

# CLEARWATER COUNTY RECORDER ON-LINE ACCESS AGREEMENT

THIS AGREEMENT, by and between the County of Clearwater, Minnesota, a political subdivision, by and through the Clearwater County Recorder; hereinafter collectively referred to as "Recorder", and Clearwater, hereinafter referred to as "User".

WITNESSETH:

WHEREAS, County maintains information within the County Recorder's Office which is of assistance to various entities and individuals; and,

WHEREAS, User desires to access information pertaining to real property for its own use at a price sufficient to permit Recorder to recover its costs of labor and material as well as depreciation of in house resources; and,

WHEREAS, User understands that changes and adjustments are made in the official records from time to time which may be in process at any given time and the information received by User will be subject to changes and adjustments.

NOW THEREFORE, in consideration of the mutual undertakings and agreements contained herein, the Recorder and User hereby agree as follows:

## Scope of Services

### County Responsibilities

1. Recorder agrees to provide User access to certain public information contained within computer files of Clearwater County as indicated below:
  - a. Real Estate Grantor/Grantee Indexes – May 22, 1989, to date through the TriMin Land Records software program.
  - b. Real Estate Tract Index – May 22, 1989, to date through the TriMin Land Records software program.
  - c. Real Estate Document Images – May 22, 1989, to date through the TriMin Land Records software program.

The obligation to provide such access is subject at all times to the obligation of Recorder to fulfill his statutory duties. Recorder obligations and User rights under this agreement are secondary to the statutory duties of the Recorder.

Service will be provided to User, on a non-guaranteed basis seven days per week (Sunday through Saturday), twenty-four (24) hours per day, excluding scheduled maintenance as designated from time to time by the Recorder or by the County Information Systems at its sole discretion.

- 1 Recorder reserves the right to add additional databases and to offer them to User at the sole discretion of Recorder. A new writing that shall be incorporated into the Agreement and made a part hereof shall evidence user access to any additional information.
- 2 Recorder will furnish to User information concerning computer hardware and software that the Recorder reasonably believes to be compatible with the County's computer system.

User Responsibilities

1. Monthly statements will be billed, **with payments due by the 10<sup>th</sup> of the month following each billing cycle.** If payment is not timely received by Recorder, service will be terminated to User. Checks will be made payable to the Clearwater County Recorder, and sent to:

BRENDA L. KNABLE  
CLEARWATER COUNTY RECORDER  
213 MAIN AVENUE NORTH DEPT. 207  
BAGLEY, MN 56621-8304

2. User agrees that the User password is for the sole use by the User and agrees to keep User password confidential. User shall notify Recorder immediately of any loss, theft, or unauthorized use of User Password. A password may be changed and coordinated through the Recorder.
3. User shall not in any way enhance or alter public records accessed, or attempt to do so, or disclose any confidential information contained thereon.

Consideration of Terms and Payment

In consideration for Recorder providing User with direct access to TriMin Land Records as indicated within this agreement, User shall pay to Recorder fees as set by the Clearwater County Board.

Effective Date of Agreement

This agreement shall be effective upon the signature date of both parties.

Terms of Agreement

The term of this agreement shall commence as of the first day of January 2008 and shall be automatically extended thereafter.

If during the term of this agreement the Clearwater County Board of Commissioners fails to appropriate sufficient funds to carry out Recorder obligations under this agreement, this agreement shall be automatically terminated as of the date funds are no longer available and without further notice of any kind to User.

Limitation

The index is not construed to be true and complete; rather it is a working copy subject to error, omission and future modification.

Recorder does not warrant the correctness or validity of the computer records. Additionally, there are no warranties, guarantees or representations as to the suitability of the information for User purposes, or that use of the program or information will be without defect. (No consultations or advice is provided with records accessed.)

Recorder does not warrant or guarantee the performance of the main computer system, the telephone lines, or any equipment in connection or in association with either or both of the foregoing. Recorder shall have no obligation or liability whatsoever concerning any aspect of the telephone lines, including, without limitation, the installation, deinstallation, repair, operation, malfunctioning, maintenance, implication or circumstances regarding injury to personal property and/or signal/data transmission quality or deficiencies.

User agrees that it shall not reproduce, market or in any way re-use such program information as independent "stand-alone" information without the express written consent of the Recorder, and User shall not acquire any proprietary rights to such computer program information.

**Consequential, Incidental, Special or Indirect Damages**

In no event will Recorder be liable to User or anyone else for any consequential, incidental, special or indirect damages including, but not limited to, monetary losses incurred from inconvenience, delay or loss of the use of the service, or accuracy of the information.

It is agreed that nothing contained in this Agreement is intended or should be construed as creating the relationship of co-partner, joint ventures, or an association with the Recorder and User. Neither User, nor its employees, agents, subcontractors or representatives shall be considered employees, agents or representatives of Recorder.

**Inability to Access Data**

User agrees Recorder shall not be liable for any delay or inability to access the computer data directly or indirectly, caused by or resulting from strikes, labor troubles, accidents, fire, flood, breakdowns, war, riot, civil commotion, lack of material, delays of transportation, acts of God or other causes beyond reasonable control of User and Recorder.

**Data Practices**

Recorder provides data to User for the Public benefit as defined in Minn. Stat. 13.85. Recorder and User and their agents and employees agree to abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as amended, and Minnesota Rules promulgated pursuant to Chapter 13.

**Subcontractors or Assignments**

User shall not subcontract any computer data access rights of User made available under this Agreement, nor assign the Agreement without the prior written approval of Recorder. This agreement shall not be construed to either authorize or prevent the User from making duplicates or copies of any material received pursuant to this agreement and any such copies or duplicates so made by User shall be at User's risk and expense and **EXCLUSIVELY** for Users sole use. User may **NOT** wholesale or retail copies of any materials received, or provide them free of charge to any person, firm, company, association, corporation, business, partnership or any other individual or entity of any nature whatsoever.

**Termination**

This Agreement may be terminated by either party, with or without cause upon 30 days written notice, starting on the first of a month, and **only effective at the end of the current quarter**. Termination shall not relieve a party of its obligations incurred prior to the effective date of the termination.

**Controlling Law**

This agreement is to be governed by the laws of the State of Minnesota. Any legal action arising out of the terms of this Agreement shall be reviewed in Clearwater County.

**Successors and Assigns**

Recorder and User, respectively, bind themselves, their partners, successors, assigns, and legal representatives the other party to the Agreement and to the partners, successors, assigns, and legal representatives or such other party with respect to all covenants of this Agreement.

**Separability**

In the event any provision of the Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties unless such invalidity or non-enforceability would cause the Agreement to fail its purpose. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

**Entire Agreement**

It is understood and agreed that this entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between Recorder and User relating to the TriMin Land Records software program.

**Automatic Renewal**

This agreement shall be automatically renewed upon like terms for successive calendar year periods.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

DATE: \_\_\_\_\_

USER \_\_\_\_\_

By \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

E-Mail \_\_\_\_\_

DATE \_\_\_\_\_

CLEARWATER COUNTY RECORDER

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BRENDA L. KNABLE