



## **ELECTRONIC RECORDING MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** (“MOU” or “Agreement”), made and entered into on, \_\_\_\_\_, is between the counties of Los Angeles, Orange, Riverside, and San Diego (collectively “Owners”) that own the Statewide Electronic Courier Universal Recording Environment (“SECURE”) with the Orange County Clerk-Recorder acting on their behalf as the Lead County (“Lead County Recorder”), and \_\_\_\_\_ the submitting party (“Authorized Submitter”), recording electronically through the SECURE system located in Orange County. The Owners and Agent are collectively referred to as the “Parties.”

### **RECITALS**

WHEREAS, SECURE is owned by the counties of Los Angeles, Orange, Riverside, and San Diego; and

WHEREAS, SECURE is an electronic recording delivery system that is compliant with the Electronic Recording Delivery Act of 2004 for the electronic submission and subsequent recording of documents with county recorders; and

WHEREAS, SECURE allows recording of real property documents through electronic receipt and transmission in substitution for conventional paper based document recording; and

WHEREAS, SECURE allows the electronic recording of Type 1 and Type 2 instruments that must not be submitted in the same package/payload; and

WHEREAS, the Parties desire to ensure that transactions using electronically recorded documents are legally valid and enforceable for the mutual benefit of the parties to those transactions; and

WHEREAS, multiple California counties, in addition to the owner counties, utilize SECURE for the electronic recording of documents and through the SECURE portal server, which is located in Orange County; and

WHEREAS, Orange County is the “Lead County” acting through the Orange County Clerk-Recorder on behalf of the owners of SECURE to manage and support the system and to execute agreements with Authorized Submitters for the electronic submission of documents through SECURE; and

WHEREAS, Authorized Submitters have authorized Agents to submit electronic documents through SECURE on their behalf; and

WHEREAS, the Parties desire to set forth the rights and responsibilities for the electronic submission of documents for recording through SECURE to the California counties utilizing SECURE for electronic recording; and

WHEREAS, the Authorized Submitter agrees to act in compliance with the specifications set forth in the SECURE Authorization Submitter User Manual and State of California Attorney General/Department of Justice Electronic Recording Delivery System (ERDS) Regulations.

NOW THEREFORE, the Parties, for and in consideration of the mutual promises and agreements herein continued, do agree to the following:

**1. Definitions**

- 1.1 SECURE:** The Statewide Electronic Courier Universal Recording Environment system used by multiple participating counties to electronically receive and return documents for recording.
- 1.2 Owners:** The owners of the SECURE system (Los Angeles, Orange, Riverside and San Diego Counties).
- 1.3 Individual SECURE County Participant:** Any county that uses SECURE to electronically receive and return documents for recording.
- 1.4 Authorized Submitter:** The company under a separate SECURE Agreement that submits packages of documents electronically to one or more Individual SECURE County Participants using SECURE for the purpose of recording and who has authorized Agents to submit on their behalf and is authorized by Government Code section 27391 (b) (1) to enter into a contract with Lead County Recorder for electronic recording of documents.
- 1.5 Agent:** A representative and his/her employees who are authorized to submit documents on behalf of an Authorized Submitter who has entered into a contract with a County Recorder, and, assigned a role by County Recorder, to deliver, and, when applicable, return the submitted ERDS payload via an ERDS.
- 1.6 Operational Issues:** Issues regarding the business rules that dictate what can be recorded by an Individual SECURE County Participant.
- 1.7 Technical Issues:** Issues regarding how SECURE electronically receives and returns recordable documents.
- 1.8 Infrastructure:** The non-software components used to electronically receive and return recordable documents through the SECURE system.
- 1.9 Company Representative:** The contact person for the Agent in charge of the scanning personnel used for electronic recording.
- 1.10 User:** The person for the Agent/Authorized Submitter who will be physically scanning and sending electronic instruments.

