

Grundy County On-line Access Agreement

This agreement, made and entered into this _____ day of _____, 20_____, by and between the Grundy County Recorder (hereinafter referred to as "Recorder"), and

(hereinafter referred to as "Purchaser").

WITNESSETH:

Whereas, Recorder, whose office address and location is 111 E. Washington St., Room 11, Morris, IL 60450, maintains a Recorder's Office for the County of Grundy ("County") as required by Illinois State Statutes; and

Whereas, Recorder agrees to provide to Purchaser on-line access to images of indexes and documents pertaining to real property that have been recorded in and are maintained by the Recorder's Office and to Recorder's real estate search index pursuant to the terms and conditions stated in this agreement, through an interface website (hereinafter "Recorder's hosted website").

Whereas, Purchaser shall access the images available hereunder via Recorder's hosted website through the use of a User Name and Password. The Recorder will provide maintenance and reasonable support for the interface website. No other services are provided under this agreement.

Whereas, Purchaser is responsible for establishing, providing, and maintaining its own connection to the Recorder's hosted website. For optimum search and display results, it is recommended that Purchaser provide internet connection of at least 256kbps upload and 512kbps download speeds.

Whereas, the images of the index and documents accessible hereunder may not be true, complete, and accurate. They are a working copy of the original index and documents maintained in the Recorder's Office and that working copy is subject to error and omission and to future and constant change, modification, correction and updating. Purchaser will indemnify and hold harmless hereunder the Recorder for any third party claims that Purchaser has violated this agreement.

Whereas, the Recorder has the authority to enter into on-line access contracts and provide access to the foregoing records pertaining to real property recorded in the Recorder's Office and the Recorder accepts responsibility for the daily management of this agreement; and

Whereas, the Recorder maintains certain records, including but not limited to mortgages, real estate deeds, Uniform Commercial Code statements, and other records on paper copies, in microfilm libraries, and in some cases in digital format in computer databases which are generally available to the public with the exception of information contained therein the release of which would be an unwarranted invasion of personal privacy; and

Whereas, Purchaser is desirous of obtaining on-line access to records pertaining to real property at a price sufficient to permit the Recorder to recover its costs of labor and materials as well as depreciation of equipment; and

Now, therefore, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the Recorder and the Purchaser agree as follows:

1. PURCHASER RESPONSIBILITIES

Purchaser agrees:

- a. That the receipt of copies of redacted data is a privilege and not a right and that the use or misuse of the redacted documents for unlawful purposes may result in the revocation of access of Purchaser at any time.
- b. That receipt of authorized copies of data provides no right to ownership of the records at any time.
- c. To abide by the Recorder's reasonable regulations which may now be in force of effect or which may in the future become effective; and
- d. Purchaser will not sell, distribute, or otherwise provide copies of documents by any means to any entity whether a subsidiary, parent corporation, affiliated entity or any other person, organization, or entity. Except as needed to operate for each client and complete the requested information required to meet the needs of the specific customer request.
- e. Purchaser will not sell, give or receive for the purpose of selling or offering for sale any property or service to any person listed therein, any list of names and addresses contained in or derived from public records.
- f. Purchaser is solely responsible for its activities hereunder. Purchaser is also solely responsible for any unauthorized access or use, by means of Purchaser's password, username, or account; and shall hold harmless and indemnify the Recorder for any claims made based on such unauthorized use or access. Purchaser agrees that it will not act hereunder for any illegal purpose, in infringement of copyright, trademark, intellectual property or proprietary rights or laws, or in any manner for any purpose that interferes with or disrupts other users, services, or equipment.

2. UNENFORCEABLE PROVISIONS

If any provision of this agreement should be declared to be illegal, void or unenforceable by a court of competent jurisdiction, the other provisions shall not be affected, but shall remain in full force and effect.

