



# The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth  
Registry of Deeds Division

Convenience Pay Account #: \_\_\_\_\_

## COMMONWEALTH ELECTRONIC RECORDING SYSTEM - MEMORANDUM OF UNDERSTANDING

### INTRODUCTION

Before submitting a document for electronic recording to the Registries of Deeds within the jurisdiction of the Secretary of the Commonwealth of Massachusetts (hereinafter "Registry of Deeds") the person or entity wishing to submit documents electronically (hereinafter "E-File Submitter") must file an executed original copy of this agreement with each Registry of Deeds to which documents are to be submitted electronically.

For the purposes of this Memorandum of Understanding, "electronic recording" shall be defined as the electronically based submission of documents from E-File Submitter to the Registry of Deeds and electronically based receipt of confirmation of recording from the Registry of Deeds to E-File Submitter.

### PARTIES

E-File Submitter Name: \_\_\_\_\_

Mailing & Business Address: \_\_\_\_\_

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

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

Designated Contact(s) Name(s): \_\_\_\_\_

Registry of Deeds District: \_\_\_\_\_

Mailing & Business Address: \_\_\_\_\_

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

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

Designated Contact(s) Name(s): \_\_\_\_\_

### ELIGIBILITY

Participation in the electronic recording system is a voluntary, expedited service and the decision to do so is a business judgment. The above named E-File Submitter hereby certifies that he/she/it is eligible to submit documents for electronic recording because (check all that apply):

1. \_\_\_\_\_ He/She is an attorney authorized to practice law in the Commonwealth of Massachusetts.
2. \_\_\_\_\_ It is a title insurer licensed by the Commonwealth of Massachusetts.
3. \_\_\_\_\_ It is a state or federally chartered bank insured by the FDIC.
4. \_\_\_\_\_ It is a credit union insured by the National Credit Union Administration.
5. \_\_\_\_\_ It is an agency of the Commonwealth of Massachusetts.
6. \_\_\_\_\_ It is an agency of a political subdivision of the Commonwealth of Massachusetts.
7. \_\_\_\_\_ It is an agency of the Federal government.

8. \_\_\_\_\_ Other (state reason for eligibility)\_\_\_\_\_.

Any E-File Submitter who experiences a change in professional status (i.e., license suspended or revoked) shall immediately notify the Registry of Deeds of such change.

### **E-FILE SUBMITTER'S RESPONSIBILITIES**

In consideration of the Registry of Deeds allowing the E-File Submitter to record documents electronically, the E-File Submitter agrees to and acknowledges the following:

