

Kandiyohi County Recorder

LAREDO ON-LINE ACCESS AGREEMENT

THIS AGREEMENT IS NOT A BULK DATA & IMAGING CONTRACT. Bulk data and imaging is offered via the Monarch software from Fidar Technologies, LLC, and a separate contract agreement with Kandiyohi County.

THIS AGREEMENT, by and between the County of Kandiyohi, Minnesota, a municipal corporation, by and through the Kandiyohi County Recorder; hereinafter collectively referred to as "Recorder," and, _____, hereinafter referred to as "Subscriber."

WITNESSETH:

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

WHEREAS, Subscriber 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, Subscriber 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 Subscriber will be subject to such changes and adjustments.

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

1. **Scope of Services**

A. County's Responsibilities:

1. Recorder agrees to provide Subscriber access to certain public information contained within computer files of Kandiyohi County as indicated below:
 - a. Real Estate Grantor/Grantee and Tract Indexes-January 1, 1987 to date through the Laredo software program.
 - b. Real Estate Document Images-Beginning approximately mid 1800's through certification date in Laredo software program.
 - c. Real Estate Tract Books all scanned to include- Metes and Bounds Tract Books, Platted Books inside City limits and Platted Books outside City limits and all Reference Index Books.

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

Service will be provided to Subscriber, 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.

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

B. Subscriber Responsibilities:

1. Monthly statements will be billed, **with payments due by the 15th of the month following each billing cycle**. If payment is not timely received by Recorder service will be terminated to Subscriber. Checks will be made payable to the Kandiyohi County Recorder, and sent to: P. O. Box 736, Willmar, MN 56201. Advance payments can be accepted.
2. Subscriber agrees to keep Subscriber password confidential. Subscriber shall notify Recorder immediately of any loss, theft, or unauthorized use of Subscriber Password. A password may be changed and coordinated through Recorder.
3. Subscriber shall not in any way enhance, or alter public records accessed, or attempt to do so, or disclose any confidential Information contained thereon.

4. Subscriber warrants and agrees that Subscriber shall not data scrape/web scrape/data harvest/web harvest or data mine or anything similar to any system used, maintained, or owned by Recorder, either with or without the use of "bots" (automatic tools) is strictly prohibited and Recorder reserves the right to detect and prevent their use. A "data scrape/web scrape/data harvest/web harvest or data mining" occurs when a computer program has extracted data from a human-readable output coming from another program. Discovery or reasonable belief by Recorder, of any of this activity may result in immediate termination of this agreement.

Subscriber agrees that any data scrape/web scrape/data harvest/web harvest or data mining may be viewed as theft and may be punishable under Minnesota Statutes 609.52, 609.53, 609.87 - 609.8913, or any other applicable law.

5. Subscriber agrees that the Records remain the sole property of Recorder which retains all ownership rights. Subscriber further agrees that it shall not sell, distribute, reproduce, market, or in any way re-use such program information as Independent "stand-alone" information, except as authorized herein, without the express written consent of Recorder, and Subscriber shall not acquire any proprietary rights to such computer program information.

6. Subscriber specifically covenants and agrees, it will not, without the proper written permission of the Recorder, sell copies, in any form, of any of the documents or other records which the Subscriber has obtained from the records of the Recorder, except that descriptive Abstracts of such records in connection with their primary business of abstracting are not affected by this prohibition.

Subscriber may offer its abstract and title customers copies of Recorder real estate documents in their normal course of business, i.e. copies that support the information contained in its abstract and/or title opinion products, so long as there is no extra charge for the documents other than a nominal charge to cover copy costs and it is being offered as part of the title insurance or abstract preparation.

Both Recorder and Subscriber agree that it would be impracticable and extremely difficult to ascertain the amount of actual Damages caused by material breach of this limitation. Therefore, Recorder and Subscriber agree that, in the event the Subscriber has breached this limitation, Subscriber shall pay to Recorder five thousand dollars (\$5,000) in liquidated damages for each breach. For purposes of this agreement, a breach shall be defined as the sale, distribution, reproduction, marketing, or re-use of any single document. Each document sold, distributed, or reproduced constitutes a separate breach. Recorder and Subscriber further agree that this liquidated damages provision represents reasonable compensation for the loss which would be incurred by Recorder due to any such breach. Subscriber also agrees that nothing in this section is intended to limit the Recorder's right to obtain injunctive and other relief as may be appropriate.

