

Please fax, mail, courier, or hand-deliver the following **Digital Image License Application and Agreement** to:

Clerk and Recorder
Wellington E. Webb Municipal Office Building
201 W. Colfax Av., Dept. 101
Denver, CO 80202
Fax 720-865-8580

[This page is not part of the **Digital Image License Application and Agreement.**]

**DIGITAL IMAGE LICENSE APPLICATION AND AGREEMENT
CLERK & RECORDER / PUBLIC TRUSTEE
City and County of Denver**

Licensee's Name	Primary Contact		
Address	City	State	Zip Code
Telephone Number	Facsimile	E-mail	

This Digital Image License Application and Agreement ("Agreement"), made and entered into as of the date set forth below, is by and between the above-referenced **Licensee** and the **City and County of Denver**, a municipal corporation, to be administered by the **Clerk & Recorder** in consultation with the Denver Office of Information Technology pursuant to the terms set forth below and the provisions of section 2-363 of the Denver Revised Municipal Code. In consideration of the premises and the mutual covenants and obligations herein contained, the parties agree as follows:

- (1) The recorded documents provided to Licensee in digital form were created and filed with the office of the Clerk & Recorder by persons or entities not under the control or direction of the Clerk & Recorder or the City and County of Denver (collectively, the "City"). The recorded documents are accepted by Licensee "as is", with any and all faults. The City makes no representations, guarantees or warranties as to the content, accuracy, correctness, completeness, legibility or legality of the recorded documents.
- (2) Licensee accepts "as is", with any and all faults, the digital imagery form of the recorded documents, whether obtained by access through a server or by DVD's. The City makes no representations, guarantees or warranties as to the accuracy, correctness, completeness, or legibility of the digital imagery form of the recorded documents. Furthermore, the City expressly disclaims all warranties of merchantability and all warranties of fitness for a particular purpose. Licensee uses and relies upon the digital images of recorded documents at Licensee's own risk.
- (3) Licensee agrees not to trademark, copyright, or patent any recorded documents or the software program(s) by which the recorded documents are stored, transferred, or made viewable, unless said programs are completely separate from, and in no way are derived from or dependent upon, the programs by which the City stores, transfers, or makes viewable recorded documents.
- (4) Licensee represents and affirms that it has the legal authority, including any required licenses, to utilize any hardware or software necessary for the storage, transfer, and viewing of recorded documents as provided by the City and that Licensee has not and will not engage in any illegal or inappropriate actions to acquire, utilize, manipulate, modify, or misappropriate hardware or software necessary for the storage, transfer, and viewing of recorded documents. Licensee agrees not to use any hardware or software in a manner that could damage or otherwise result in harm to the City's computer systems in accessing or transferring recorded documents from the City or that could damage or otherwise result in harm to third parties' computers systems in accessing or transferring recorded documents provided by the City.
- (5) Licensee will not alter in any fashion the contents of recorded documents from that provided in their digital imagery form. All recording information, including reception number, recording date, and county of recording, must be left in tact and legible in any reproduction or resizing of the recorded documents.
- (6) If Licensee remarkets or conveys to third persons the recorded documents, whether in the digital imagery form provided by the City or in another form, Licensee will not make any representation that the City certifies or approves the copies of the recorded documents provided by Licensee to third parties. Only copies of recorded documents certified by the office of the Clerk & Recorder may be self-authenticating in a court of law.
- (7) Licensee shall defend, release, indemnify and save and hold harmless the City and its officers, agents and employees from any and all claims, damages, demands, liabilities, losses, actions, suits, costs, expenses, legal fees, judgments, causes of action, or other legal, equitable or administrative proceedings of any kind whatsoever, of or by anyone whomsoever, regardless of the legal theory(ies) upon which premised, which in any way result from, are connected with, or arise out of, directly or indirectly, the actions or omissions of Licensee in connection with any use of recorded documents or the digital imagery technology obtained by Licensee from the City or in connection with any illegal or inappropriate actions by or on behalf of Licensee in violation of paragraphs (1) through (6) above, whether such use or action is authorized or unauthorized, by Licensee or any other person or entity acting for or through Licensee, including actions or omissions of the Licensee's officers, employees, agents, representatives, invitees, licensees, consultants, or any other individuals obtaining access to the recorded documents in a digital imagery form provided by the City.

(8) The right to access or acquire recorded documents in digital imagery form shall be subject to the type of license obtained by Licensee and the availability of the recorded documents in digital imagery form. The office of the Clerk & Recorder will make every reasonable effort to make available on a timely basis the digital images of recorded documents to which Licensee is entitled under the specific license issued; however, no specific assurances are made in this regard. In the event that server access should become unavailable, the office of the Clerk & Recorder will provide, if possible, the recorded documents by means of DVD's, if so requested by Licensee.

(9) If Licensee discovers a problem with a recorded document or its digital imagery form, Licensee should promptly notify the office of the Clerk & Recorder. If the office of the Clerk & Recorder determines that there is a problem and that it has the ability and authority to correct or otherwise resolve the problem, a corrected or improved form of the digital image of the recorded document will be provided to Licensee free of charge.

(10) If Licensee accesses the server containing recorded documents, all costs for obtaining access to the server, including any hardware, software, or telecommunication equipment, shall be the sole expense of the Licensee. Licensee is solely responsible for contracting with a telecommunication provider and paying for any telecommunication services required for access to the server. The City reserves the right to modify its computer systems and telecommunication equipment. Notice will be given to Licensee, along with an opportunity for Licensee to modify or upgrade any hardware, software, or telecommunication equipment, at Licensee's sole expense.

