

ELECTRONIC RECORDING AGREEMENT

THIS AGREEMENT, dated _____, is between Douglas County Colorado (COUNTY), _____ Inc (COMPANY) and/or COMPANY'S designated submission service provider. **1 _____ with offices at _____, _____ and authorized to do business in Colorado.

This agreement outlines the requirements of recording real property documents by electronic means to assure transactions are not legally invalid or unenforceable as a result of the use of available electronic technologies.

For the purposes of this Agreement, *Electronic Recording* is defined to be the electronically based submittal of documents from COMPANY to COUNTY and electronically based receipt of confirmation of recording from COUNTY to COMPANY. The structure of the transaction is characterized by four different levels of automation.

Level 1 Submitting organization transmits scanned image copies of ink signed documents to the COUNTY. The COUNTY completes the recording process using the imaged copy as the source document. An electronic recording endorsement is returned to the organization in the form of a printing process. The submitting organization can append the recording endorsement information to the original paper document.

Level 2 Submitting organization transmits scanned images of ink signed documents along with electronic indexing information to the COUNTY. The COUNTY performs an electronic examination of the imaged documents and indexing data, and then completes the recording process. The electronic version of the recorded document is returned electronically to the submitting organization along with the electronic recording data.

Level 3 Submitting organization transmits documents, which have been created, signed and notarized electronically along with the electronic indexing information. Electronic signatures must comply with UETA and E-Sign specifications. The COUNTY performs an electronic examination of the electronic documents and indexing information then completes the recording process. The electronic version of the recorded document and electronic recording data is returned to the submitting organization.

Level 4 Submitting organization transmits "Smart" documents (a single object containing the electronic version of the document), which enables the electronic extraction of data from the object. Smart documents are required to be signed and notarized electronically. The Smart document is endorsed electronically by the COUNTY and returned in Smart document format to the submitting organization.

¹ It shall be the responsibility of COMPANY to ensure that any submission service provider retained by them complies with the terms and provisions of this agreement.

Program Eligibility

Title Insurance Companies, Mortgage Bankers, Full Service Banks and other trusted entities may submit real property records for electronic Recording directly to the COUNTY. This Agreement outlines the procedures and rules involved in Electronic Recording in order to facilitate a safe and secure Electronic Recording relationship.

Participation in the Electronic Recording program is voluntary and the decision to do so is a business judgment.

There will be no added fees or costs of any kind charged by the COUNTY for Electronic Recording. COMPANY will be required to meet COUNTY requirements in order to record electronically.

County Requirements

The Electronic Recording Program of Douglas County is defined by the following requirements:

Level 2 Electronic Recording is supported

PRIA file format standard will be used. Images will be in multi-page Group IV TIFF format.

Communications protocol will be TCP/IP, HTTP and HTTPS

Encryption will be 128-bit file and image encryption. SSL and user login/password will be employed. User passwords will be changed on a quarterly basis.

The use of Electronic Signatures and Digital Certificates will not be used at this time. COUNTY reserves the right to revisit this at a later date with COMPANY. COMPANY acknowledges Electronic Signatures and Digital Certificates will be used in the future and will work with COUNTY to accommodate their use.

It is the responsibility of the COMPANY to confirm notary signatures and seals are present on all documents requiring notarization.

COUNTY will not reject a document lacking a notary signature or seal, as this is not a requirement.

COUNTY may at its discretion place a "disclaimer" on each document submitted stating it appears to lack a notary signature or seal.

Documents will be scanned at 300dpi, in portrait mode.

Document images will be captured as multi-page Group IV TIFF images

Scanned documents will be legible. Legible in this instance means a clear, readable image – including signatures and notary seals – and in which all portions of each page are captured.

Submitters will be responsible for the clarity and brightness of the image.

Document font size must meet minimum PRIA standards.

Margins will consist of a minimum of a 1" top margin and 1/2 " side and bottom margins. NO DOCUMENTS WILL BE ACCEPTED THAT FAIL TO MEET THIS STANDARD. Colorado Revised Statutes 30-10-406 (3) (a).

All document types sized 8 ½" by 14" or smaller will be acceptable, with the following exceptions:

1. Military Discharges
2. Spurious Liens as described by Colorado Revised Statute 38-38-202(1)
3. Oversized documents (larger than 8x ½ " and 14")
4. Documents requiring additional acknowledgements or certifications
5. Certified documents
6. Death Certificates must be an original or certified copy from the original issuing agency.

"Acceptable" document types will be those adapted by the Advisory Panel for eRecording. "Incorrect" documents will not be rejected but will be corrected as part of the acceptance process.

All documents submitted will require the following index fields:

- Document type and/or Document type/code
- Number of Pages
- Recording Fee
- Documentary Fee

The following fields are recommended:

- Grantor(s)
- Grantee(s) Related (original document number, in the case of releases, assignment, amendments)
- Property address (only if listed on documents)
- Legal Description Fields
- Subdivision Name (if applicable)
- Section
- Township
- Range
- Parcel Number (if known)
- Parsed Property Address information

Grantee's Legal Mailing Address, which includes Street or Post Office Box, City, State and ZIP code, MUST be clearly identified on any transfer deed as per C.R.S. 38-35-109(2).

TD1000's will be scanned immediately following the Warranty Deed or Transfer Deed they are associated with. ALL Transfer Deeds will be accompanied by a TD1000. If one TD1000 covers multiple Transfer Deeds, a duplicate TD1000 will be submitted with each Transfer Deed.

Business names will be entered into the "LAST NAME" field. Business names should be indexed as they appear on the document, excluding punctuation with the exception of the "&" .

