



MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, dated (DD/MM/YYYY) 09/25/2013 is between Gila county, AZ herein referred to as "**County**", and **Nationwide Title Clearing, Inc.** herein referred to as "**Nationwide Title Clearing, Inc.**" with offices at 2100 Alt 19 North, Palm Harbor, FL 34683.

Gila county, AZ County desires to offer the recording of real property documents by electronic means providing for the receiving and transmitting of documents electronically as an alternative means to conventional paper-based documents and to assure that transactions are legally valid and enforceable as a result of the use of available electronic technologies to the mutual benefit of the **County** and the parties to the recording transactions.

For purposes of this Memorandum of Understanding, **Electronic Recording** is defined to be the electronically based submitting of documents from **Nationwide Title Clearing, Inc.** to **County** and electronically based receipt of confirmation of recording from **County** to **Nationwide Title Clearing, Inc.**

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 the parties involved in Electronic Recording in order to facilitate a safe and secure Electronic Recording relationship. Participation in the Electronic Recording program is voluntary.

Nationwide Title Clearing, Inc. officials and the **County** Recorder of Deeds recognize the need to ensure that only original documents bearing signatures that are properly notarized are submitted for electronic recording.

The **County** performs an electronic examination of the electronic documents and indexing information, then completes the recording process using the electronic documents.

Nationwide Title Clearing, Inc. acknowledges that Electronic Recording permits its submitters to prepare, sign and transmit in electronic format documents and business records, and that the documents or records shall be considered as the "original" record of the transaction in substitution for, and with the same intended effect as, paper documents.

By use of electronic or digital certificates to sign documents, **Nationwide Title Clearing, Inc.** and its submitters will to be bound by those electronic signatures affixed to any documents and each such electronic signature shall have the same legal effect as if that signature were manually affixed to a paper version of the document.

The electronic recording data, including Book and Page numbers or other unique identification number, where appropriate, may be returned to the submitting organization.

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



Neither party shall be liable for any failure to perform processing of the transactions and documents where such 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 the electronic recording transactions.

There will be no added fees or costs of any kind charged by the **County** for Electronic Recording, although **Nationwide Title Clearing, Inc.** will be required to meet **County** requirements in order to record electronically.

Nationwide Title Clearing, Inc. is responsible for the costs of the system or services provided by a third party that enables **Nationwide Title Clearing, Inc.** to meet the Electronic Recording Program requirements.

County shall apply the same level of diligence in handling E-files as those submitted via hard copy. Documents received on any business day **after 4 PM** local time may be processed the next business day and in the order they were received

Technical Specifications

E-Recording involves three levels of automation, which are described as follows:

Model 1 Submitters transmit the E-files of executed original documents (the "Original Copies") to the **County**. The **County** performs an electronic examination of the E-files and then completes the recording process using the E-Files. The E-files of the recorded document are returned electronically to the Submitters.

Model 2 Submitters transmit E-files of Original Copies along with electronic indexing information to the **County**. The **County** performs an electronic examination of the E-files and indexing data, and then completes the recording process using the E-files and electronic indexing information. The E-files are returned electronically to Submitters along with the electronic recording data.

Model 3 Submitters transmit documents which have been created, signed and notarized electronically along with the electronic indexing information. The **County** performs an electronic examination of the E-files and indexing information then completes the recording process using the E-files.

1) Format of the transmitted File:

PRIA file format standard will be used. Images will be in single page Group IV TIFF format

2) Communications Protocol and Options:

TCP/IP, HTTP and HTTPS

3) Security Framework:

Encryption will be 128bit file and image encryption. SSL and user login/password will be employed.

4) Returned File Format:



PRIA file format standard will be used. Images will be in single page Group IV TIFF format.

5) Models (or Levels) of Recording Supported:

Models 2 and 3 are supported.

6) Electronic Signatures and Use of Digital Certificates:

The use of Electronic or Digital signatures, notary seals, and notary signatures are supported but are not required. **Nationwide Title Clearing, Inc.** must work with the **County** to accommodate their use. Digitized signatures, notary signatures, and notary seals are immediately acceptable.

7) Indexing Requirement and Imaging Standards:

Will be determined by **Nationwide Title Clearing, Inc.** and the **County** during the implementation process.

8) Acceptance/Rejection of Documents:

Submitted documents that are accepted for recording will be provided to **Nationwide Title Clearing, Inc.** by **County** in electronic format after acceptance. Confirmation of acceptance and recordation by **County** will be provided to **Nationwide Title Clearing, Inc.** in electronic format after recordation is complete. This confirmation will include the document image and **County** recording data. **County** reserves the right to make changes to the index at a later date.

County will return rejected documents to **Nationwide Title Clearing, Inc.** in electronic format after rejection, along with a description of the reason(s) for rejection. **Nationwide Title Clearing, Inc.** will electronically return the documents to the Submitter for correction and resubmission.

