree to those changes.

#### 1. PARTIES AFFECTED BY THE TERMS OF SERVICE

- a. Wayne County Public Library – organizer, provider, and facilitator of the Wayne County Memory Project in Wayne County, North Carolina
- b. Pass It Down, LLC – creator of the digital storytelling platform for the Wayne County Memory Project website
- c. Users – any individual person, group of persons, social or civic organization, and/or business entity who accesses or uses the Wayne County Memory Project website

#### 2. USER ACCOUNTS

All persons who wish to use the Wayne County Memory Project website must create an account and maintain a valid email address. Once users create an account, they become bound by these Terms of Service. If you create an account on the Wayne County Memory Project website, you are responsible for maintaining the security of your account. You are responsible for all activities that occur under the account and any other actions taken in connection with the account. You must take reasonable steps to guard the security of your account. We will not be liable for any acts or omissions resulting from a breach of security, including any damages of any kind incurred as a result of such acts or omissions.

#### 3. LICENSE TO REPRODUCE CONTENT

By uploading photographs, video, oral history, text, and/or any story that gets posted in any format (“Content”) on the Wayne County Memory Project website, you grant the Wayne County Public Library (“WCPL”) and Pass It Down, LLC (“PID”) a world-wide, royalty-free, and non-exclusive license to use, transmit, reproduce, modify, adapt and/or publish the Content, for the purpose of displaying, distributing, promoting and/or utilizing the contents of your account in any way we see fit.

#### 4. ACCOUNT CONTENT

You agree to the following provisions for posting Content to the Website:

- a. WCPL claims no ownership or control over any Content that you post to the Wayne County Memory Project website. You retain any intellectual property rights to the Content you post, in accordance with applicable law. By posting Content, you represent that you have the rights to reproduce that Content without violation of the rights of any third party. You agree that you will bear any liability resulting from the posting of any Content that you do not have the rights to post.
- b. All Content posted to the Wayne County Memory Project website in any way is the responsibility of the owner. If Content is deemed illegal by any law having jurisdiction over you, you agree that WCPL may submit any necessary information to the proper authorities.
- c. You acknowledge that WCPL has the right, in our sole discretion, to remove any Content from the Wayne County Memory Project website that we deem inappropriate. You also agree that we may, without limitation, take any steps necessary to remove such Content from the website.

#### 5. MEMBER CONDUCT

You agree that you will not use the Wayne County Memory Project website to:

- a. Upload, post, or otherwise transmit any Content that is harmful, threatening, abusive, hateful, invasive to the privacy and publicity rights of any person, or that violates any applicable local, state, national, or international law, including any regulation having the force of law;
- b. Upload, post, or otherwise transmit any Content that is spam, or contains unethical or unwanted commercial content designed to drive traffic to third party sites or boost the search engine rankings of third party sites, or to further unlawful acts (such as phishing) or mislead recipients as to the source of the material (such as spoofing);
- c. Maliciously impersonate any real person or entity, including but not limited to WCPL and PID staff members or volunteers, post, upload or transmit any messages or materials anonymously or under a false name or a false email address, or to otherwise misrepresent your affiliation with any person or entity;
- d. Solicit passwords or personal identifying information for unintended, commercial or unlawful purposes from other users;
- e. Provide any material that is illegal under United States law;
- f. Upload, post or otherwise transmit any Content that contains viruses, worms, malware, Trojan horses or other harmful or destructive content;
- g. Allow usage by others in such a way as to violate these Terms of Service;
- h. Make excessive or otherwise harmful automated use of the Service;
- i. Access any other person's account, or exceed the scope of the Service that you have signed up for; for example, accessing and using features you don't have a right to use.

## 6. PROHIBITED USES OF THE SERVICE

a. Although we do not seek to limit expression of ideas, WCPL may delete any Content that we deem to be inappropriate. In the case of repeated offenses, WCPL retains the right to terminate your posting privileges.