3. INTERRUPTION OF SERVICE

Recorder shall use reasonable efforts to provide adequate and uninterrupted service under the terms hereof. However, the Recorder, the County, its officers, employees and agents, shall not be liable for interruption of service or delays in providing images when the same shall be due to circumstances

beyond the control of the Recorder, its agents, or employees, including but not limited to equipment malfunction and periodic maintenance of Recorder's Office document storage system. Periodic maintenance shall take place whenever deemed necessary at the sole discretion of the Recorder.

4. NOTICES

All notices shall be in writing and shall be directed to the parties hereto as shown below:

To the County: Grundy County Recorder
111 E. Washington Street
Room 11
Morris IL 60450

To the Purchaser: As per the address indicated on signature page

5. TERM AND TERMINATION

- a. **Term** The term of this agreement shall commence as of the first day of the month following the day of its execution by both parties and extend through and including one calendar year from that date, unless terminated for breach, default, or convenience, as set out herein. If Purchaser desires to terminate, they must provide Recorder written notice 30 days in advance of the termination date. No refunds shall be made if termination is by purchaser. Recorder may terminate at any time, as provided herein. If the Recorder terminates the agreement, a pro-rated refund shall be given Purchaser representing that unused portion of the fees paid based upon the number of months remaining in the agreement of the effective date of termination. Termination shall not relieve party of its obligations incurred prior to the effective date of the cancellation. Thirty (30) days written notice to the non-terminating party is required. This contract shall renew at the yearly execution month unless terminated by either party prior to renewal, for successive one year periods.
- b. **Termination for Cause** If Purchaser shall fail to fulfill in a timely and proper manner its obligations under the agreement, or if Purchaser shall violate any of the terms, covenants, conditions, or stipulations of the agreement, Recorder shall thereupon have the right to terminate the agreement by promptly giving written notice to Purchaser of such termination and specifying the reasons for the termination and the effective date thereof. A breach shall include, but not be limited to, failure to comply with any or all items contained in the agreement and any appendices, exhibits, or amendments thereto, if any. Notwithstanding the above, Purchaser shall not be relieved of liability to Recorder by virtue of any breach of the agreement by Purchaser.

- c. **Termination for Convenience** Recorder may terminate the agreement for convenience in whole or in part, upon thirty (30) days written notice to Purchaser, stating the effective date of the termination for convenience.
- d. **Payment Calculation Upon Termination** In the event of termination under the agreement by either party, any amount owed the other party will be calculated based solely upon payment for fair value of acceptable services provided by the other party under the payment terms of the agreement, to the point of termination, which fair value is not the subject of a good faith dispute.

6. OPEN RECORDS RESTRICTIONS – APPLICATION TO PURCHASER

Purchaser agrees that if use or access to any of the records or documents furnished under this agreement is limited under Illinois law, Purchaser's signature to this agreement is intended by Purchaser to be its certification that:

- a. Purchaser has a right of access to those records under existing law; and
- b. Purchaser does not intend to, and will not: (i) use any list of names or addresses contained in or derived from those records, documents, or information for the purpose of selling or offering for sale any property to any person listed or to any person who resides at any address listed; or (ii) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records, documents, or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

7. OPEN RECORDS RESTRICTIONS – APPLICATION TO PURCHASER'S EMPLOYEES AND AGENTS

Purchaser's obligations described in paragraph 6 herein apply to all of Purchaser's employees and agents with access to the records, documents, or information provided pursuant to this agreement.

8. VIOLATIONS OF OPEN RECORD RESTRICTIONS – BREACH OF AGREEMENT

Failure of Purchaser or its employees and agents to comply with provisions 6 or 7 shall constitute a breach of this agreement allowing the Recorder to terminate the agreement for cause.

9. METHOD OF PROVIDING RECORDS

Recorder agrees to furnish on-line access to Recorder's documents recorded in the Recorder's Office to the Purchaser. Recorder information will be available via an internet web browser interface from the Recorder's server as the documents are made available through the web interface. The ability to provide access to the Recorder's server is dependent upon the Recorder's relationship with third party vendors who provide physical data lines and access to the internet. If the Recorder's connection to the internet is down, or other technical problems prevent Purchaser from receiving the desired images through the internet, the Purchaser may contact the Recorder to arrange an alternative method. Recorder's obligation to provide access hereunder is subject at all times to the obligation of Recorder to fulfill their office's statutory duties, and Purchaser's rights under this agreement are subservient and subject to all statutory duties of the Recorder.

