

DRAFT

BULK INTERNET DATA AND DOCUMENT SALES AGREEMENT

THIS BULK INTERNET DATA AND DOCUMENT SALES AGREEMENT (“Agreement”) is entered into by and between COUNTY OF COOK, a public body corporate of the State of Illinois (“County”) on behalf of the OFFICE OF COOK COUNTY RECORDER OF DEEDS (“Recorder”) and REI Data, Inc., and its subsidiaries and affiliates, including but not limited to Stewart Information Services Corporation and Stewart Title Company and their subsidiaries and affiliates (collectively known as “Purchaser”), pursuant to authority granted by the Cook County Board of Commissioners (“Board”). County (including Recorder) and Purchaser are collectively referred to herein as “parties.”

WHEREAS, Recorder maintains a public search website allowing access to certain document images filed with the Recorder and to data from the bulk database index information system (“Index System”); and

WHEREAS, Recorder has been granted authority by the State of Illinois, pursuant to 55 ILCS 5/5-1106, and the County, pursuant to Cook County Code of Ordinances, Part I, Chapter 2, Article IV, Division 3, Sub-division 1, Section 2-206, to negotiate contracts with commercial and non-commercial entities, including title companies, for the purpose of providing large volume access, for a fee, to recorded document images and/or the Index System (collectively referred to as “Data”); and

WHEREAS, Recorder believes it is in the public interest to provide copies of Data to Purchaser for a bulk purchase on the terms and conditions set forth herein and allow Purchaser to deposit funds with Recorder for such fees in advance of receiving the Data, and;

WHEREAS, Purchaser desires to have access to the Data and to purchase such Data solely in furtherance of the official functions of Purchaser;

NOW, THEREFORE, in consideration of the premises and the mutual undertakings set forth herein, the parties agree as follows:

I. PURPOSE AND USE

This Agreement is entered into pursuant to Cook County Code of Ordinances, Part I, Chapter 2, Article IV, Division 3, Sub-division 1, Section 2-206 (Bulk Database Index Information).

Purchaser represents and warrants that it is requesting access to and will use, distribute or reproduce Data acquired hereunder solely for its own business purposes or the business purposes of its Affiliates and their Affiliate-associated agents. Purchaser understands this Agreement does not authorize Purchaser, its Affiliates or Affiliate-associated agents to use, distribute or reproduce Data for the general public, including third parties who are associated or do business with such agents. Purchaser shall assure that Affiliates and Affiliate-associated agents are aware of and abide by the terms of this Agreement,

including assuring that Affiliates, or Affiliate-associated agents, are not providing or reproducing Data for free or for a charge to the general public.

II. TERM OF AGREEMENT

This Agreement shall be executed by the parties and shall be effective on the date the County Board approves the same ("Effective Date"). This Agreement shall continue for a period of three (3) years from the Effective Date and may be renewed for additional one year periods upon the mutual agreement of the parties consistent with applicable laws and ordinances.

III. DUTIES AND OBLIGATIONS

A. RECORDER

1. Recorder shall make available to Purchaser daily, or as otherwise agreed by the parties, copies of and/or access to Data as well as plats in hard copy or on disc, for the fee charges set forth in Section IV. Data will be transmitted to Purchaser in electronic format if available in that format. This Agreement shall not include any subscription for annual transfer data or copies of declarations, military discharges or Uniform Commercial Code ("UCC") filings.

2. Recorder may revise certain Data recorded on a particular day and, when doing so, shall furnish such revisions to Purchaser within a reasonable length of time thereafter or as otherwise provided herein.

3. Recorder reserves the right to promulgate rules and regulations concerning access to Data and security of copies thereof. Recorder will provide Purchaser with copies of such rules and regulations.

B. PURCHASER

1. Purchaser shall be responsible for compliance with the terms of this Agreement and for assuring compliance by all Affiliates and Affiliate-associated agents.

2. Purchaser shall not create nor make any representation that any data or documents created by Purchaser from any Data received from the Recorder is an official Recorder or Cook County document.

3. Purchaser shall not use, nor permit its Affiliates and Affiliate-associated agents to use, any Data in violation of, in furtherance or in aid of a violation (whether by Purchaser, Affiliate or a third party) of any federal, state, county or local law, statute, ordinance, rules or regulation.

4. Purchaser shall provide to the Recorder a list of its Affiliates and Affiliate-associated agents. Purchaser shall be responsible for updating, revising or amending its Affiliates and Affiliate-associated agents list prior to the release, sale, distribution or transfer of the Data thereto.

5. Purchaser shall not resell, distribute or transfer Data, whether in electronic or hard copy form, in bulk format, as compiled and distributed by Recorder to Purchaser, to any person or entity other than Purchaser's Affiliates and Affiliate-associated agents. Purchaser may incorporate Data

within its products and/or use the Data in connection with its services, including, but not limited to, reports, searches, offshore keying, document services, title commitments, data services and property profiles.