- 1.11 **Pathway:** The path that the package of documents takes through the computer network, starting at the creation of the package by the Agent and ending with its delivery to the SECURE system.
- 1.12 **Computer Security Auditor:** 1) DOJ approved computer security personnel hired by the Lead County Recorder to perform independent audits, and 2) A role assigned by the Lead County Recorder to the Computer Security Auditor who is authorized to review transaction logs and conduct tests on computer security mechanisms.
- 1.13 **County Recorder Designee:** a secure access role assigned by the Lead County Recorder to retrieve, and, when applicable, return of submitted ERDS payloads.
- 1.14 **ERDS Account Administrator:** a secure access role assigned by the Lead County Recorder to an individual who is authorized to configure accounts, assign roles, and issue credentials.
- 1.15 **ERDS System Administrator:** a secure access role assigned by the Lead County Recorder to an individual who is authorized to configure hardware, software, network settings, and to maintain ERDS security functions.
- 1.16 **Vendor:** a person and personnel, supporting and/or acting on behalf of the certified Vendor of ERDS Software who sells, leases, or grants use of, with or without compensation therefore, a software program for use by counties for establishing an ERDS
- 1.17 **Type 1 Instrument:** a “Type 1” instrument is defined to mean an instrument affecting a right, title, or interest in real property. Type 1 instruments shall be submitted as digitized electronic records, meaning a scanned image of the original paper document. Fingerprinting of each individual to submit Type 1 documents is required. Only those individuals granted a secure access role shall be permitted to submit Type 1 instruments.
- 1.18 **Type 2 Instrument:** a “Type 2” instrument is defined to mean an instrument of reconveyance, substitution of trustee, or assignment of deed of trust. Individuals submitting only Type 2 instruments do not require fingerprinting. Type 2 instruments may be delivered as digitized electronic records or digital electronic records.

## 2. **Purpose**

The State of California Electronic Recording Delivery Act of 2004 mandates the county recorders and the submitting entities maintain a secure electronic recording environment. All parties of the electronic recording transaction desire to operate and maintain a secure recording system that safeguards parties that are recording documents from deceit, fraud and forgery. This Agreement outlines the procedures and rules for maintaining a secure electronic recording environment by the Authorized Submitter and those California counties utilizing SECURE.

## 3. **Term**

This Agreement shall become effective upon the signature of the Parties and shall remain in effect unless terminated in writing by either party in accordance with this Agreement and concurrent with Individual SECURE County Participant MOU's.

#### **4. Eligibility**

California Government Code Sections 27390(b)(1) and 27391(b) allow Authorized Submitters, and their authorized Agents, including but not limited to, title insurers, underwritten title companies, and institutional lenders, as defined, to submit, either directly or through a trusted third party provider, real property records for electronic recording.

Agent Eligibility An Agent is defined as a representative and his/her employees who are authorized to submit documents on behalf of an Authorized Submitter who has entered into a contract with a County Recorder, and, assigned a role by County Recorder, to deliver, and, when applicable, return the submitted ERDS payload via an ERDS. An Agent may not be a Computer Security Auditor, County Recorder Designee, ERDS Account Administrator, ERDS System Administrator, or Vendor of ERDS Software.

An Agent is prohibited from submitting documents for electronic recording through SECURE, on behalf of another Agent. An Agent may not share a SECURE workstation, tokens or passwords with another Agent; Agents are to work as separate entities.

#### **5. Electronic Recording Requirements**

Electronic recording requirements and specifications are generally set forth in the following attachments to this Agreement. Authorized Submitter shall comply with any and all such requirements and specifications. Authorized Submitter understands individual SECURE County Participants have set forth internal County specific policies and procedures for electronic recording. Authorized Submitter understands that the requirements and specifications may change from time to time. Furthermore, Authorized Submitter understands that the requirements and specifications set forth in the attachments could be specific to Individual SECURE County Participants. Owners will provide written notice to the Authorized Submitter within a reasonable period of time if there are any changes to the requirements or specifications.

- Attachment A – Technical Specifications
- Attachment B – Co-location Acknowledgement
- Attachment C – County Requirements and Schedule for electronic recording
- Attachment D – Additional Electronic Recording Requirements
- Attachment E – California Attorney General Certification Guidelines

#### **6. Authorized Submitter Acknowledgments and Responsibilities**

6.1 Participation in the electronic recording program is voluntary and the decision to do so is a business decision. Authorized Submitter must supply all electronic recording equipment i.e., computer, monitor, scanner, printer, an internet connection and a hardware token from a vendor approved by the Owners. Under no circumstances are laptops and/or any other unauthorized equipment allowed to be used with the SECURE Software.

