

ON-LINE ACCESS AGREEMENT

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **Ozaukee County**, a municipal corporation (hereinafter referred to as "**COUNTY**"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter referred to as "**PURCHASER**"),

**WITNESSETH:**

**WHEREAS, COUNTY**, whose address is 121 W. Main Street, Port Washington, WI (P.O. Box 994, Port Washington, WI 53074-0994), maintains a Register of Deeds Office (hereinafter referred to as **ROD**) as required by Wisconsin Statutes; and

**WHEREAS, ROD** has statutory authority pursuant to s. 59.43(2)(c) of the Wisconsin Statutes to enter into contracts with municipalities, private corporations, associations and other persons to provide them on-line access to the noncertified copies of the complete daily recordings and filings of documents pertaining to real property recorded in (**ROD**); and

**WHEREAS, PURCHASER**, whose address is \_\_\_\_\_, and registered agent is \_\_\_\_\_, desires to obtain on-line access to noncertified copies of documents pertaining to real property for its own use at a price sufficient to permit **COUNTY** to recover its costs of labor and material as well as a reasonable amount for the depreciation of plant and equipment pursuant to s. 59.43(2)(c) of the Wisconsin Statutes;

**NOW, THEREFORE**, in consideration of the aforementioned premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, **COUNTY** and **PURCHASER** hereby agree as follows:

1. **Terms of On-Line Access Agreement**

The term of this on-line access agreement shall commence on \_\_\_\_\_, 20\_\_\_\_, and shall continue until midnight on December 31, 20\_\_\_\_.

Unless terminated by either party as provided herein, this agreement shall be automatically renewed upon like terms for successive calendar year periods, the first such renewal term being that for calendar year 20\_\_\_\_.

**ROD** reserves the right to issue proposed modified on-line access agreements at its sole discretion at any time. The issuance of a proposed modified on-line access agreement is notice that the current on-line access agreement is not automatically renewable upon like terms at the end of the

current period. If a proposed modified on-line access agreement is issued, **PURCHASER** must sign the proposed modified on-line access agreement to renew their on-line access agreement for successive calendar year periods.

2. **Consideration and Terms of Payment**

**PURCHASER** may select from a list of available plans set forth in Appendix A.

**PURCHASER** may upgrade their plan at any time, with changes effective the 1<sup>st</sup> of the following month.

**PURCHASER** may downgrade a plan at any time, with changes effective the 1<sup>st</sup> of the following month.

**PURCHASER** must pay the **ROD**, in advance, an initial amount equal to three (3) months of the rate plan selected for access.

**PURCHASER** will thereafter be required to maintain sufficient funds in the **ROD** escrow account to cover monthly expenses.

If the escrow balance is not maintained by **PURCHASER** so that funds are available to cover current charges, **ROD** may suspend **PURCHASER**'s on-line access account until payment is made.

Monthly fees will not be prorated.

3. **Scope of Services**

A. **COUNTY**'s Responsibilities:

**ROD** agrees to furnish **PURCHASER** on-line access to the following public information contained within the computer files of **ROD**.

- i. Real Estate Grantor/Grantee Indexes – August 1, 1972 to the present through the Laredo software program.\*
- ii. Real Estate Tract Index – August 2, 1982 to the present through the Laredo software program.\*
- iii. Real Estate Document Images – June 11, 1974 to the present through the Laredo software program.\*

\*The public information contained within the computer files of **ROD** is usually updated within five business days of recording.

The obligation to provide such access is subject at all times to the obligation of the **ROD** to fulfill the office's statutory duties. **COUNTY's** obligations and **PURCHASER's** rights under this agreement are secondary to the statutory duties of **ROD**.

**ROD** agrees to provide **PURCHASER** non-guaranteed access seven (7) days per week twenty four (24) hours per day.

**ROD** agrees to deposit and maintain all advance payments made by **PURCHASER** under this agreement in an escrow account until the advance payments are applied to charges incurred by **PURCHASER** under this agreement.