6. Purchaser shall be responsible for any access fees, connectivity fees or network maintenance required in order to fulfill the purposes of this Agreement.

7. **Purchaser, its Affiliates and Affiliate-associated agents shall not in any manner alter, manipulate, replace or otherwise interfere with any process implemented by Recorder to safeguard the security and duplication of documents, images or other data provided hereunder (collectively “tampering”), including tampering with any watermarks or page differentiation implemented by Recorder, and regardless of whether such tampering occurs within or outside the boundaries of the United States and whether done by Purchaser, Affiliate, Affiliate-associated agent or any agent, contractor, or other third party known by Purchaser to be engaging in such tampering.**

IV. FEE PAYMENTS

A. Parties acknowledge that Purchaser is a volume purchaser of Data and, as such, Recorder has determined it is in the best interest of Recorder and the general public to establish a flat annual fee of \$600,000.00 to be paid by Purchaser in quarterly installments of \$150,000.00. Unless waived by Recorder in writing, Purchaser shall deposit with Recorder the amount of \$150,000.00, by certified funds, upon execution and prior to initial receipt of Data hereunder. In the event Purchaser fails to make timely payment of any quarterly installment payment hereunder, as a courtesy and not as a condition precedent, Recorder will provide written notice to Purchaser and Purchaser shall make the required payment within two (2) days of the date of such written notice. If Purchaser fails to do so, provision of Data shall cease until such time as payment is received in full and such payment shall not be subject to any credit for the time period during which Recorder was not providing Data.

B. Notwithstanding the terms of Section A. above, any fee payment not timely paid shall be deemed late and shall constitute a default of this Agreement. At the discretion of Recorder, such default may result in termination of this Agreement.

C. In the event of termination of this Agreement, Purchaser may continue to receive Data at fee charges established by Recorder for the purchase of such Data by the general public in non-bulk format and in accordance with applicable Ordinances regarding same.

V. WARRANTY/ GUARANTY/ NONCERTIFIED DOCUMENT DISCLAIMER

A. **NEITHER THE COUNTY NOR THE RECORDER GUARANTEE THE ACCURACY OF THE DATA, RECORDS, DOCUMENTS OR OTHER INFORMATION PROVIDED TO PURCHASER WHETHER PURCHASED AS DOCUMENTS OR ACCESSED VIA THE INDEX SYSTEM.**

B. ALL DATA OF ANY TYPE PROVIDED HEREUNDER ARE PROVIDED “AS IS” WITHOUT ANY WARRANTY OR REPRESENTATION WHATSOEVER, INCLUDING ANY REPRESENTATION AS TO THE ACCURACY OF THE DATA OR ANY INFORMATION CONTAINED THEREIN OR DATA CONTAINED WITHIN THE INDEX SYSTEM, THE ACCURACY OF ANY SCANNING PROCESS USED BY RECORDER, THE ACCURACY OF DATA ENTERED BY ANY COUNTY OR RECORDER EMPLOYEE, THE TECHNICAL PERFORMANCE OF ANY SERVICES PROVIDED BY RECORDER OR THE INFRINGEMENT OF ANY RIGHTS OF PRIVACY, TRADEMARK RIGHTS OR DISCLOSURE OF CONFIDENTIAL INFORMATION RELATED TO THE DATA. THE COUNTY AND RECORDER EXPRESSLY DISCLAIM ANY AND ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) RELATED TO ANY DATA ACQUIRED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL WARRANTIES OF QUALITY, PERFORMANCE, ACCURACY, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

C. DATA PROVIDED PURSUANT TO THIS AGREEMENT ARE NON-CERTIFIED COPIES AND MAY OR MAY NOT BE A TRUE AND CORRECT COPY OF THE RECORDS OF THE OFFICE OF THE RECORDER OF DEEDS.