6.2 Electronic recording permits preparation, signature and/or transmission, in electronic format, of documents and business records. The electronic documents or records shall be considered the “original” record of the transaction in substitution for, and with the same intended effect as, paper documents or records. In the case that such documents or records bear a digital or electronic signature, those signatures shall have the same effect as paper documents or records bearing handwritten signatures.

6.3 By use of electronic or digital certificates to sign documents, Authorized Submitter is bound by those documents for all purposes as if paper versions of the documents had been manually signed.

6.4 By use of electronic or digital certificates to sign documents, Authorized Submitter is bound by those electronic signatures affixed to any documents and the electronic signatures shall have the same legal effect as if the signatures were manually affixed to a paper version of the document.

6.5 Electronic signatures must comply with Uniform Electronic Transaction Act (UETA), 15 U.S.C. §§ 7001 to 7031, and Electronic Signatures in Global and National Commerce Act (E-Sign) Pub. L. No. 106-229, 114 Stat. 464 (2000) (codified as 15 U.S.C. §§ 7001-7006, 7021, 7031) (enacted S. 761) specifications.

6.6 By use of digital certificates to seal electronic files containing images of original paper documents or documents bearing manual signatures, Authorized Submitter shall recognize the sealed images for all purposes as the original paper documents and shall be responsible for the accuracy and completeness of those images.

6.7 Authorized Submitter is responsible for the accuracy, completeness and content of documents submitted for electronic recording.

6.8 Authorized Submitter is responsible for costs of systems or services provided by third parties that enable Authorized Submitter to meet electronic recording requirements.

6.9 Authorized Submitter shall immediately notify Owners of any security incident, including but not limited to attempts at or actual unauthorized access to Authorized Submitter’s Pathway, which could compromise or otherwise adversely affect SECURE’s data systems.

6.10 Authorized Submitter is responsible for providing original document(s) and/or original download data in a timely manner, upon request from the Lead County Recorder, in the event of a security incident or contract breach, to substantiate the authenticity of any document(s) in question.

6.11 Authorized Submitter shall ensure that all security measures and credentials implemented are protected. Authorized Submitter assumes all responsibility for documents submitted through unique credentials provided to Authorized Submitter for the purposes of engaging in electronic recording.

6.12 Authorized Submitter shall submit to random security audits without prior notice by Owners of Authorized Submitter’s software, systems, Pathway, credentials and any other means or processes used by Authorized Submitter for electronic recording.

- 6.13 Authorized Submitter is responsible for receiving and verifying receipt of documents recorded to ensure that the source of the receipt is the county where the document was to be recorded.
- 6.14 Authorized Submitter shall address all Operational Issues with the electronic recording process with the Individual SECURE County Participants utilizing SECURE.
- 6.15 Authorized Submitter is responsible for supporting any Technical Issues associated with electronic recording. Authorized Submitter is responsible for designating at least one technical individual to be available onsite for support of any technical issues associated with electronic recording. Authorized Submitter shall notify Owners of any problems involving Technical Issues. Authorized Submitter shall work in good faith with the Owners to resolve any Technical Issues.
- 6.16 Authorized Submitter shall provide end user support to the Owners through which problems or issues can be reported and addressed. In the event that a problem is determined to be with the electronic recording software and not the Infrastructure provided by the Authorized Submitter, then the Authorized Submitter shall work to resolve issues with the Owners.
- 6.17 Authorized Submitter's submission of a document to SECURE for transmission to a particular county for recording does not guarantee that a county will accept transmission from Authorized Submitter. Each county utilizing SECURE reserves the right to determine which Authorized Submitters will be allowed to electronically record documents for their county.
- 6.18 Authorized Submitter shall comply with each county's recording requirements. Authorized Submitter's submission of a document to SECURE for transmission to a particular Individual SECURE County Participant for recording does not guarantee the document will be recorded by that Individual SECURE County Participant. Each Individual SECURE County Participant utilizing SECURE may have its own specific requirements for the recordation of documents including, but not limited to, document types authorized for recording and payment methods. Documents not meeting Individual SECURE County Participant specific requirements for recording may be rejected by the respective county.
- 6.19 Following the electronic recordation of a document, Authorized Submitter agrees to deliver the original document to the real party in interest.
- 6.20 Authorized Submitter agrees to comply with Attorney General Acknowledgment of Responsibilities form #0012 that states the password policy and protection standards.
- 6.21 Authorized Submitter agrees to provide a workstation that is exclusively dedicated to SECURE, that is to be located in a secure location, out of the sight of the public. The workstation may not be located in a place where the workstation can be tampered with or compromised by unauthorized SECURE individuals. The workstation must be accessible only to SECURE authorized individuals in compliance to the State of California Attorney General/Department of Justice ERDS Regulations. All workstations are subject to onsite inspections by the Lead County Recorder. The Authorized Submitter must inform the Lead County Recorder of the exact location of the

workstation. Authorized Submitter shall inform the Lead County Recorder of any changes to the workstation, including location of subject workstation.