1. The E-File Submitter is solely responsible for any and all costs of the system or services that enable them to meet the requirements of electronic recording at the Registry of Deeds. The E-File Submitter shall be also responsible for coordinating all technical problems and issues through the Registry of Deeds.
2. All documents and data submitted by the E-File Submitter shall comply with the laws of the Commonwealth of Massachusetts and of the United States. The E-File Submitter shall record electronically only original documents bearing original signatures and acknowledgements. The electronically transmitted document shall be considered the original record of the transaction in substitution for, and with the same legal effect as an original paper document. The E-File Submitter SHALL NOT electronically record any copy of an original document unless it is a certified copy from a different Registry of Deeds or governmental entity in compliance with applicable law. For these permitted certified copies, the scanned image of the document presented for electronic recording must contain the governmental certification.
3. Security. The E-File Submitter shall safeguard all computer equipment, passwords, logins and other security measures so as to prevent the unauthorized use of the E-File system. The E-File Submitter shall permit only authorized employees or agents acting on behalf of the E-File Submitter to use the system and to have access to passwords, logins, and other security measures. The E-File Submitter will immediately notify the Registry of Deeds of any security incident, including but not limited to theft of equipment, actual or unauthorized access to its pathway or system, which could compromise or otherwise adversely affect the Registry of Deeds data systems.
4. Audit. The E-File Submitter will work to insure that all security measures and credentials implemented are protected. E-File Submitter must insure that all documents are authenticate and transmitted without modification by maintaining an audit trail of all activity, available to the Registry of Deeds, at its request, to resolve issues or investigate potential fraudulent activity. The audit trail must contain, at a minimum, submitter ID, submitted content at point of receipt from E-File submitter, submitted content at point of delivery to Registry of Deeds, dates and times submitted, size, and checksum.
5. Indexing Standards. All indexing performed by and documents submitted by the E-File Submitter shall be done in accordance with the Deed Indexing Standards of the Commonwealth of Massachusetts. <http://www.sec.state.ma.us/rod/rodpdf/IndexStnds08.pdf>
6. Multi-Functions/Registered Land. The E-File Submitter SHALL NOT record electronically any document that would be considered a Multifunction Document as that term is defined in the Deeds Indexing Standards for the Commonwealth of Massachusetts. The E-File Submitter SHALL NOT submit documents that are within the Registered Land system. If the E-File Submitter does submit Registered Land documents for electronic recording, the E-File Submitter shall be solely responsible for and incur all costs related to correcting the erroneous recording.
7. The E-File Submitter shall be diligent in ensuring that documents submitted for E-Recording have been checked before submission for errors, omissions, scanning defects, illegible areas, and other deficiencies that would affect the Registry of Deeds ability to record the document.

8. Payment. The E-File Submitter agrees that it is ultimately responsible for the payment to the Registry of Deeds of all recording fees and deeds excise tax incurred on documents recorded electronically. In the event that the E-File Submitter uses an Intermediary Company for payment and the Intermediary Company fails to pay fees and taxes owed to the Registry of Deeds for any reason whatsoever, then the E-File Submitter shall pay such fees and taxes directly to the Registry of Deeds upon demand.

## **SUPPLEMENTAL TERMS AND CONDITIONS**

The E-File Submitter acknowledges that the Registry of Deeds has made no promises or guarantees regarding the time of recording or the order of recording of documents submitted for electronic recording other than such documents will be recorded promptly during normal hours of recording. No document submitted for recording electronically shall be considered to have been recorded until the Registry of Deeds approves the document for recording and assigns to the document an instrument number and/or book and page number in accordance with applicable law. The E-File Submitter acknowledges that the Registry of Deeds may reject any document submitted electronically for any reason. If the E-File Submitter submits documents that are rejected, the E-File Submitter shall be solely responsible for and incur all costs related to correcting such erroneous recording.

No party shall be liable for any failure to perform processing of transactions or documents where the failure results from any Act of God 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 electronic recording transactions). By this agreement, the Registry of Deeds assumes no contractual liability whatsoever for any failure to record any document, delay in recording any document or for the quality or content or lack thereof of any document presented for recording.

Assignment. The E-File Submitter may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation or duty under this Memorandum of Understanding.

Indemnification. Unless otherwise exempted by law, the E-File Submitter shall indemnify and hold harmless the Registry of Deeds, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with use of the electronic recording system, including but not limited to the negligence, reckless or intentional conduct of the E-File Submitter, its agents, officers, employees or subcontractors. The E-File Submitter shall at no time be considered an agent or representative of the Registry of Deeds. After prompt notification of a claim by the Registry of Deeds, the E-File Submitter shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The Registry of Deeds shall not be liable for any costs incurred by the E-File Submitter arising under this paragraph. Any indemnification of the E-File Submitter shall be subject to appropriation and applicable law.

Termination. The Registry of Deeds may terminate access to any electronic recording system at any time it deems it necessary to protect the public interest, to protect the integrity of public records, to protect homeowners or real property owners from financial harm. No cause of action or liability against the Registry of Deeds or any government agency shall arise from the decision of the Registry of Deeds to terminate or deny access of any person or entity to the electronic recording system.