You may only post, upload or transmit Content for which you have the copyright or other permission to distribute electronically. For example, if you post an article from a newspaper or magazine, song lyrics or graphics, you need to either own the copyright in the posted material or otherwise have permission to post the material. You may not violate, plagiarize, or infringe on the rights of third parties, including copyright, trademark, trade secret, privacy, personal, publicity, moral or proprietary rights. You promise and represent that any posted, uploaded or transmitted Content will be owned by or licensed to you or in the public domain.

You may not remove, obscure or alter any proprietary rights notices (such as copyright or trademark notices) which may be affixed to or contained within the Service.

The website can only be used for personal, non-commercial purposes. You cannot distribute or otherwise publish any material containing any solicitation of funds, advertising or solicitation for goods and services.

WCPL and PID are not responsible or liable for any materials posted, uploaded or transmitted on or through the Wayne County Memory Project website by you or others. WCPL and PID cannot verify the accuracy of statements that users place on the Wayne County Memory Project website, and does not guarantee that any Content posted, uploaded or transmitted has been done with the permission of the copyright or proprietary owner or is otherwise in compliance with the rules of these Terms of Service.

By using the Service, you agree to abide by these rules. You acknowledge that WCPL has the right (but not the obligation) to pre-screen, review, filter, modify, refuse, delete, edit or remove Content that it deems, in its sole discretion, to be in violation of these Terms of Service, or which it otherwise, in its sole discretion, considers to be inappropriate. You further acknowledge that WCPL has the right (but not the obligation) to limit or terminate access to the Service for any reason, including violation of these Terms of Service.

## 7. COPYRIGHT INFRINGEMENT

If you believe that material located on the Wayne County Memory Project website violates your copyright, you may notify us in accordance with

Our Digital Millennium Copyright Act ('DMCA') Policy. We will respond to all such notices as required by law, including by removing the infringing material or disabling access to the infringing material. As set forth by law, we will, in our sole discretion, terminate or deny access to the Wayne County Memory Project website to users of the site who have repeatedly infringed upon the copyrights or intellectual property rights of others.

## 8. TERMINATION

WCPL may terminate your access to all or any part of the Wayne County Memory Project website at any time, at our sole discretion, if we believe that you have violated these Terms of Service. You agree that any termination of your access to the Service may involve removing or discarding any content you have provided. We may, at our sole discretion, discontinue providing the Service at any time, with or without notice.

If you wish to terminate access to the Wayne County Memory Project, you may delete your account and cease using the website. You agree that, upon deletion of your account, we may, but are not required to, remove any content you have provided, at any time past the deletion of your account.

All provisions of these Terms of Service which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

#### 9. LINKS TO THE SERVICE WEBSITE

WCPL encourages and permits links to Content on the Wayne County Memory Project website. However, WCPL is committed to the highest programming standards and to independent, noncommercial storytelling by everyday people, both in content and appearance. Therefore, the linking should not (a) suggest that the Wayne County Memory Project website promotes or endorses any third party's causes, ideas, website, products or services, or (b) use the Wayne County Memory Project website Content for any commercial purposes. We reserve the right to withdraw permission for any link.

#### 10. REPRESENTATIONS; INDEMNITY

You represent and warrant that (a) any material you post, upload or transmit on or through the Wayne County Memory Project website does not and will not violate any rules of the Service or these Terms of Service, and (b) your use of the Wayne County Memory Project website complies with these Terms of Service. You shall defend, indemnify and hold harmless the WCPL and PID against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any Content that you upload onto the Wayne County Memory Project website. Additionally, you shall defend, indemnify and hold harmless WCPL and PID from and against any and all Third Party claims and liabilities (including, without limitation, reasonable attorneys' fees and costs), regardless of the form of action, arising out of or in connection with a claim that the Service, when used within the scope of these Terms of Service, infringes, violates or misappropriates a valid third party patent, copyright or other proprietary right, provided that you are notified promptly in writing of the action and you are given the option, at your expense, to control the action and all requested reasonable assistance to defend the same.