## **7. Scope of Services**

7.1 Lead County Recorder shall conduct ongoing monitoring of documents received and recorded through electronic recording means in an effort to protect the integrity of the recordation process.

7.2 Lead County Recorder shall test and maintain electronic recording software and hardware.

7.3 Lead County Recorder shall apply the same level of diligence in handling and examining documents submitted electronically as those submitted through the normal manual process.

7.4 If SECURE causes delays or power failures that interfere with the normal course of business, the Lead County Recorder shall notify the Authorized Submitter with a choice of using the manual recording process or waiting until the problem has been remedied.

## **8. Owners' Review and Acceptance Required**

Authorized Submitter's right to submit documents under this Agreement is subject to Owners review and acceptance of Authorized Submitter's Pathway standards and procedures. Such approval will not be unreasonably withheld by Owners. This review is to confirm that Authorized Submitter's Pathway is secure and meets all requirements imposed by state law and this Agreement. Authorized Submitter agrees that, following initial approval Owners of Authorized Submitter's Pathway, if Authorized Submitter materially modifies its Pathway, Owners will be notified within 24 hours.

## **9. General Recording Requirements**

9.1 Submission, acceptance and recording of any document must comply with all applicable federal, state and local laws.

9.2 Documents may be rejected in accordance with federal, state and local law including, but not limited to, the following reasons: document errors, failure to pay the filing or other fees due, the document is not a type of document a county recorder is authorized to accept for recording, or the document fails to meet any other applicable legal requirement(s).

9.3 Original documentation and/or original download data may be requested without prior notification by Lead County or Individual County Participant in the event of a security incident, investigation, contract breach or if documentation fails to meet any legal requirements, in order to substantiate the authenticity of the document(s) in question.

## **10. Suspension**

Owners may suspend Authorized Submitter's submission of documents to SECURE, restrict access, or deny access to Authorized Submitter and any of Authorized Submitter's agents or individual staff members at any time in its sole discretion it deems necessary for the following:

- 10.1 To protect the public interest.
- 10.2 To protect the integrity of public records.
- 10.3 To protect real property owners from financial harm.
- 10.4 To prevent fraud.
- 10.5 For Agent's violation of, or to prevent the violation of, any federal, state, or local law.
- 10.6 For Agent's failure to notify Owners of material modifications to its Pathway within 24 hours.
- 10.7 For Agent's default of any provision of this Agreement.

Notice of suspension will be immediately provided to Authorized Submitter by Owners. Authorized Submitter may resume submission upon satisfactory resolution of the Owners' concern.

## **11. Limitation of Liability**

- 11.1 Owners and Lead County Recorder shall be held harmless from and not incur any liability for any damages whatsoever caused either directly or indirectly for:
  - 11.1.1 Information electronically transmitted by the Authorized Submitter.
  - 11.1.2 Any breach of security, fraud or deceit resulting from electronic recording.
  - 11.1.3 Damages resulting from software, hardware, or other equipment failure.
  - 11.1.4 Delays or power failures that interfere with the normal course of electronic recording.
  - 11.1.5 Restricting or terminating Authorized Submitter's ability to electronically record documents.
  - 11.1.6 Claims, disputes, or legal actions concerning an electronic transaction, including, but not limited to, the accuracy, completeness or content of documents submitted for recording.
- 11.2 Authorized Submitter, Owners, and Lead County Recorder shall not be liable to each other for:
  - 11.2.1 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.



11.2.2 Any failure to perform processing of the transactions and documents where such failure is beyond the party's reasonable control (including, without limitation, any mechanical, electronic or communications failure, which prevents the parties from transmitting or receiving the electronic recording transactions).

