

**WASHINGTON COUNTY ON-LINE SOFTWARE  
ACCESS AGREEMENT**

This Agreement is entered into by and between the County of Washington, through its Recorder/Registrar's Office, 14949 62<sup>nd</sup> Street North, Stillwater, Minnesota 55082, a body corporate and politic existing under the laws of the State of Minnesota, hereinafter referred to as "County," and (insert full legal name and mailing address)

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hereinafter referred to as the "User."

**W I T N E S S E T H:**

WHEREAS, the County Recorder has created data bases and electronic data compilations relating to certain real property records maintained by the County as a political subdivision of the State of Minnesota; and

WHEREAS, the County may charge a reasonable fee for providing enhanced access to data otherwise accessible; and

WHEREAS, "remote access" to the above mentioned data base, electronic data compilations, and fax on demand images copies are not available to the public at the present time because of the County's technological limitations and the related prohibitive technological development costs; and

WHEREAS, the User wishes to have “remote access” to the above-mentioned data bases and electronic data compilations made available to the User pursuant to the terms and conditions set forth in this Agreement below.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties set forth herein, it is hereby agreed that:

## **I. COUNTY DATA BASE ACCESS**

### **A. License**

The County grants the User a nonexclusive, nontransferable, limited license to access certain real property databases and electronic data compilations through enhanced remote access during the term of this Agreement.

### **B Limitation of License**

The enhanced remote access provided by the license herein is not made available to the general public because of the County’s technological limitations and the related prohibitive technological development costs. There is no public entitlement to this enhanced remote access. Neither the databases, electronic data compilations, nor any portion of either thereof, accessed through means of the enhanced remote access, may be used outside the scope of the Fair Use Provision of the United States Copyright Act, 17 U.S.C. § 107 and the Minnesota Data Practices Act, Minn. Stat. Ch. 13 unless authorized by the County’s prior written permission. The County acknowledges that the User’s “regular course of business” includes using the information provided by the County in the preparation of title searches, title work, title abstracts, and title insurance; all of which will be prepared and/or furnished for resale to the User’s customers. The User acknowledges that the County’s databases and electronic data compilations have commercial value.

C. Rights and Data

Except for the license granted herein, all rights, title, and interest to all processes, formats, languages and media throughout the world, which record, demonstrate, and, or facilitate, the creation and utility of the County's data bases and electronic data compilations, including all copyrights available thereto, are and shall continue to be the exclusive property of the County.

D. County Charges

Charges payable by the User for the enhanced remote access to the County's data bases and electronic data compilations described in this Agreement are set forth in Schedule A. The County's charges for this non-entitlement service may be modified upon thirty (30) days' notice to the User in writing or on-line.

E. Disclaimer of Warranties and Limitation of Liability

**The County's goods and services provided pursuant to this Agreement are provided "as is," without warranty of any kind, express or implied, including, but not limited to, the warranties of performance, merchantability and fitness for a particular purpose.** The User's exclusive remedy and the County's entire liability hereunder, if any, for any claim(s) for damages relating to the County's data bases and, or electronic data compilations, which are made against them, individually, or jointly, whether based in contract or negligence, shall be limited to the amount of the remote access charges paid by the User relative to the period of occurrence of the events which are the basis of the claim(s); provided, however, that the County shall have no liability whatsoever to the User for any claim(s) relating in any way to (1) the User's inability or failure to perform legal, professional, or other research or related work or to perform such work properly or completely, even if assisted by the County; or (2) any lost profits or other consequential, exemplary, incidental, indirect or special damages relating in whole or in part to

the User's rights hereunder or use of, or inability to use, the County's data bases and, or electronic data compilations, even if the County has been advised of the possibility of such damages. Further, the County shall have no liability whatsoever to the User for any claim(s) relating in any way to any data base and, or electronic data compilation.

F. Confidentiality

The User agrees not to disclose any information relating to the User's access code, password, or any other information relating to the County's computer security system. Any violation of this section by the User shall constitute a material breach of this Agreement.

G. Access

The County shall maintain the right to deny, postpone, or cancel the enhanced remote access at any time and without prior notice. Such termination of access will not constitute a material breach of this Agreement if the customer's enhanced remote access is reinstated within a reasonable period of time.

## **II. SOFTWARE AND EQUIPMENT FOR INTERNET ACCESS**

### User's Equipment

The User's enhanced remote access to the County's databases and electronic data compilations shall be facilitated via the Internet. However, the County's data bases and electronic data compilations are not in the public domain of the Internet. The User is responsible for providing and maintaining all hardware, software, modem, telephone access, and all other equipment required to access the County's data bases and data compilations through the enhanced remote access.