#### 11. DISPUTE RESOLUTION

Claims, disputes, or other matters in question between you and WCPL and/or PID arising out of or relating to this Agreement, or breach thereof, shall be subject to mediation in Wayne County, North Carolina, in accordance with the following provisions:

- a. The mediation shall be conducted by a mediator mutually acceptable to both parties.
- b. The parties agree to share equally in the expense of the mediation.
- c. Such mediation may include you or any other person or entity who may be affected by the subject matter of the dispute.
- d. Unless the parties agree otherwise, mediation shall be a condition precedent to the exercise of any legal remedy other than a proceeding seeking an immediate injunction or restraining order to protect the rights of a party pending litigation. Notwithstanding the issuance of an injunction or restraining order, or the refusal of a court to issue such an order, the dispute shall continue to be subject to mediation.

## 12. GOVERNING LAW

These Terms of Service shall be governed by the laws of the State of North Carolina and the Codes of Wayne County (“County”). To the extent permissible by law, any disputes under these Terms of Service or relating to the website shall be litigated in the local or federal courts located, and you hereby consent to personal jurisdiction and venue, in Wayne County, North Carolina.

## 13. DISCLAIMER

The Wayne County Memory Project website and any Content on or through the Wayne County Memory Project website are available on an “as is” and “as available” basis, without any warranties of any kind, either express or implied, including warranties of title or implied warranties of merchantability or fitness for a particular purpose. While WCPL and PID do not warrant that the Service will be uninterrupted, timely, secure or error-free, we value the security of your data and take steps to protect your data to the extent possible using industry-standard technology and services. Nor does WCPL make any warranties as to the results that may be obtained from use of the Wayne County Memory Project website or as to the accuracy, reliability or content of any information, service, products, opinions, or statements available on or through the Service or through links on the Service. Use of the Wayne County Memory Project website is entirely at your own risk.

## 14. LIMITATION OF LIABILITY

In no event will WCPL or PID, their directors, officers, employees or members be liable for any indirect, consequential, special, incidental or punitive damages, arising out of the use or inability to use the Wayne County Memory Project website. In no event will WCPL, its directors, officers, employees or members be liable for any amount in excess of \$100. Some jurisdictions do not allow the exclusion or limitation of liability for certain losses or damages. Therefore, only those limitations which are lawful in your jurisdiction will apply to you and our liability will be limited to the maximum extent permitted by law.

## 15. WAIVER

A waiver by either WCPL or PID or you of any breach of these Terms of Service shall be in writing. A modification or waiver of a part of these Terms of Service shall not constitute a waiver or modification of any other portion of the Terms of Service.

## 16. SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of these Terms of Service or the occurrence of any event rendering any portion or provision of these Terms of Service void shall in no way affect the validity or enforceability of any other portion or provision of these Terms of Service. Any void provision shall be deemed severed from these Terms of Service, and the balance of these Terms of Service shall be construed and enforced as if these Terms of Service did not contain the particular portion or provision held to be void. The parties further agree to amend these Terms of Service to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent these entire Terms of Service from being void should a provision which is of the essence of these Terms of Service be determined void.

## 17. INTEGRATION

These Terms of Service represent the entire understanding of the parties regarding the use of the Wayne County Memory Project website and supersede any previous documents, correspondence, conversations, or other oral or written understanding related to these Terms of Service.

## 18. FOREIGN ACCESS OF SITE

This Site is controlled, operated and administered by WCPL and Pass It Down from within the United States. If you access the Site from a location outside the USA, you are responsible for compliance with all local laws. You agree that you will not use WCPL's content accessed through the Site in any country or in any manner prohibited by any applicable laws, restrictions or regulations.

For copyright inquiries under the Digital Millennium Copyright Act please contact:

Wayne County Public Library  
1001 E. Ash Street  
Goldsboro, NC 27530

For web posting, reprint, transcript or licensing requests for PID material, please contact [sayhi@passitdown.com](mailto:sayhi@passitdown.com).

For any questions or requests other than copyright issues or licensing requests, please contact [sayhi@passitdown.com](mailto:sayhi@passitdown.com)

*These Terms of Service were last updated on January 21, 2021.*

*Adopted by the Wayne County Board of Commissioners the 16<sup>th</sup> day of March 2021.*