Amendment. Parties acknowledge that the electronic recording process is an emerging technology and the standards may continue to evolve. The Registry of Deeds may amend this Memorandum of Understanding at any time provided it notifies the E-File Submitter in writing within fifteen (15) days of any change.

Survival of Terms. The provisions of this Amendment that by their nature extend beyond the expiration date or other termination date, shall survive and remain in effect until all obligations of the parties are satisfied.

Jurisdiction. This Amendment will in all respects be governed by the laws of the Commonwealth of Massachusetts and any action commenced to enforce the provisions of this Amendment shall be brought

to and maintained in the appropriate state or federal court in Massachusetts which will have exclusive jurisdiction thereof.

### REQUIREMENTS

The Commonwealth Electronic Recording System of \_\_\_\_\_ Registry of Deeds District 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 the Registry of Deeds. E-File Submitter agrees to provide the transmission in accordance with the specifications outlined. E-File Submitter understands that the specifications may change from time to time. In the event changes to the specification are required, the Registry of Deeds will provide a written notice to the E-File Submitter within a reasonable timeframe.

**Attachment B:** Contains the processing schedules and hours of operation for the Commonwealth Electronic Recording System.

**Attachment C:** Provides the payment options supported for the Commonwealth Electronic Recording System.

**Attachment D:** Please see designated Registry of Deeds' Document Types and Recording Fees for each Registry of Deeds.

### EXECUTION

The above-named E-File Submitter and Registry of Deeds have agreed to the terms of this document on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

E-File Submitter: \_\_\_\_\_

By: \_\_\_\_\_

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

Registry of Deeds: \_\_\_\_\_

By: \_\_\_\_\_

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

## ATTACHMENT A

### System Requirements:

1. Minimum Workstation Requirements:

Processor: Pentium 4 – 2Ghz or higher.

Memory: 1 GB

Disk Storage: 10 Gigabytes of free space

OS: Windows XP SP2 or Windows Vista SP1

2. Browser Requirements: Internet Explorer 7 or higher.

Must support 128-bit encryption

Java Scripting must be turned on.

Per Session cookies must be allowed

(Browser configuration is described in the ERDS configuration guide)

3. Software Requirements: Microsoft XML Parser tool (installation is described in the ERDS configuration guide)

4. Data Formats: XML data formats are based on the PRIA standard

5. Network Protocol: All data is transferred over a Secure Socket Layer HTTPS protocol.

6. User Security: Each E-File Submitter's account will be protected by a unique login and password combination.

7. Scanning: Documents must be scanned by a scanner that generates image files in the format of multi-page TIFFs with G4 compression. The resolution of the images must be 200 dpi.

## ATTACHMENT B

### Recording Hours:

In accordance with M.G.L. c. 36 § 11, every Register shall keep in his registry all books, records, deeds and papers belonging thereto, and shall keep the office open a fixed number of hours daily on days other than Saturdays, Sundays and holidays, for receiving and recording documents. Although the \_\_\_\_\_ District Registry of Deeds maintains regular office hours Monday through Friday, it shall receive electronically based submissions for electronic recording between the hours of 9:00 am and 3:30 pm Eastern Standard Time. Electronically based submissions may be retrieved and processed periodically at least within these specified recording hours.

## ATTACHMENT C

### **Payment Options:**

Each E-File Submitter must establish a Debit Account on File with HP Convenience Pay Services, the Secretary of the Commonwealth's electronic payment processor for all on-line transactions at the Registry of Deeds. The HP Convenience Pay Services form and instructions shall be provided separately.

Once the form is properly completed, an account is created and verified and each E-File Submitter shall be assigned a Debit Account on File number. Each time the E-File Submitter submits a document for electronic recording, they must provide their Debit Account File number so that the proper fees may be paid from their account when the document is recorded pursuant to M.G.L. c. 262 s. 38, M.G.L. c. 44B s. 8 and M.G.L. c. 9 s. 31.