Nationwide Title Clearing, Inc. agrees to provide the transmission to the **County** following the specifications outlined. **Nationwide Title Clearing, Inc.** understands that the specifications may change from time to time. In the event changes to the specification are required, the **County** will provide a written notice to the **Nationwide Title Clearing, Inc.** within a reasonable timeframe.

COUNTY Responsibilities:

County shall attempt to protect the integrity of the Recordation process through ongoing monitoring of documents received and recorded through Electronic Recording means.

County shall test and maintain Electronic Recording software and hardware required to operate the Electronic Recording capability. **County**, however, shall be held harmless and not liable for any damages resulting from software or equipment failure.

County shall apply the same level of diligence in handling documents submitted electronically as those submitted through the normal manual paper process.



Nationwide Title Clearing, Inc. Responsibilities:

Nationwide Title Clearing, Inc. shall work to insure that all security measures and credentials implemented are protected from unauthorized access. **Nationwide Title Clearing, Inc.** assumes all responsibility for documents submitted through unique credentials provided to **Nationwide Title Clearing, Inc.** for the purpose of engaging in Electronic Recording.

Nationwide Title Clearing, Inc. shall be diligent in ensuring that documents submitted for Electronic Recording have been checked before submission for errors, omissions and other deformities that would impact the validity of the document. This diligence includes adherence to **County** indexing standards. **Nationwide Title Clearing, Inc.** acknowledges that Electronic Recording permits its submitters to prepare, sign and transmit in electronic formats documents and **County** approved attachments, and the document or attachments shall be considered as the "original" record of the transaction in substitution for, and with the same intended effect as, paper documents. By use of electronic or digital certificates to sign documents, **Nationwide Title Clearing, Inc.** and its submitters will be bound by those electronic signatures affixed to any document and such electronic signatures shall have the same legal effect as if those signatures were manually affixed to a paper version of the document.

Nationwide Title Clearing, Inc. must maintain an electronic audit trail of all activity.

Nationwide Title Clearing, Inc. is responsible for supporting any technical issues associated with Electronic Recording through their submitting software program. **Nationwide Title Clearing, Inc.** is solely responsible for any and all costs of the system or services that enable **Nationwide Title Clearing, Inc.** to meet the Electronic Recording Program requirements.

General Understanding

County will not incur any liability for the information electronically transmitted by **Nationwide Title Clearing, Inc.** to **County**.

County will not incur any liability for any breach of security, fraud or deceit as a result of Electronic Recording.

Neither the **County** nor **Nationwide Title Clearing, Inc.**, nor any Electronic Recording provider shall be liable to the other for any special, incidental, exemplary or consequential damages arising from or as a result of any unintentional delay, omission or error in the Electronic Recording transmission or receipt.

The Electronic Recording provider, **County**, and **Nationwide Title Clearing, Inc.** 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.

The **County** and **Nationwide Title Clearing, Inc.** acknowledge that the electronic recording process is an emerging technology and that state and national standards will continue to evolve. To further the technology and the electronic recording process, all parties agree to meet to discuss changes and additions to this Memorandum of Understanding.



ENTIRE AGREEMENT. Except as expressly provided otherwise herein, this Agreement represents the entire agreement between the parties.

TERMINATION. Either party may terminate this Agreement without cause with 60 days written notice to the other party. **Nationwide Title Clearing, Inc.** remains responsible for payment of fees for the filing and recordation of documents prior to the effective date of termination.

NO WARRANTIES/RELEASE OF LIABILITY. Absent gross negligence or willful misconduct, **Nationwide Title Clearing, Inc.** agrees to release the **County** from any liability in connection with the electronic filing and recordation of documents under this Agreement. Parties to the electronic recording transactions understand that there are no warranties, express or implied, in connection with such transactions.

Cancellation: This agreement is subject to cancellation pursuant to A.R.S. §38-511.

Legal Arizona Works Act Compliance: Firm hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Firm's employment of its employees, and with the requirements of A.R.S. §23-214 (A) (together the "State and Federal Immigration Laws"). Firm shall further ensure that each subcontractor who performs any work for Firm under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Firm and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Firm's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Firm to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Firm shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontractor or retain a replacement subcontractor, (subject to County approval if MWBE preference apply) as soon as possible so as not to delay project completion.

Firm shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form: "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirement of A.R.S. § 23-214(A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributed directly or indirectly to remedial action under this Article shall be responsibility of Firm. In the even that remedial action under this Article results in delay to one or more tasks on the critical path of Firm's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Firm shall be entitled to an extension of time, but not costs.



Dated effective the date first written above.

GILA COUNTY

Don E. McDaniel Jr.
Don E. McDaniel Jr., County Manager *9/25/13*

Nationwide Title Clearing, Inc.