**ROD** will issue **PURCHASER** a user name and password upon receipt of both the initial payment and signed on-line access agreement.

**ROD** agrees to notify **PURCHASER** via e-mail of any computer problems that may affect the availability of on-line access, including periods of scheduled maintenance.

#### **B. PURCHASER's Responsibilities**

**PURCHASER** agrees to immediately notify **ROD** of any change in their address, legal status and registered agent.

**PURCHASER** agrees they will be the sole user of any records obtained under this agreement and will bear all risk and expense associated with copies or duplicates made by them.

**PURCHASER** agrees they will not sell, market or distribute public information obtained under this agreement without the express written consent of **ROD** and **PURCHASER** shall not acquire any proprietary rights to computer program information.

**PURCHASER** agrees that it would be impracticable and extremely difficult to ascertain the amount of actual damages caused by any sale or distribution of public information and, therefore, agrees to pay five thousand (\$5,000) dollars in liquidated damages for each breach. Each document sold or distributed constitutes a separate breach.

**PURCHASER** may attach hard copies of documents received through this Agreement to title policies, abstracts, or similar single transactions, to its customers.

**PURCHASER** will keep their password confidential and notify **ROD** immediately of any loss, theft, or unauthorized use of their password.

**PURCHASER** shall not in any way attempt to enhance or alter public records accessed or disclose any confidential information contained thereon.

**PURCHASER** agrees they will not data scrape or data harvest, or engage in any like activity, in the Laredo program or any other system used, maintained or owned by **COUNTY**. A “data scrape or harvest” occurs when a computer program extracts data from a human-readable output from another program. A data scrape or data harvest may be viewed as theft under applicable Wisconsin Statutes and subject to criminal penalties.

**PURCHASER** agrees that any data or information obtained from **ROD** under this agreement remains the sole property of **ROD**. **PURCHASER** agrees that it will not sell, distribute, reproduce, market, or in any way re-use such data or information as independent “stand-alone” information without the express written consent of **ROD**.

4. **Limitation**

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

**ROD** 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 **PURCHASER**'s purposes, or that use of the program or information will be without defect.

**ROD** 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.

5. **Inability to Access Data**

This agreement shall not be construed to impose any penalty, obligation or loss on **ROD** for its failure to transmit a copy of any particular document, unless through willfulness, and **PURCHASER** shall indemnify, defend and hold harmless **COUNTY**, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss, damages, costs or expenses which **PURCHASER**, its officers, employees, agencies, boards, commissions and representatives or any third parties who have relied upon such transmittals may sustain, incur or be required to pay by

reason of **ROD** failing to transmit a copy of any document required to be provided under this agreement.

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

In no event will **ROD** or **COUNTY** be liable to **PURCHASER** 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 use of this service.

7. **Assignments and Subcontractors**

**PURCHASER** shall not assign or transfer any interest or obligation in this agreement, whether by assignment or subcontracting, without the prior written consent of **ROD**.

8. **Termination With Cause**

**COUNTY** may immediately terminate this agreement without prior notice upon discovery or reasonable belief that **PURCHASER** has violated any law relating to the use of data and information provided through this agreement.

**COUNTY** may immediately terminate this agreement without prior notice upon discovery or reasonable belief that **PURCHASER** has engaged in any data scraping or data harvesting activity.

**Termination Without Cause**

Either party may terminate this agreement for any reason at any time upon thirty (30) calendar days written notice, starting on the first (1<sup>st</sup>) of a month, during the original term or any renewal period.

If during the term of this agreement, **COUNTY** fails to appropriate sufficient funds to carry out **ROD**'s responsibilities under this agreement, the agreement shall automatically be terminated as of the date funds are no longer available and without further notice of any kind to **PURCHASER**.

Termination shall not relieve a party of its obligations incurred prior to the effective date of the cancellation.

9. **Controlling Law**

It is expressly understood and agreed by the parties that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling.

