



MARICOPA COUNTY RECORDER'S OFFICE
JUSTIN HEAP, COUNTY RECORDER
301 W JEFFERSON ST, 2nd FLOOR, SUITE 200
PHOENIX, AZ 85003

**ELECTRONIC/DIGITAL RECORDING MEMORANDUM
OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING, dated _____ is between the **Maricopa County Recorder's Office** (Hereinafter "Maricopa County" and _____ (hereinafter "Company" or "Third-Party Submitter").

Maricopa County desires to offer recording of real property documents by electronically receiving and transmitting documents electronically in substitution for conventional paper based documents and to assure that transactions are not legally invalid or unenforceable as a result of the use of available electronic technologies for the mutual benefit of the parties of the trans-actions.

For purposes of this Memorandum of Understanding, Electronic Recording is defined based on the level of automation and structure of the transaction. The three levels of automation are as follows:

- ◆ Level 1 – Submitting organizations that are "Trusted Submitter's" can transmit a scanned image original of ink signed documents to Maricopa County. Maricopa County completes the recording process in the same way as paper using the scanned image as the source document. An electronic recording endorsement is returned to the organization in the form of a label or printing process in order for the submitting organization to append that information to the original paper document. The electronic version of the recorded document is made available to the submitting organization. **Notice:** The Maricopa County Recorder's office will accept electronic or scanned images in a variety of options. Please contact the Maricopa County Recorder's office to discuss these options.
- ◆ Level 2 – Submitting organizations that are "Trusted Submitter's" can transmit a scanned image original of ink signed documents including the indexing data to Maricopa County. Maricopa County performs an electronic examination of the scanned imaged documents and indexing data, and then completes the recording process using the scanned image as the source document along with the electronic indexing information. The electronic version of the recorded document is made available to the submitting organization. **Notice:** The Maricopa County Recorder's office will accept electronic or scanned images in a variety of options. Please contact the Maricopa County Recorder's office to discuss these options.
- ◆ Level 3 – Submitting organizations who are "Trusted Submitter's" can transmit documents which have been created, signed and notarized electronically along with the electronic indexing information or a

SMART Doc™ which are a single object containing the electronic version of the document in such a way that enables the electronic extraction of data from the object. A SMART Doc™ is required to be signed and notarized electronically. (SMART Doc™ is a technical framework for representing documents in an electronic format. This format links data, the visual representation of the form, and signature. The visual representation of the documents can utilize a variety of technologies such as XHTML, PDF, and TIFF. Previously SMART Docs™ were called eMortgage documents. In order to better describe the actual capabilities of the technology, the word “eMortgage” was replaced by the acronym “SMART” which represents: Securable, Manageable, Archivable, Retrievable, and Transferable.) Maricopa County performs an electronic examination of the electronic documents and indexing information and then completes the recording process using the electronic documents. Electronic and SMART Docs™ are made available to the submitting organization.

All electronic signatures must comply with the Uniform Electronic Transaction Act (UETA), 15 U.S.C. §§ 7001 to 7031, Arizona Electronic Transaction Act (AETA), A.R.S. §§ 44-7001 to 44-7051, 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. You can find further information on these laws at:

<http://www.law.upenn.edu/bll/archives/ulc/fnact99/1990s/ueta99.htm> ;

<http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/44/07001.htm&Title=44&DocType=ARS> ;

<http://www.ftc.gov/os/2001/06/esign7.htm>.

It is the policy of Maricopa County that an electronic document can be submitted with an electronic signature.

Trusted Submitter’s who submit electronic documents with only an electronic signature are responsible for determining whether the signature must also be notarized.

Program Eligibility

Arizona Revised Statutes Section 11-461(C) provides that a title insurer or title insurance agent as defined in A.R.S. § 20-1562, a state chartered or federally chartered bank insured by the federal deposit insurance corporation, an active member of the state bar of Arizona, an agency, branch or instrumentality of the federal government, a trusted submitter **as defined by ARS 11-461*, J** or a governmental entity may directly or through a trusted third party provider submit real property records for electronic recording and the instrument from which the digitized image is taken conforms to all applicable laws relating to the recording of paper instruments.