Signature

Myron Finley - Chief Legal Officer
Print Name/Title

Approved as to form:

Bryan B. Chambers
Bryan B. Chambers, Deputy Attorney Principal
For Bradley D. Beauchamp, County Attorney



warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirement of A.R.S. § 23-214(A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

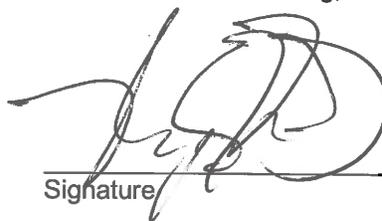
Any additional costs attributed directly or indirectly to remedial action under this Article shall be responsibility of Firm. In the even that remedial action under this Article results in delay to one or more tasks on the critical path of Firm's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Firm shall be entitled to an extension of time, but not costs.

Dated effective the date first written above.

GILA COUNTY BOARD OF SUPERVISORS

Nationwide Title Clearing, Inc.

Michael A. Pastor, Chairman, Board of Supervisors



Signature

Myron Finley - Chief Legal Officer

Print Name/Title

Attest:

Marian Sheppard, Clerk of the Board

Approved as to form:

Bryan B. Chambers, Deputy Attorney Principal



Attachment A

County Contact Information:

County Name: _____

Attn: _____

Title: _____

Address: _____

Address: _____

City/State/Zip: _____

Phone: _____

Phone: _____

Email: _____

website: _____

Nationwide Title Clearing, Inc. Contact Information:

Company Name: Nationwide Title Clearing, Inc

Attn: Brian Ernissee

Title: Director of eServices

Address: 2100 Alt 19 North

City/State/Zip: Palm Harbor, FL 34683

Phone: 727-771-4000x210

Email: brian_ernissee@nwtc.com

website: www.nwtc.com

Attachment B

Receiver's electronic recording program (the "Program") is defined by the following requirements:

- a. Levels 1, 2, and 3 electronic recording are supported.
- b. PRIA file format standard will be used. Images will be in a single-page Group IV TIFF format.
- c. Communications protocol will be TCP/IP, HTTP and HTTPS
- d. Encryption will be 128-bit file and image encryption. SSL and XML's are enveloped with a Digital Certificate to validate the submitter.
- e. Electronic signatures and digital certificates will be used for Level 3 recording
- f. Submitter shall confirm that notary signatures and seals are present on all documents requiring notarization.
- g. Documents will be scanned to conform to Receiver's requirements
- h. Document images will be captured as single-page Group IV TIFF images.
- i. Scanned documents will be legible. "Legible" means a clear, readable image – including signatures and notary seals – and in which all portions of each page are captured.
- j. Submitter shall be responsible for the clarity and brightness of the image.
- k. Document font size must meet minimum PRIA standards.
- l. Margins shall conform to Receiver's requirements for top and side margins (ARS §11-480)
 - i. Top Margin – 2" inch
 - ii. Sides Margin – ½" inch
- m. Deeds must include grantee's mailing addresses
- n. All documents must be in English
- o. Documents types that may be accepted electronically are based on the County's preferred list of document types. This list may change at the County's request.
- p. All documents submitted will conform to Receiver's requirements for indexing data. Such requirements may include the following index fields"
 - i. Document type
 - ii. Document date
 - iii. One grantor OR grantee
 - iv. Submitter information – Business
- q. Submitted documents electronically recorded will be returned to Submitter (and the grantor or grantee if so directed) in electronic format after acceptance. Confirmation of recordation will include the document image and Receiver's indexing data.
- r. Rejected documents will be returned to Submitter in electronic format with the reason(s) for rejection.



Attachment C

Availability. The Gila County Recorder's office shall process electronically submitted documents during normal business hours on normal business days. The term "normal business days" shall not include weekends, holidays or any other day that the County is closed for public business.

A. Recording Priority. The Gila County Recorder's shall record documents in the order they are received, either physically or electronically. Documents received on any business day after 4:00 p.m. will be processed on the next business day in the order they were received.

B. Disruptions. The Gila County Recorder's Office will attempt to notify Nationwide Title Clearing, Inc., and other submitters of any disruption in service.

C. Monitoring. The Gila County Recorder's Office shall attempt to protect the integrity of the recordation process through ongoing monitoring of documents received and recorded.

D. System Testing. The Gila County Recorder's Office shall test and maintain its software and hardware required to operate the electronic recording capability; provided, however, that the Gila County will not be liable for any damages resulting from failure of such software or hardware.

E. Equivalency. Gila County shall apply the same level of diligence in handling documents submitted electronically as it applies to documents submitted through the manual recording process.

F. Fees. There will be no added fees or costs of any kind charged by Gila County for electronic recording by or through Nationwide Title Clearing, Inc..

G. No Infringement. Gila County and its agents shall not attempt to hack, reverse engineer, inspect, copy, or use for any other purpose, any hardware software, or digital data belonging to Nationwide Title Clearing, Inc., or used in the electronic process.