11.2.3 Except for payment and indemnity obligations hereunder, any cessation, interruption or delay in the performance of an obligation hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, armed conflict, terrorist action, labor strike, lockout boycott, provided that the party relying upon this paragraph: (a) shall have given the other party written notice thereof promptly and, in any event within five (5) days of discovery thereof and, (b) shall take all reasonable steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based in the event the force majeure event described in this paragraph extends for a period in excess of 3 days.

## **12. Indemnification:**

12.1 Owners and Individual SECURE County Participants (hereinafter collectively referred to as "County Parties") shall not be liable for, and Authorized Submitter shall defend and indemnify County Parties against, any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), related to this Agreement and arising either directly or indirectly from any act, error, omission or negligence of Authorized Submitter or its contractors, licensees, agents, servants or employees, including, without limitation, Claims caused by the concurrent negligent act, error or omission, whether active or passive, of County Parties. Authorized Submitter shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of County Parties.

12.2 In the event of fraud that arises directly or indirectly from Authorized Submitter's submission of a document for electronic recording that impacts the value of or title to real estate, Authorized Submitter shall defend and indemnify the County Parties (as defined in section 12.1, above) against any Claims (as defined in section 12.1, above) for any electronic recording transaction in which the Authorized Submitter engages.

## **13. Termination**

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

13.2 Owners may terminate this Agreement immediately if Authorized Submitter is in default of any of the terms of this Agreement.

13.3 Notwithstanding any other provision of this Agreement, the Owners may terminate this Agreement immediately at any time in its sole discretion it deems necessary for the following:

13.3.1 To protect the public interest.

13.3.2 To protect the integrity of public records.

13.3.3 To protect real property owners from financial harm.

13.3.4 To prevent fraud.

13.3.5 For Authorized Submitter's violation of, or to prevent the violation of, any federal, state or local law.

13.4 The indemnification and limitation of liability provisions of this Agreement shall survive any termination of this Agreement.

**14. Dispute Resolution**

Lead County Recorder and Authorized Submitter will attempt, in good faith, to resolve any controversy or claim arising out of or relating to electronic recording through either negotiation or mediation prior to initiating litigation.

**15. Governing Laws and Venue**

This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

**16. Amendment**

Any amendments or modifications to this Agreement shall be in writing duly executed by each party's authorized official, which shall become effective at a time mutually agreed upon by the Parties. No alteration variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or Agreement not incorporated herein shall be binding on either party.

**17. Assignment**

This Agreement is not assignable by the Authorized Submitter either in whole or part, without the written consent of the Owners.

**18. Entire Agreement**

This Agreement contains the entire and complete understanding of the Parties and supersedes any and all other agreements, oral or written, with respect to the terms under this Agreement.

**19. Parties in Interest**

None of the provisions of this Agreement or any other document relating hereto provides any rights or remedies to any person other than the Parties hereto and the Individual SECURE County Participants and their respective successors, transferees, assumers and assigns, if any.

**20. Privileged and Confidential Information**

The Authorized Submitter agrees that all personal information, which is considered privileged and confidential under state law contained within the documents submitted for recording will not be released by the Authorized Submitter to any individual or other legal entity who would not otherwise have authorized access to such information. Any release of information by the Authorized Submitter to any unauthorized individual or other legal entity may result in the Owners terminating this Agreement. The Authorized Submitter agrees to allow any audit the Owners deem necessary, without prior notification, to ensure privileged and confidential information is not released to an unauthorized party.

**21. Waiver**

No waiver of the breach of any of the covenants, agreements, restrictions, or conditions of this Agreement by Owners shall be construed to be a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, or conditions of this Agreement. No delay or omission of Owners, in exercising any right, power or remedy herein provided in the event of default shall be construed as a waiver thereof or acquiescence therein, or be construed as a waiver of a variation of any of the terms of this Agreement.

**22. Severability**

If any term or portion of this Agreement is held to be invalid, illegal, void or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

**23. Sections and Exhibits**

All sections and exhibits referred to herein are attached hereto and incorporated by reference.

**24. Headings**

The Agreement captions, clause, section and attachment headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the construction or interpretation of any term or provision hereof.

**25. Recitals Incorporated**

The recitals of this Agreement are incorporated by this reference as set forth herein and are agreed to by the Parties.