***Note – Account customers who have been established as a Trusted Submitter are eligible to submit electronic documents with an electronic signature and electronic notary.**

In the event of a system failure involving the Trusted Submitter or the Maricopa County Recorder’s Office; the Trusted Submitter may print a legible electronic document (containing electronic signature(s) and electronic notary) onto paper and present the document(s) in person for recordation. This electronic document converted to paper will be considered an original document with original signature(s) and original notary.

Electronic Recording mandates a close working relationship as well as mutual trust between Maricopa County and the submitting entity.

All parties of the Electronic Recording transaction desire to operate and maintain a secure recording system that safeguards parties to recordation from deceit, fraud and forgery. This Memorandum of Understanding outlines the procedures and rules for the trusted relationship between Maricopa County and Company to facilitate a safe and secure Electronic Recording relationship.

Participation in the Electronic Recording program is voluntary and the decision to do so is a business judgment. There will be no added fees or costs of any kind charged by Maricopa County for Electronic Recording.

Maricopa County Requirements

The Electronic Recording Program of Maricopa County is defined by the requirements attached to this Memorandum of Understanding.

Attachment A. defines the technical specifications including format, levels of recording supported, transmission protocols, and security requirements of the electronic records required by Maricopa County. Company agrees to provide the transmission to Maricopa County following the specifications outlined. Company understands that the specifications may change from time to time. In the event changes to the specification are required, Maricopa County will provide a written notice to the Company within a reasonable timeframe.

Attachment B. contains the document and indexing specifications for the Electronic Recording program. For each document, a Maricopa County specific document code is provided along with the required indexing information. Any Maricopa County specific editing rules will also be described in this attachment. All indexing specifications must follow the Property Records Industry Association (PRIA) standards as set out on their website: <http://pria.us>.

Attachment C. contains the processing schedules and hours of operation for the Electronic Recording Program. Neither party shall be liable for any failure to perform processing of the transactions and documents where such failure results from any act of Nature or other cause 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. If the Maricopa County system causes delays or power failures interfere with the normal course of business, Maricopa County will notify the affected Company with a choice of using a courier service or waiting until the problem has been remedied.

Attachment D. provides the payment options supported for the Electronic Recording program.

Company/Third Party Submitter Responsibilities

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

Maricopa County understands that technology changes. In the event Company changes technologies that will affect a Level 1, 2 or 3 electronic recording, Company will provide a written notice to Maricopa County prior to

implementing changes, within a reasonable timeframe. Company may be asked to submit examples prior to implementing the changes.

By use of electronic or digital certificates to sign documents, Company intends to be bound to those documents for all purposes as fully as if paper versions of the documents had been manually signed.

By use of electronic or digital certificates to sign documents, Company intends to be bound by those electronic signatures affixed to any documents and such electronic signature shall have the same legal effect as if that signature was manually affixed to a paper version of the document.

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

The Company and/or its employees attest to the accuracy and completeness of the electronic records and acknowledge responsibility for the content of the documents submitted through the Electronic Recording Program. Should a dispute or legal action arise concerning an electronic transaction, Maricopa County will be held harmless and not liable for any damages caused by the Company or its employee's, agents or vendors.

Company is responsible for the costs of the system or services provided by a third party that enables Company to meet the Electronic Recording Program requirements.

General Understanding

Maricopa County will not incur any liability for the information electronically transmitted by the Company, included but not limited to any breach of security, fraud or deceit.

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

Maricopa County and Company will attempt in good faith to resolve any controversy or claim arising out of or relating to Electronic Recording through either negotiation or mediation prior to initiating litigation.

Either party may terminate this Memorandum of Understanding for any reason by providing 30 days written notice of termination.