All words in a business name should be spelled out as far as possible. No abbreviations should be made.

If the complete business name will not fit into the field, do not abbreviate, rather drop the last name that won't fit.

Submitted documents electronically recorded will be returned to the COMPANY in electronic format after acceptance. Confirmation of recordation will include the document image and COUNTY indexing data. COUNTY reserves the right to make changes to the index at a later date.

Rejected documents will be returned to the COMPANY in electronic format with the reason(s) for rejection.

Minimum escrow balance of \$100 must be submitted before beginning submission unless COMPANY is using ACH to pay for the cost of electronically recording documents. If paying by ACH, COUNTY must receive payment within 48 hours of the documents being recorded. COMPANY will be responsible for maintaining an adequate balance in their escrow account to enable eRecording. If account balance is inadequate, documents will not be recorded.

COUNTY is responsible for maintaining and reconciling their receipts. Any discrepancy in fees discovered by COUNTY after document acceptance will be corrected by COUNTY within five business days and COMPANY will be provided with notification of the error.

COUNTY Responsibilities

COUNTY shall process electronically submitted document during normal business hours on normal business days as defined in Colorado Revised Statute 30-10-409.

COUNTY will attempt to notify COMPANY of any disruption in service.

COUNTY shall attempt to protect the integrity of the recordation process through ongoing monitoring of documents received and recorded.

COUNTY shall test and maintain Electronic Recording software and hardware required to operate the Electronic Recording capability. COUNTY, however, shall be held harmless and not liable for any damages resulting from software or equipment failure.

COUNTY shall apply the same level of diligence in handling documents submitted electronically as those submitted through the manual recording process.

COMPANY Responsibilities

COMPANY shall work to ensure all security measures and credentials implemented are protected. COMPANY assumes all responsibility for documents submitted through unique credentials provided to COMPANY for the purposes of engaging in Electronic Recording.

COMPANY shall be diligent in ensuring documents submitted for Electronic Recording have been checked before submission, for errors, omissions, scanning defects, illegible areas and other deformities that would impact the validity of the document.

COMPANY shall not attempt to hack, reverse engineer, inspect, copy, or use for any other purpose, any hardware, software, or digital data belonging to COUNTY.

COMPANY acknowledges Electronic Recording permits them to prepare, sign and/or transmit in electronic formats, documents and business records and the document or records shall be considered the "original" record of the transaction with the same intended legal effect as paper documents and, in the case such documents bear a digital or electronic signature, paper documents bearing handwritten signatures.

By use of digital certificates to seal electronic files containing images of original paper documents or documents bearing manual signatures, COMPANY shall recognize such sealed images for all purposes as fully as the original paper documents and shall be responsible for any failure by Users to comply with quality control procedures for assuring the accuracy and completeness of the electronic files.

The COMPANY and or its' employees attest to the accuracy and completeness of the electronic records and acknowledge responsibility for the content of the documents submitted through the Electronic Recording Program. Should a dispute or legal action arise concerning an electronic transaction, the COUNTY will be held harmless and not liable for any damages.

COMPANY is responsible for coordinating all technical problems and issues.

COMPANY is responsible for designing, implementing, maintaining and upgrading their eRecording interface. Said interface will speak directly to the ELECTRONIC RECORDING PROVIDER'S back end recording system.

General Understanding

COUNTY will not incur any liability for the information electronically transmitted by the COMPANY to COUNTY through an ELECTRONIC RECORDING BROKER.

COUNTY will not incur any liability for any breach of security, fraud or deceit as a result of Electronic Recording.

Neither the COUNTY nor COMPANY shall be liable to the other for any special, incidental, exemplary or consequential damages arising from or as a result of any delay, omission or error in the Electronic Recording transmission or receipt.

The COUNTY, ELECTRONIC RECORDING PROVIDER and COMPANY will attempt in good faith to resolve any controversy or claim arising out of or relating to Electronic Recording through either negotiation or mediating prior to initiating litigation.

Any party may terminate this Agreement for any reason by providing 30 days written notice of termination.

The COUNTY and COMPANY acknowledge the electronic recording process is an emerging technology and the State and National standards will continue to evolve. To further the technology and the electronic recording process, the COUNTY and COMPANY will meet once a month to discuss changes and additions to the Agreement.

No Third Party Beneficiaries: The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the parties of this Agreement, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under this Agreement.

No Waiver of Governmental Immunity Act: The parties hereto understand and agree that the COUNTY, its commissioners, officials, officers, directors, agents and employees, are relying on and do not waive or intend to waive by any provisions of this Agreement, the limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, 24-10-101 to 120, C.R.S., or otherwise available to the COUNTY.

Personal jurisdiction and venue for any civil action commenced by either party to this agreement with respect to this agreement shall be proper only if such action is commenced in the District Court for Douglas County, Colorado. _____(COMPANY) expressly waives the right to bring such action in or to remove such action to any other

court, whether state or federal. This agreement shall be governed by the laws of the State of Colorado.

By signing and accepting this contract, all parties acknowledge they have received and agree to abide by all mentioned attachments and the requirements listed therein.

(INSERT FULL NAME OF CONSULTANT)

BY: _____

ATTEST: (if a corporation)

Printed Name _____

Title: _____

Title: _____

DATE: _____

Signature of Notary Public Required:

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____.

Witness my hand and official seal

Notary Public

My commission expires: _____

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS

BY: _____
Jack Arrowsmith, Clerk and Recorder

DATE: _____

APPROVED AS TO LEGAL FORM:

Lance J. Ingalls

County Attorney

DATE: _____