**26. Notices**

Any notice pursuant to this Agreement shall be in writing and deemed given when delivered personally, sent by facsimile or deposited in United States mail, postage-prepaid, to the Parties listed below. For reporting a security incident, the Authorized Submitter shall call the Owners contact listed in Attachment C in addition to providing written notice.

**26.1 Authorized Submitter**

Notices for the Authorized Submitter will be sent to the Company Representative according to the Authorized Submitter Information listed below.

**Authorized Submitter Information (please print):**

Name: \_\_\_\_\_ Telephone #: \_\_\_\_\_

\_\_\_\_\_ Fax #: \_\_\_\_\_

\_\_\_\_\_ Web Site: \_\_\_\_\_

*Street Address (location of equipment/software)*

\_\_\_\_\_

*City, State and Zip Code*

**Company Representative:**

\_\_\_\_\_

Telephone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Name of User:**

\_\_\_\_\_

Telephone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

**26.2 Lead County Recorder**

Orange County Clerk-Recorder  
Attn: SECURE Coordinator  
12 Civic Center Plaza, Room 101, Santa Ana, CA 92701  
Fax: (714) 834-5808

IN WITNESS WHEREOF, the Authorized Submitter and Owners have executed this Agreement as of the date first written above.

**Authorized Submitter:** \_\_\_\_\_

Signed & Approved By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Telephone #: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Lead County Recorder:**

Approved By: _____ Date: _____ <b>HUGH NGUYEN, Orange County Clerk-Recorder</b>
--

## Attachment A

### Technical Specifications

#### **A1. Submission Methods**

SECURE ERDS User Interface (UI)– users who will be scanning paper or uploading image files directly into SECURE ERDS will receive recording confirmation via the SECURE ERDS UI. SECURE ERDS UI allows user to upload a pre-scanned 300 DPI TIFF Group IV image or use a browser scanner TWAIN plugin.

SECURE ERDS Web API – users that directly connect to the SECURE ERDS Web API must adhere to the XSD standard. The SECURE ERDS XML files that are uploaded must include Base64 encoded 300 DPI TIFF Group IV image files. This process does not require a user to be involved in the transfer; it is an automatic process that will be programmed by the submitter in conjunction with the County. Users will receive recorded information via XML return package.

#### **A2. Communications Protocol**

HTTPS is required for the submission of instruments.

#### **A3. Security Framework**

The required security framework is provided for in the SECURE ERDS software. The ERDS software shall use a minimum of 128 bit file and image encryption. Industry standard Secure Sockets Layer (SSL) and user login with password that is encrypted shall be employed. User passwords are controlled by the user and at a minimum changed at 90 day intervals to reduce security exposure.

**a) Endpoint Security (Authentication Token)** - one token will be required for each user that will be utilizing SECURE ERDS. For use of the token to submit documents for ERDS recording electronically, please refer to the SECURE ERDS User Manual.

#### **b) Computers and User Accounts**

Computers that connect to ERDS will have system and application logging enabled with a retention period of 3 months. Lead County may request reports of user access and transaction activity.

Computers on which documents originate shall have: (1) all critical operating system patches applied within one month from when the patch first becomes available; (2) a hardware firewall installed and maintained; (3) up to date virus scan software that shall check for definition updates twenty-four hours; (4) screen lock must be configured for activation after 10 minutes of inactivity; and, (5) complex passwords, as per Microsoft password complexity requirements.

Shared user accounts may not be issued. At no time shall more than one person be authorized access to SECURE ERDS using a single SECURE ERDS user account or set of identity credentials. Each person shall be uniquely identified. If a user's status changes, so that access to SECURE ERDS is no longer required, the user's SECURE

ERDS account and identity credentials shall be disabled and revoked, but not deleted from the system. SECURE ERDS user accounts and identity credentials are non-transferable.

#### **4. Imaging Standards**

The following imaging standards shall be complied with:

- Documents must be scanned or uploaded at 300 DPI TIFF Group IV image or use a browser scanner TWAIN plugin.
- Documents will be scanned in portrait mode.
- All pages, including attachments, must be numbered sequentially.
- Documents must be scanned to original size.
- Document details, such as margins, font size and other similar requirements, must meet all applicable state statute as set out in, Government Code Section 27361 et seq.