VI. INDEMNIFICATION AND LIMITATION OF LIABILITY

Purchaser acknowledges that neither County nor Recorder, nor their respective commissioners, officers, employees, agents, vendors or contractors (“Indemnified Parties”), shall be liable to Purchaser, Affiliates, Affiliate-associated agents, or any other person or entity for, and Purchaser shall indemnify, defend and hold Indemnified Parties harmless from and against, any claim, loss, judgment, expense of any kind or nature (including attorney’s fees and expenses) or other damages (collectively referred to as “Losses”) related in any way to this Agreement or the use or misuse of Data, including the use of any data, records or documents accessed from the Recorder’s Index System or the use of any records, documents, or other data purchased from Recorder pursuant to this Agreement, whether such Losses are caused by the Purchaser, its Affiliates, Affiliate-associated agents or their associated agents or by a party receiving Data from Purchaser or its Affiliates and Affiliate-associated agents in violation of this Agreement and regardless of whether such Losses are due or related, in whole or in part, to: (1) the negligent acts or omissions or strict liability of the Indemnified Parties, (2) inaccuracies in the Data, (3) late provision of Data or (4) failure to timely provide Data. In the event any Indemnified Party is deemed by a court of competent jurisdiction to be liable in any manner for Losses arising out of or related to this Agreement, or Purchaser’s or Affiliates’ and Affiliate-associated agents’ use of the Data procured hereunder, in no circumstance shall County or Recorder be liable for any incidental, exemplary, special or consequential Losses, including, but not limited to, lost profits, lost savings, loss of good will, lost wages

or late, delayed, failed or faulty title searches or real estate closings.

VII. TERMINATION

Either Party may terminate this Agreement at any time upon thirty (30) days written notice to the other, such termination to become effective at the end of the quarter.

Recorder may immediately terminate this Agreement or suspend dissemination of Data, at Recorder's discretion, in the event Purchaser: (1) fails to pay fee charges in accordance with the terms of Section IV, (2) Recorder receives reasonably reliable information that Purchaser, Affiliate or any Affiliate-associated agent, may have violated the terms of Sections I or III. B. 5. or 7., or (3) Purchaser has made an assignment in violation of Section IX. G. For any other default, the non-defaulting party will notify the other of the default, following which the defaulting party shall have ten (10) days to substantially cure such default. In the event the defaulting party does not cure the default, the other may terminate this Agreement or suspend performance hereunder, at its sole discretion.

VIII. NOTICES

Notices required herein shall be in writing and shall be served personally or by registered or certified mail, return receipt requested, upon the parties at the following addresses:

TO THE RECORDER:

Office of Cook County Recorder of Deeds
Chicago, Illinois 60602

Attention:
Email:
Tel:

TO THE PURCHASER:

REI Data, Inc.
1980 Post Oak Blvd., Ste 300
Houston, Texas 77056

Attention:
Email:
Tel:

IX. MISCELLANEOUS

A. Amendments. No changes, amendments, or modifications of this Agreement shall be valid unless in writing and executed by the parties.

B. Entire Contract. This Agreement, and the provisions contained herein, constitutes all the understandings and agreements between the parties. Any prior agreements, promises, negotiations, or representations not expressly set forth herein are of no force and effect.

C. Force Majeure. If performance of this Agreement by either party, or fulfillment of any obligations hereunder, is prevented, restricted or interfered with by reason of war, revolution, civil commotion, riot, fire, flood, disaster, acts of public enemies, blockade or embargo, strikes, any law, order, proclamation, regulation, ordinance, demand, or requirement having a legal effect of any government or any judicial authority or representative of any such government, or any act whatsoever, whether similar or

dissimilar to those referred to above, which is beyond the reasonable control of the party affected, such party shall, upon giving prior notice to the other, be excused from such performance to the extent of such prevention, restriction, or interference, provided that the party so affected shall use its best efforts to avoid or remove such causes of non-performance as soon as reasonably possible. Notwithstanding the foregoing, if such act or condition beyond reasonable control continues for a period of sixty (60) days or more, the unaffected party may, on notice to the affected party, terminate this Agreement, and neither party shall have any further obligation to the other save for provisions hereunder which, by their terms, survive termination of this Agreement.

D. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the successors of the parties as if they were parties to this Agreement.

E. Severability/Waiver. The terms and conditions of this Agreement shall be severable, and any sections of this Agreement deemed by a court of competent jurisdiction to be invalid, inoperative or unenforceable shall not affect the remaining portions hereof. No term or condition of this Agreement shall be deemed waived and no breach consented to unless such waiver or consent shall be in writing executed by the party claimed to have waived or consented. The waiver of any provision hereof shall be strictly limited to the identified provision.

F. Governing Law and Jurisdiction. This Agreement shall be governed, interpreted and construed according to laws of the State of Illinois and any lawsuit filed to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in the State of Illinois, County of Cook.

G. No Assignment, transfer; or subcontracting. Purchaser may not assign or transfer this Agreement, or any part thereof, without prior written consent of the Recorder. Any violation of this section shall be deemed a default hereunder and grounds for immediate termination.

IN WITNESS WHEREOF, the parties, agreeing to be bound by the provisions contained herein, have caused this Agreement to be executed by their duly authorized respective representatives as of the date first upon written to be effective as of the date noted below upon which this Agreement was executed by Recorder. The parties represent that each has the full power and authority to enter into this Agreement and to bind their respective entities to the terms hereof.

PROPERTYINFO CORPORATION

OFFICE OF THE COOK COUNTY
RECORDER OF DEEDS

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