10. TRAINING OF PURCHASER'S EMPLOYEES

Purchaser agrees to provide training to its employees on the accessing of Recorder's information via the internet. Recorder will not provide such training to the Purchaser's employees.

11. PAYMENT BY PURCHASER

Purchaser agrees to pay the Recorder \$200.00 per month or a yearly fee of \$2,280.00, which includes a 5% discount for a one time yearly payment. Such fees are to be paid upon execution of this agreement. The above fees shall entitle the Purchaser to copy a maximum of 500 images/documents per month. Additionally, Purchaser agrees to pay Recorder the sum of \$1.00 for each page for all copies made in excess of the 500 images/documents. Additional pages will be billed monthly.

12. DELAY IN PROVISION OF RECORDS

Purchaser acknowledges that the receipt of information in the fashion contemplated by this agreement is subject to sudden and unforeseen technical difficulties beyond the control of the Recorder, and that there may at times be inconvenience and delays to Purchaser.

- a. In no event shall Recorder become liable to Purchaser, users of the data provided hereunder, or any other person or entity, for any loss or damage, consequential or otherwise, including but not limited to time, money, or goodwill, arising from the use, operation or modification of the data provided hereunder, or for Recorder's failure to transmit a copy of a particular document.

- b. The images provided are copies, are subject to error and omission, and are not guaranteed or represented to be true, complete or correct.

13. ASSIGNMENT PROHIBITED WITHOUT PRIOR CONSENT

Purchaser shall not assign or transfer any interest or obligation in this agreement without written consent of the Recorder. Purchaser is hereby granted a non-exclusive, non-transferable license to access certain records of the Recorder, in accordance with the terms of this agreement.

- a. This agreement shall not be construed to authorize Purchaser to make duplicates or copies of any material received pursuant to this agreement and any such copies or duplicates made by Purchaser shall be at Purchaser's sole risk and expense.
- b. Purchaser agrees that the information obtained under this agreement shall be used solely by the Purchaser for normal business purposes. Purchaser also agrees to limit the use of information provided it to only those activities for which public records are lawfully available for inspection and use.

14. STATUTORY CONFORMITY AND BUDGET LAWS

The right of the Recorder to enter the agreement is subject to the provisions of statutes of the State of Illinois. The agreement shall be construed and interpreted so as to ensure that the Recorder shall at all times stay in conformity with such laws, and as a condition of the agreement the Recorder reserves the right to unilaterally terminate the agreement at any time if, in the opinion of its legal counsel, the agreement may be deemed to violate the terms of such law.

15. AGREEMENT WITH ILLINOIS LAW

It is agreed by and between the parties that all disputes and matters whatsoever arising under, in connection with or incident to this agreement shall be litigated, if at all, in and before the Circuit Court of the 13th All contractual promises shall be subject to, governed by, and construed according to the laws of the State of Illinois.

16. TERMINATION DUE TO LACK OF FUNDING APPROPRIATIONS

If sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of any expenses or charges hereunder beyond the current fiscal year, Recorder may terminate this agreement at the end of its current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the Recorder or the Purchaser.

17. COMPLIANCE WITH APPLICABLE LAWS – SERVICE STANDARDS – PROCEDURES

- a. Service Standards and Procedures: Purchaser shall perform the services set forth in the agreement in compliance with applicable standards and procedures specified in the agreement.
- b. Compliance With Law: Purchaser shall comply with all applicable local, state, and federal laws and regulations, in carrying out the agreement, regardless of whether those legal requirements are specifically referenced on the agreement.

18. DELIVERY DATE OF NOTICES, BILLS, INVOICES, AND REPORTS

Notices, bills, invoices, and reports required by this agreement shall be deemed delivered as of the date of the mailing.