Attachment B

Co-Location Acknowledgement

Authorized Submitter does hereby acknowledge that the following Agent previously authorized to submit documents on its behalf: \_\_\_\_\_(Agent Name) will be co-locating with Authorized Submitter for electronic recording through SECURE. Authorized Submitter further acknowledges that unannounced inspections will be conducted by SECURE and the State of California Department of Justice/ERDS Program. Authorized Submitter is aware that SECURE and the State of California Department of Justice/ERDS Program will need to locate \_\_\_\_\_ (Agent Name) and their staff, as well as in some cases, will need to be directed to the SECURE workstation.

To ensure the safety and security of the SECURE workstation, I do hereby acknowledge that Authorized Submitter is required to enforce the security requirements, as outlined in this Agreement and all the Attachments, and report any security violations to SECURE Lead County Recorder immediately.

**Authorized Submitter:** \_\_\_\_\_

Signed & Approved By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Telephone #: \_\_\_\_\_ Email Address: \_\_\_\_\_



## Attachment C

### County Requirements and Schedule for Electronic Recording

#### C. 1 Hours of Operation

8:00 am Recording Time: Title Company documents may be submitted from 4:01 p.m. the previous day to 7:30 a.m. (Pacific Time)

Daily Documents: May be submitted from 7:31a.m. to 4:00 p.m. (Pacific Time), Monday through Friday, excluding County Holidays, for same day recording.

#### C. 2 Types of Documents and Turnaround Timeframes

8:00 am: (Type 1 and 2 Title Company Documents):

Documents submitted under this category will be recorded and returned daily on a First In-First Out ("FIFO") basis.

Daily: (Type 1 and 2 Documents):

Documents submitted under this category will be recorded on a FIFO basis, and will be returned daily.

#### C. 3 Concurrent Documents

Agent must identify concurrent documents. Documents shall be identified and submitted in the proper recording order; i.e., 1 of 3, 2 of 3 etc. Concurrent documents shall be submitted as one package and shall not be combined with additional orders.

#### C. 4 Processing Schedules

Corrections must be resubmitted within 30 minutes of return from Orange County.

Resubmission of rejected document(s) will only be accepted if they are submitted prior to 4:00 p.m. on the same day. Corrections not resubmitted timely will result in the return of the entire package.

#### C.5 Package Submittals

Before submitting any document the Agent must be approved. A unique Customer ID from the Orange County Clerk-Recorder Department will be created for financial billing purposes.

Packages shall be submitted using the unique Customer ID as the leading prefix, followed by the year, month, date, and package number; i.e. CCTSI-2009110501.

Submitter shall limit the size of each package to a maximum of 25 documents.

C. 6 Recording Fees

All fees shall be submitted according to the Orange County Clerk-Recorder Department's approved Financial Services Unit accounting procedures.

Submitters identified as failing to submit proper fees or incurring Non-Sufficient Fund ("NSF") checks will be blocked from submitting documents until financial issues are resolved.

C. 7 Return Options

Recorded documents will be returned to the Agent in electronic format after recordation is complete. Recorded documents will contain the recording label, which includes the fees associated with the document being recorded.

Counties owning SECURE software reserve the right to make changes to the indexing and/or Document Transfer Tax information as necessary.

Submitted documents that are rejected either as a correction or a reject/pull will be returned to the Agent in electronic format along with a description of the reason(s) for rejection.

C. 8 Illegible Documents

Agent is responsible for scanning at 200 dpi and performing quality assurance on each page of all documents to ensure compliance with photographically reproducible standards. Documents or page(s) not meeting this requirement will be rejected for rescanning and submission.

C. 9 Preliminary Change of Ownership Report (PCOR)

PCOR's shall be scanned and submitted as a separate attachment to the document. Documents containing PCOR's as part of the recordable document will be rejected and returned to the submitter for correction.

C.10 Non-Disclosure Statements also known as Not for Public Record ("NPR")

Non-Disclosure Statements shall be scanned and submitted as a separate attachment to the document. Documents containing a Non-Disclosure Statement as part of the recordable document will be rejected and returned to the submitter for correction.

Agent shall mask the applicable taxes on the face of the document.

C.11 Technical Service Help and Security Incident Contact Information

If assistance is needed for technical issues or a security issue needs to be reported, contact (714) 478-9891 between the hours of 7:00 am and 5:00 pm.