10. **Venue**

It is expressly understood and agreed by the parties that in the event of any disagreement or controversy between the parties, venue of any legal action shall be a Wisconsin Circuit Court, other than Ozaukee County, that is not inconvenient for COUNTY.

11. **Waiver**

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

12. **Severability**

In the event any provision of this 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.

13. **Entire Agreement**

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

**IN WITNESS WHEREOF, COUNTY and PURCHASER,** each by their authorized agents, have executed this agreement as of the day and date by which all parties hereto have affixed their respective signatures.

**FOR PURCHASER:**

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

\_\_\_\_\_ **Print Name**

\_\_\_\_\_ **Phone**

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

**FOR THE COUNTY:**

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

\_\_\_\_\_  
**Ronald A. Voigt**  
**Register of Deeds**

## Laredo End User License Agreement

BY DOWNLOADING AND/OR USING ANY FIDLAR SOFTWARE, FIDLAR WEB SERVICES, FIDLAR INTERNET COMMUNICATION PROTOCOLS AND COMMANDS AND/OR APPLICATIONS (COLLECTIVELY, "SOFTWARE") PROVIDED TO YOU BY OR ON BEHALF OF FIDLAR TECHNOLOGIES AND ITS AFFILIATED ENTITIES ("FIDLAR") IN CONNECTION WITH YOUR USE OF THE LAREDO SOFTWARE, YOU ("CLIENT") ACKNOWLEDGE AND AGREE THAT (1) YOU HAVE READ THIS END USER LICENSE AGREEMENT ("LICENSE"); (2) YOU UNDERSTAND IT; (3) YOU ARE BOUND BY THE TERMS OF THIS LICENSE; AND (4) YOU MAY RECEIVE, WITHOUT FURTHER NOTICE OR PROMPTING, UPDATED VERSIONS OF THE SOFTWARE. IF YOU DO NOT AGREE TO THE FOREGOING, YOU AGREE THAT YOU DO NOT HAVE A LICENSE TO, AND YOU WILL NOT USE THE SOFTWARE.

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**Grant of Limited License.** FIDLAR grants you a non-exclusive, limited, and nontransferable license, subject to and conditioned on your compliance with the restrictions set forth in this LICENSE, to install and use the SOFTWARE, in object code form only, as it is intended to be used, provided to CLIENT by or on behalf of FIDLAR in connection with your use of the SOFTWARE.

FIDLAR reserves the right, from time to time, with or without notice to CLIENT, to change the terms of this LICENSE in our sole and absolute discretion. The most current version of this LICENSE will supersede all previous versions. CLIENT'S use of the SOFTWARE after changes are made means that CLIENT agrees to be bound by such changes. As such, CLIENT should review the LICENSE periodically.

FIDLAR hereby grants CLIENT the rights to a nonexclusive and nontransferable license for the possession and use of FIDLAR's Laredo Software. CLIENT agrees not to copy the SOFTWARE covered by this LICENSE in any manner except in normal backup procedures. The use of any portion of the SOFTWARE for any purpose shall be for CLIENT use only and shall remain subject to all terms and conditions of this LICENSE. In the event this LICENSE is terminated, the SOFTWARE will be completely removed from all CLIENT systems.

CLIENT agrees that it will not sell, give, encumber in any manner, or otherwise transfer to any other company, firm, person, corporation, or entity any of its rights in any Software, whether or not later modified by either party, developed pursuant of this Agreement.

CLIENT agrees that it will not access any COUNTY information or data except by means of the Laredo client user interface. CLIENT agrees that it will not utilize ANY form of robotic software, screen scrapers, harvesting software, internet protocol sniffers, replicate in ANY way FIDLAR communication protocols, attempt to identify IP addresses, locations, or commands of FIDLAR web services, or any software or process designed to circumvent the human being use of the provided Software user interface. FIDLAR reserves the right to detect such activity and to immediately terminate this license in any and all county locations believed to be associated with the CLIENT userID activity.

CLIENT understands that FIDLAR has activity monitors in place to detect unauthorized use of SOFTWARE.