(11) Attached hereto are the technical specifications and procedures for accessing the server containing recorded documents. In addition to the technical specifications and procedures, the provisions contained in section 2-361, 362 and 363 of the Denver Revised Municipal Code are applicable, including the definition of "recorded document" in section 2-361(e).

(12) All rights, title and interest in the server, its software, hardware, and telecommunication equipment, including any software, hardware, and telecommunication equipment installed or provided by the Licensee, are and shall continue to be the exclusive property of the City. This Agreement does not create or vest in the Licensee any rights or title to the server or any aspect of its software, hardware, or telecommunication equipment.

(13) This Agreement may be terminated by either the City or the Licensee upon thirty (30) days notice, unless the City terminates the Agreement for a substantive violation of the terms and conditions in this section or failure to pay the prescribed fees.

(14) The fees or the terms and conditions in this Agreement are subject to change upon adoption of any ordinance modifying the fees or the terms and conditions. The City will make every reasonable effort to notify the licensee of a pending change at least thirty (30) days in advance.

(15) This Agreement is not transferable and not exclusive. No third party shall be a beneficiary of, or hold any rights under, this Agreement.

(16) This Agreement is governed by the laws of the State of Colorado and the City and County of Denver.

I have read and understand, and hereby agree that my company or firm and all of its principals, officers and employees will comply with, the provisions of section 2-363 of the Denver Revised Municipal Code and the Technical Specifications and Procedures attached to this Agreement.

LICENSEE:

Dated

CLERK & RECORDER / PUBLIC TRUSTEE
City and County of Denver
By: Wayne E. Vaden, Esq.

Dated

TECHNICAL SPECIFICATIONS & PROCEDURES FOR SERVER ACCESS

Pursuant to the Agreement, Clerk & Recorder will provide to Licensee access to a minimum of the last 31 days of the Clerk & Recorder's recorded documents that are available in digital imagery form, subject to the technical specifications and procedures set out below:

1. Network Access. Access to the designated server ("Server") shall be via the TCP/IP and FTP protocols during all periods of time that the Server is in service for normal/usual operations as more fully detailed below. The City reserves the right to restrict access during its normally scheduled maintenance weekend, normally the third weekend of each month, and when emergency maintenance is required.
2. Telecommunications. The Denver Office of Information Technology ("DOIT") will permit Licensee and/or its designated telecommunications contractor to install a Channel Service Unit/Digital Service Unit (CSU/DSU), Internet Protocol (IP) Router, and T1 (1.544 Mb/Sec) dedicated digital circuits at 10 Galapago Street, Denver, Colorado, configured and interconnected such that this set of telecommunications equipment is terminated in the City's "Demilitarized Zone" ("DMZ") so as to provide Licensee access to a directory of recorded documents, as more fully described below. In regard to Licensee's equipment at the DOIT site, DOIT will provide Licensee and its designated contractor reasonable escorted access to the DOIT site of Licensee's equipment during DOIT's normal business hours for the purpose of installation, troubleshooting, and maintenance of Licensee's equipment, and Licensee agrees to release the City from liability for any of Licensee's equipment located at the DOIT site.
3. Dedicated Directory(s). A dedicated directory(s) will be allocated on the Server with random access storage capacity of up to 10 gigabytes, and Licensee will be permitted access to all information in that dedicated directory(s) for the purpose of read-only retrieving and transmitting of that information to Licensee's servers.
4. System Configuration. Recorded documents image processing hardware and software and any other components of the information processing operations will be configured as necessary to:
 - A. Digitally scan each page of each recorded document that is received for public recording so as to produce a Tagged Image Format (TIF) digital image file for each such page, scanned and named per the Eagle CRIS Plus + system after the reception of each recorded document. (The current Eagle CRIS Plus + technique is at a resolution of 200 by 200 dots per inch (200 dpi), with an 8-numeric character file base name composed of the reception number of the document and a 3-numeric character file name extension representing the serial page number(s) of the document.)
 - B. Place a duplicate file copy of each digital image file into the dedicated directory(s) specified above as they are validated per the advancing of the Proof Date (if compressed, such digital image file copies shall have been compressed by a method conforming to the CCITT Group 4 lossless compression algorithm).
 - C. Provide an automated method by which Licensee can account for recorded documents with reception numbers that for any reason were not digitally scanned.
 - D. Create duplicated ASCII – encoded copies of the data files ("Indexes") containing all information that is abstracted and keyed from recorded documents. (The current Eagle CRIS Plus + technique is with 8character file name composed of the reception numbers of the document and 3-character file name extensions with all alpha characters (e.g., "TXT", "DAT") or a mixture of alpha and numeric characters such that the first character is an alpha character (e.g., "TO1", "D01", "TX2")).
5. Backup. Upon notice by Licensee that technical problems have interfered with Licensee's ability to utilize the telecommunications facilities described above to acquire such digital images and/or files during a given day or days of operations, the Clerk and Recorder will provide by digital video discs (DVD's) or by such other means agreed to by the Clerk and Recorder and Licensee, all the digital image files pertaining to all of the recorded documents scanned and all of the ASCII – encoded keyed data files pertaining to those recorded documents.