Maricopa County and Company acknowledges that the electronic recording process is an emerging technology and that State and National standards will continue to evolve.

Maricopa County and Company acknowledges that the electronic recording process is an emerging technology and State and National standards will continue to evolve. Therefore, this Memorandum of Understanding (MOU) may need to be revised from time to time and Company may be asked to complete a new MOU.

Agreed and Accepted:

Company Name: _____

Authorized Signer: _____

Print Name and Title: _____

Date: _____

Name of Third-Party Submitter: _____

Authorized Signer: _____

Print Name and Title: _____

Date: _____

Maricopa County Recorder's Office

Authorized Signer: _____

Print Name and Title: _____

Date: _____

Customer Account # _____ (To be completed by Maricopa County)

Attachment A Technical Specifications

Format of the transmitted File

Property Records Industry Association (PRIA) <http://pria.us/> Mortgage Industry Standards Maintenance Organization (MISMO) file format standard will be used <http://www.mismo.org/default.htm>. Any multi - page storage format as specified by Maricopa County.

Communications Protocol and Options

Transmission Control Protocol/Internet Protocol (TCP/IP)

Security Framework

Encryption will be a minimum 128 bit file and image encryption. Secure Socket Layer (SSL) and user login/password will be employed. User passwords are controlled by the Company and should be monitored/or changed periodically to ensure security. Computers on which documents originate must have all critical operating system patches applied, must have a firewall (hardware or software) installed, and must have up to date virus scan software.

Returned File Format

Property Records Industry Association (PRIA)/Mortgage Industry Standards Maintenance Organization (MISMO) file format standard will be used. Any multi- page storage format as specified by Maricopa County.

<http://pria.us/> and <http://www.mismo.org/default.htm>

Levels of Electronic Recording Supported

Levels 1, 2, and 3 or as specified by Maricopa County.

Electronic Signatures and Use of Digital Certificates

The use of Electronic Signatures, eNotarization and the digital certificates associated with the electronic signatures, will need to adhere to the guidelines set out in the Arizona Uniform Real Property Electronic Recording Act (http://recorder.maricopa.gov/pdf/Electronic_Recording_Standards.pdf), Arizona Revised Statutes and Arizona Secretary of State administrative rules (<http://www.azsos.gov/pa>).

Imaging Standards

Documents must be scanned at a minimum of 300 x300 dpi.

Documents must be scanned in portrait mode.

Document images will be captured in any multi page storage format as specified by Maricopa County.

Scanned documents will be legible so as to be able to reproduce onto microfilm or microfiche as required by law in A.R.S. § 11-480 – including signatures and notary seals.

Document font size must be 10 point or larger, margins will consist of a minimum of a 2” top margin and ½” side and bottom margins.

DOCUMENTS THAT FAIL TO MEET THE REQUIREMENTS OF A.R.S. § 11-480 WILL NOT BE ACCEPTED FOR RECORDING.

Documents must be scanned to original size.

Maps must be scanned at a minimum of 300 x 300 dpi.

Maps must be scanned in landscape mode.

Map images will be captured in any multi-page storage format as specified by Maricopa County.

Scanned maps will be legible so as to be able to reproduce onto microfilm or microfiche as required by law in A.R.S. §11-480 – including signatures, seals and notary seals.

Maps must meet all of the statutory requirements of A.R.S. §11-481 – including signatures, seals and notary seals.

MAPS THAT FAIL TO MEET THE REQUIREMENTS OF A.R.S. §11-480 and A.R.S. § 11-481 WILL NOT BE ACCEPTED FOR RECORDING.

Attachment B Documents and Indexing Specifications

Eligible Document Types

All document and map types and sizes must meet the requirements as set forth in A.R.S. § 11-480.