19. ACCEPTANCE OF PAYMENT – NO WAIVER OF BREACH

In no event shall the acceptance of any payment required by this agreement constitute or be construed as a waiver by Recorder of any breach of the covenants of this agreement or a waiver of any default of Purchaser and the acceptance of any such payment by Recorder while any such default or breach shall exist shall in no way impair or prejudice the right of Recorder with respect to recovery of damages or other remedy as a result of such breach or default.

20. ACCEPTANCE OF CONTRACT

This agreement shall not be considered accepted, approved or otherwise until the required approvals and certifications have been given and this is signed by the Recorder.

21. ARBITRATION, DAMAGES, WARRANTIES

Notwithstanding any language to the contrary, no interpretation shall be allowed to find the Recorder has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the Recorder shall not be liable for attorney fees to Purchaser for any reason.

22. REPRESENTATIVE’S AUTHORITY TO SIGN

By signing this agreement, the representative of Purchaser thereby represent that such person is duly authorized by Purchaser to execute this document on behalf of the Purchaser and Purchaser agrees to be bound by the provisions thereof.

23. RESPONSIBILITY FOR TAXES

The Recorder shall not be responsible for, nor indemnify Purchaser for, any federal, state, or local taxes that may be imposed or levied upon the subject matter of this agreement.

24. NO INSURANCE PROVIDED BY RECORDER

The Recorder shall not be required to purchase any insurance against loss or damage to any personal property to which this agreement relates, nor shall this agreement require the Recorder to establish a “self-insurance” fund to protect against any such loss or damage. Purchaser shall bear the full risk of any loss or damage to any personal property to which purchaser holds title.

25. PUBLIC DOCUMENTS

It is agreed that the agreement, and all subsequent agreed amendments or addenda thereto are public documents which will be filed with the Grundy County Recorder, and will be open to public inspection.

26. MERGER, SALE, OR TRANSFER OF PURCHASER ASSETS

Purchaser shall notify Recorder in writing at least thirty (30) calendar days in advance of Purchaser’s merger with any other business entity, or of any sale or other transfer of Purchaser’s assets to any other business entity. In the event of any such pending merger, sale, or other transfer of Purchaser assets, this agreement is immediately terminable, solely at Recorder’s option.

27. SOCIAL SECURITY NUMBERS

Purchaser acknowledges that Federal law restricts access to and use of social security numbers and that social security numbers may only be used as permitted by Title IV-D of the Federal Social Security Act and amendments thereto or as permitted by section 7(a) of the Federal Privacy Act of 1974 and amendments thereto. Purchaser agrees to notify Recorder of any images found in Recorder’s on-line documents to contain a social security number.

28. IMPROPER ACCESS TO INFORMATION BY PURCHASER

If Purchaser obtains electronic access hereunder to information, images or data forbidden by any provision of the agreement, Purchaser shall immediately return to Recorder or destroy such image or information along with any copies in its possession, and immediately notify Recorder, in writing, of both the improper access and the destruction. If Recorder first learns of Purchaser's improper electronic access as described in the foregoing sentence, the Recorder or Recorder's staff shall immediately notify Purchaser, and Purchaser shall take immediate steps to comply with Recorder's instructions regarding return or destruction of the electronic information and all copies thereof in possession, custody or control of Purchaser.

29. AGREEMENT SUPERSEDES

The entire agreement of the parties is contained herein and this agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof.

30. SURVIVABILITY

The following numbered terms (including all subparagraphs thereof) of this agreement shall survive its termination: 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 21, 22, 23, 24, 25, 27, 28, 29, 30.

IN WITNESS WHEREOF, Recorder and Purchaser have executed

this agreement as of the day and date by which all parties hereto have
affixed their respective signatures.

RECORDER:

PURCHASER:

BY:

BY:

Kay T. Olson
Grundy County Clerk & Recorder
Grundy County, Illinois

Name / Title

Address

City / State / Zip