C.12 Payment Options

Agent is responsible for the recording fees of any document submitted and must submit checks prior to recording and no later than 8:00 a.m. on the same day.

C.13 Account Setup Procedures

The Agent must complete the applicable Memorandum of Understanding and submit it for approval. Once approved a Customer ID for billing purpose will be created and the account activated.

C.14 Reporting and Reconciliation

An invoice is printed daily and mailed to the Agent. Agent is responsible for verifying the invoice and contacting the department if a discrepancy is found.

## Attachment D

### Additional Electronic Recording Requirements

#### D.1 *Out of State Requirements*

1. A copy of the lease agreement or deed for Agent/Authorized Submitter's office (if co-locating).
2. Business license and any supporting documentation for the operation.
3. A building diagram indicating the location of SECURE workstation(s) and security measures for the work area.
4. Language explaining any additional security measures taken to ensure the security of workstation(s).
5. A copy of a valid Driver's License for each individual listed as a potential user prior to completing the fingerprinting process.
6. Security Tokens will be issued in person to each approved user.
7. Web cameras and other hardware and/or software may be required for user verification.
8. Agent/Authorized Submitter will reimburse SECURE staff for all expenses related to initial inspections, application installation, setup, training, maintenance of the system, and any situation requiring SECURE staff to travel to the Agent's out of state location.

#### D.2 *Eligibility of Agents*

1. Agents are defined as third party representatives who are authorized to submit documents on behalf of an Authorized Submitter.
2. An Agent may not be a Computer Security Auditor, County Recorder Designee, ERDS Account Administrator, ERDS System Administrator, or Vendor of ERDS Software.
3. Agents are prohibited from submitting documents through SECURE, on behalf of another Agent.
4. Agents shall not share workstations, tokens or passwords with other Agents.

##### *D.2.2 "Floaters"*

1. Agents that have multiple locations or branch offices, and employ staff that travel between business locations, are limited to 6 SECURE "floaters" unless otherwise approved.
2. Agents that have Users that travel between various locations must notify SECURE staff which Users are designated "floaters".
3. The following Users are designated "floaters"  
User: \_\_\_\_\_

Branches: \_\_\_\_\_

4. Agent acknowledges and agrees to inform Lead County Recorder of any changes to “floaters” specified in Section 3. Above within 5 business days. **Failure to do so may constitute of breach of this Agreement and may subject the Agent to suspension of access to the SECURE system.**

D.3 *SECURE Usage Policies*

1. Authorized users that have not submitted at least one electronic recording in a 2 month period, and whose account shows no activity, will be disabled from the SECURE system. Agent/Authorized Submitter must notify Lead County when any approved users are on leave or out of the office for an extended period of time. Notification after an account has been disabled accounts will not be accepted.
2. Agent/Authorized Submitter must notify SECURE staff of any user changes which includes the removal, addition and transfers of users.
3. Agent/Authorized Submitter should notify SECURE staff immediately if they suspect a system security breach, unauthorized access, or any other security incident that may require an investigation.

## Attachment E

### California Attorney General Certification Guidelines

#### E.1 Overview

As a State of California certified system, participation requires that certain requirements be met by Authorized Submitter. The regulations governing electronic recording delivery systems can be found at Chapter 18 of Division 1 of Title 11 of the California Code of Regulations, beginning with section 999.100.

#### E.2 Requirements

E.2.1 Fingerprinting Process – As an Authorized Submitter of Type 1 instruments or, Type 1 and Type 2 instruments for electronic recording, individual submitter staff members have a secure access role and are required to submit to a “Live Scan” fingerprint submission. Using the Request for Live Scan Service form (BCII 8016ERDS) and a service site (that can be found at <http://ag.ca.gov/fingerprints/index>), individual submitter staff members will pay the applicable fees in order to have their fingerprints submitted for approval to participate in the program. This process should be coordinated through the SECURE lead county (Orange County Clerk-Recorder) in order to get the Live Scan Service form and to make sure the applicant copy is notarized before being sent to the ERDS Program as proof of submission.

E.2.2 Hardware Token – Authorized Submitters will purchase a hardware token from authorized vendor approved by the SECURE lead county. One hardware token will be purchased for each individual submitter staff member. For use of the hardware token to submit documents for recording electronically, please refer to the SECURE Authorized Submitter User Manual.