Eligible Map Types

Plat and Survey Maps sizes 18x24 and 24x36 must meet the requirements as set forth in A.R.S. §11-480 and A.R.S. §11-481

Maricopa County Specific Document Type Coding for Level 3

Please refer to the PRIA website for the Logical Data Dictionary, which lists all the acceptable “Document Types”. <http://pria.us/>. It is Maricopa County’s intention to not reject documents based on “incorrect or nonCounty specific document types”. Rather Maricopa County will correct the document type as part of the acceptance process.

Level 3 Indexing Fields for each Document Code

All level 3 documents submitted will require the minimum index fields:

Grantor(s) or equivalent

Grantee(s) or equivalent

Document Type Recording

Fee

Related (original document number, in the case of releases, assignment, amendments, etc.).

Legal Description Fields as specified by Maricopa County

Standard PRIA tags defined for these fields must be used. <http://pria.us/>

Affidavits of Value (AOV)

A.R.S. §§ 11-1133 and 11-1137(B) require all buyers and sellers of real property or their agents to complete and attest to this Affidavit. Failure to do so constitutes a class 2 misdemeanor and is punishable by law. The County Assessor and the Department of Revenue use data obtained from the affidavits to develop tables and schedules for the uniform valuation of properties based on fair market value. Data supplied for an individual property will not directly affect the assessment or taxes of that property.

AOV's will be scanned immediately following the Deed they are associated with. All Deeds must be accompanied by an AOV or an exemption code. Forms or exemption codes can be retrieved from this website. <http://www.azdor.gov/Forms/property.asp>. Standard MISMO tags defined for these fields must be used. <http://www.mismo.org/default.htm>

Document Imaging Quality Control Standards

Scanned documents and maps will be legible so as to be able to reproduce onto microfilm or microfiche as required by law in A.R.S. § 11-480 – including signatures, seals and notary seals. All documents and maps must meet the recording requirements as set forth in A.R.S. § 11-480 and A.R.S. § 11-481.

The XHTML (Extensible Hypertext Markup Language) document must display in W3C (World Wide Web Consortium) Standards.

Notary Requirements per Document

It is the responsibility of the Company to confirm that notary signatures and seals are present on all documents that require them.

An inked notary stamp is strongly recommended, however in the case of an embossed notary seals, this area will require “darkening” by the Company prior to submittal.

All Arizona electronic notaries must adhere to the Arizona Secretary of State Standards for electronic notaries. <http://www.azsos.gov/pa>. All out of state electronic notaries must comply with the laws of the state in which they are commissioned.

Eligible Document Batches

Document batches will be submitted by a standard naming convention as specified by Maricopa County.

The maximum size of electronic document batches will be determined by Maricopa County.

Attachment C Service Offering

Hours of Operation

Documents and maps may only be submitted during the normal business hours of Maricopa County which is typically between 8 a.m. and 5 p.m., Mountain Standard Time. Documents and maps will not be processed on federal or county holidays, weekends, snow days, declared emergencies, etc. or in the event of network or equipment failure. Maricopa County will attempt to notify Company of any disruption in service.

Processing Schedules

Document and map batches must be received by 5:00 p.m. Mountain Standard Time to be recorded or rejected.

Return Options

Submitted documents and maps that are accepted for recording will be made available to the Company in electronic format after recording.

Submitted documents and maps that are rejected will be made available to the Company in electronic format after rejection, along with a description of the reason(s) for rejection.

Service Help Contact Information

Maricopa County:

Company should utilize the Contact Us feature for digital recording assistance, including technical issues.

Maricopa County eRecording Vendor:

Maricopa County does not have an eRecording Vendor. Our digital recording program was developed in house and is customized to our specifications.

Company:

N/A

Company eRecording Vendor:

N/A

Attachment D Payment Options

Payment Options

Maricopa County's payment options are:

Company can remit payment for charges via a credit/debit card or check. In addition, Maricopa County offers an option of remitting payment via ACH (Automatic Clearing House). If Company is interested in this type of remittance, please contact the accounting team via email at accountinginfo@risc.maricopa.gov for further information and instructions.