### **III. GENERAL PROVISIONS**

#### **A. Billing and Payment**

The User shall maintain an escrow account for payment of all charges. Upon the commencement of each billing cycle, the User's escrow account shall be reduced by the amount of all copy charges and the charge for the current billing cycle. If such payment is unavailable in the User's escrow account, the User's "remote access" to the County Recorder's database may be discontinued.

#### **B. Taxes**

Charges are exclusive of sales, use and other taxes, which are the responsibility of the User.

#### **C. Responsibility of User**

The User shall be responsible for all remote access to and use of the County's data bases and data compilations by the User's personnel or by means of the User's equipment or passwords, whether or not the User has knowledge of or authorized such remote access and use.

#### **D. Limitation of Claims**

Except for claims relating to charges of improper use of the County's data bases and, or data compilations, no claim, regardless of form, which in any way arises out of this Agreement or the use of, or inability to use the County's data bases and, or electronic data compilations, may be made nor action based upon such claim brought, to any party hereto more than one year after the basis for the claim becomes known to the party desiring to assert it.

#### **D. Termination**

This Agreement shall continue in force until terminated by prior written notice of termination to the other party. Notwithstanding the foregoing, this Agreement may be terminated at any time by the County, with or without cause. The User may terminate this Agreement, with

or without cause, upon thirty (30) days' written notice to the County.

F. Integrated Agreement

This Agreement contains all of the terms and conditions agreed to by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

G. Representations

No representations not set forth herein have induced the making of this contract. The undersigned have read and understand the entire contract and now state, and in consideration of this Agreement agree, that no representation, promise, or agreement not expressed in this Agreement has been made to induce the undersigned to enter into it.

H. Amendments

All materials alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly executed by authorized representatives of the parties. Any alterations, modifications, or variations deemed not to be material by agreement of the parties shall not require written approval.

I. Force Majeure

The County's performance hereunder is subject to interruption and delay due to causes beyond its reasonable control such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, inability to obtain necessary supplies, and the like.

J. Governing Law and Venue

This Agreement shall be governed by and construed under the laws of the state of Minnesota and any legal actions taken pursuant to the terms and conditions of this Agreement shall be venued in state district court located in Stillwater, Minnesota.

K. Assignment

Neither this Agreement nor any part or portion hereof shall be assigned, sublicensed, or otherwise transferred by the User without the County’s prior written consent.

L. Savings Clause

Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby.

M. Nonwaiver

Failure of any party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

N. Incorporation

Attachment A is incorporated verbatim as a part of this Agreement.

O. Notices

All notices hereunder shall be delivered in person or by United States mail to the following:

**USER** (insert name, title and mailing address)

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WASHINGTON COUNTY**

Kevin J. Corbid  
Recorder/Registrar  
14949 62<sup>nd</sup> Street North  
Stillwater, MN 55082

IN WITNESS WHEREOF, the authorized representatives of the parties hereto have executed this Agreement effective this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**USER**

**WASHINGTON COUNTY**

BY: \_\_\_\_\_  
Name

BY: \_\_\_\_\_  
Kevin J. Corbid, Recorder/Registrar

Title: \_\_\_\_\_

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
Name

Title: \_\_\_\_\_

## WASHINGTON COUNTY ON-LINE SOFTWARE ACCESS AGREEMENT

### SCHEDULE A

1. The County, at its sole option, may terminate or interrupt the enhanced remote access to its data bases and electronic data compilations at any time, without prior notice, and for any reason.
2. The User is allowed remote access to certain County databases and electronic data compilations. Remote access will be unavailable from approximately 4:00 a.m.-6:00 a.m. CST Monday and 5:00 a.m.-6:00 a.m. CST Tuesday through Thursday. Document copy requests will be unavailable from approximately 7:45 p.m.-9:00 p.m. CST Monday through Thursday and 5:45 p.m.-10:00 p.m. CST Friday.
3. The User hereby agrees to pay the County an initial setup and license fee of \$50 for each registered user and \$50 per month thereafter whether or not the User accesses the database.
4. Initial setup payment may be made by check or through the escrow system. Monthly access payments shall be made in advance by escrow payment system.
5. The User Company is responsible for payment of all copy requests made by the registered users of the company. Payment for copies shall be made through the escrow system. The User hereby agrees to pay the County \$2.00/document and \$5.00/certificate of title.