CLIENT agrees that all program specifications, systems, design, applications, routines, subroutines, techniques, web services, internet communication protocols and commands, ideas and/or formula



utilized or developed or provided by FIDLAR in connection with CLIENT's implementation or use of the SOFTWARE are and shall remain the sole property of FIDLAR.

The following warranties are in lieu of all warranties, express, implied, or statutory, including but not limited to, any implied warranties of merchantability and fitness for a particular purpose and of any other warranty obligation on the part of FIDLAR. There are no warranties which extend beyond the description on the face hereof.

The license granted under this agreement, with regard to the Software, may be terminated by FIDLAR.

CLIENT's exclusive remedy against FIDLAR for any breach of warranty under this Agreement is termination of this agreement. CLIENT will not be entitled to any direct, incidental, consequential or other damages, including but not limited to damages for loss of profits or confidential or other information, for business interruption, for personal injury, for loss of privacy for failure to meet any duty including of good faith or of reasonable care, for negligence or negligent misrepresentation, and for any other pecuniary or other loss whatsoever, even in the event of the fault of FIDLAR(or any supplier), of tort (including negligence), strict or product liability, breach of contract or breach of warranty, and even if FIDLAR or any supplier has been advised of the possibility of such damages. These limitations and exclusions regarding damages will apply even if any remedy fails.

CLIENT agrees by accepting this LICENSE or utilizing the SOFTWARE to enter into this Agreement to Arbitrate. CLIENT and FIDLAR agree to settle by binding arbitration any dispute between them regarding the use of SOFTWARE and any related issue. CLIENT understands that CLIENT'S exclusive remedy is outlined elsewhere in this license. To initiate arbitration either party must notify the other in writing. The arbitrator(s) shall be attorneys or retired judges and shall be selected and the arbitration proceedings shall occur in accordance with the arbitration rules outlined by the American Arbitration Association (1-800-778-7879).

CLIENT agrees that this LICENSE does not provide for, nor guarantee, access to any county's information. Access must be granted to the CLIENT by the desired county authority.

FIDLAR and the COUNTY that provides the information does not represent or endorse the accuracy or reliability of any of the information or content contained on, distributed through, or accessed from any of the services contained in the Software. FIDLAR reserve the right, in its sole discretion and without any obligation, to make improvements to, or correct any error or omissions in any portion of the Software.

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FIDLAR and the COUNTY that provides the information shall not be liable for errors contained herein or for any damages in connection with the use of the information contained herein.

Laredo Users please note:

*"This website contains information on Notices of Federal Tax Lien and other lien documents that is not identical in content to documents presented to this office by IRS. Therefore, the results of a search of this indexing system cannot be relied upon in judicial or administrative proceedings related to title or transfer of property, including but not limited to searches relative to sales of property and foreclosure proceedings, in determining ownership interests in property on which a Notice of Federal Tax Lien attaches.*

*For assistance in obtaining a copy of the required document as filed by IRS, please contact Patty Van Eimeren of this office at 262-284-8267. Copies of recorded documents may be obtained only from this office for which the search was conducted."*

**APPENDIX A**

**OZAUKEE COUNTY ON-LINE ACCESS PLANS**

<u>PLAN</u>	<u>MONTHLY FEE</u>	<u>OVERAGE CHARGE **</u>	<u>PRINT CHARGE</u>	<input checked="" type="checkbox"/>	<u># OF LICENSES</u>
0-250 Minutes	\$85.00	.25 per minute	.50 per print		
251-500 minutes	\$145.00	.23 per minute	.50 per print		
501-1000 minutes	\$225.00	.18 per minute	.50 per print		
1001-2000 minutes	\$340.00	.15 per minute	.50 per print		
Unlimited minutes	\$460.00		.50 per print		

\*\* Per minute charge for each minute over the signed -up plan

**PLEASE CHECK DESIRED PLAN INDICATE P FOR PRIMARY OR S FOR SECONDARY**

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT: \_\_\_\_\_

PHONE # OR E-MAIL: \_\_\_\_\_