2. **Consideration and Terms of Payment**

A. In consideration for Recorder providing Subscriber with direct access to Laredo as indicated within this agreement, Subscriber shall pay to Recorder as follows:

PLANS	County Charge to End-User	Overage Charge*	Plus Per Print	Additional Option – Print Results
Level I: 0-250 minutes	\$70/mo	.25/minute	0.35	\$25/mo
Level II: 251-1000 minutes	\$125/mo	.25/minute	0.35	\$25/mo
Level III: 1001-3000 minutes	\$225/mo	.25/minute	0.35	\$25/mo
Level IV: 3001-6000 minutes	\$325/mo	.25/minute	0.35	\$25/mo
Level V: Unlimited	\$525/mo		0.35	\$25/mo

All levels have the option to print search results for \$25 per month.

*Overage charge - Per minute charge for each minute over the plan that was originally signed-up for.

Only one person can use the password at a time. If additional passwords are needed, additional fees will be imposed.

Upon receipt of signed contract, Subscriber will be given a password.

Monthly fees are NOT prorated.

The subscriber will determine which level of the plan will fit their needs and if they want the print search result option. A subscriber can move up a level or add print search result option, at any time but can only move down or decline the print search result option, at the beginning of a new calendar quarter (January 1, April 1, July 1, or October 1).

3. **Effective Date of Agreement**

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

4. **Terms of Agreement**

The term of this agreement shall commence as of the first day of _____, 20____, (year) and shall terminate as of the last day of **December**, 20____ (year).

If during the term of this agreement, the Kandiyohi 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 Subscriber.

Contract renewal will be determined at the sole discretion of Recorder from time to time with written notice to the Subscriber. If Subscriber chooses not to renew under the new contract, Subscriber's previous contract will be terminated without further notice.

5. **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 Subscriber purposes, or that use of the program or information will be without defect. (No consultations or advice is provided with records accessed.)

The Recorder does not warrant that performance of the application, the code, computers or computer systems related to the application communication or connection to the application, that the application will be uninterrupted or error free, that defects will be corrected, or that the application is free of harmful code. Subscriber fully understands and agrees that the application is subject to error, omissions, delays or interruptions, and Recorder may modify or change the application or information in a manner that may impact or restrict Subscriber's access. In any such event, the Recorder will not be liable for the cost of such changes or damages which may be sustained by Subscriber.

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

In no event will Recorder or Kandiyohi County be liable to Subscriber 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.

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 Subscriber. Neither Subscriber, nor its employees, agents, subcontractors or representatives shall be considered employees, agents or representatives of Recorder.

7. **Inability to Access Data**

Subscriber 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 Subscriber and Recorder.

8. **Data Practices**

Recorder provides data to Subscriber for the public benefit as defined in Minn. Stat. 13.85. Recorder and Subscriber 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.

9. **Subcontractors or Assignments**

Subscriber shall not subcontract any computer data access rights of Subscriber 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 Subscriber from making duplicates or copies of any material received pursuant to this agreement and any such copies or duplicates so made by Subscriber shall be at Subscriber's risk and expense and EXCLUSIVELY for Subscriber's sole use. Subscriber may NOT wholesale or retail copies of any materials received nor provide them free of charge to any person, firm, company, association, corporation, business, partnership or any other individual or entity of any nature whatsoever.

10. **Termination With Cause**

This Agreement may be terminated by Recorder, with cause, without prior written notice, upon its reasonable belief that cause exists. "Cause" as used in this section includes any violation of law relating to use of the data and information provided through this agreement or violation of any terms of this agreement, including but not limited to data scrape/web scrape/data harvest/web harvest or data mine. Termination shall not relieve a party of its obligation incurred prior to the effective date of the termination. Recorder reserves the right to prohibit Subscriber from entering into another agreement for a minimum of one (1) year when Subscriber's prior agreement is terminated with cause.

11. **Termination Without Cause**

This Agreement may be terminated by either party, 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.

12. **Controlling Law**

This Agreement is to be governed by the laws of the State of Minnesota.

13. **Successors and Assigns**

Recorder and Subscriber, 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.

- 14. **Separation**
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.
- 15. **Entire Agreement**
It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between Recorder and Subscriber relating to the Laredo software program.
- 16. **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.

Time Usage:
Circle level of minute usage and additional print result option as per page 2.

Level: _____

Additional Option (print search results): Yes or No _____

DATE: _____

SUBSCRIBER: _____

CONTACT PERSON: _____

SIGNED BY: _____

ADDRESS: _____

PHONE: _____

FAX: _____

E-MAIL: _____

RECORDER: _____

KANDIYOHI COUNTY RECORDER

BY: _____ **DATE** _____
Julie Kalkbrenner

Upon receipt of signed contract, Recorder Office will Assign Subscriber User Name(s) and Password(s).

Internal _____ **External** _____
User Name: _____ User Name: _____

Password: _____ Password: _____