

REAL ESTATE SALES DATA SEARCH SERVICE AGREEMENT

THIS REAL ESTATE SALES DATA SEARCH SERVICE AGREEMENT ("Agreement") is made and entered into at Lyndon, Kansas, this ____ day of _____, 200_, by and between Osage County, Kansas, a municipal government under the laws of the State of Kansas, by and through the Board of County Commissioners and County Appraiser ("County"); and _____, with its principal offices located at _____ (Member").

WHEREAS, the County Appraiser has developed an Internet site whereby persons authorized by K.S.A. 79-1437f to receive information contained in Kansas real estate sales validation questionnaires can access Osage County real estate sales information; and

WHEREAS, Member is a person authorized under K.S.A. 79-1437f to receive such information and has requested access to the real estate sales data on the Appraiser's Internet site; and

WHEREAS, the County and Member desire to enter into an agreement for access to the real estate sales data on the Appraiser's Internet site.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the County and Member agree as follows:

I. SERVICES

1.1 Commencing on date hereof, renewed annually, and continuing until terminated as hereinafter provided, the County agrees to provide on-line access to Osage County real estate sales information to Member pursuant to the terms and conditions stated in this Agreement (the "Service"). Member shall access the Service via the Appraiser's web site ("Web Site") through the use of an user ID and password. The County will provide maintenance and support for the Service. No other services are provided under this Agreement. The real estate sales information provided through the service will include only the sales price information appearing on real estate sales validation questionnaires required by K.S.A. 79-1437c.

1.2 Member is responsible for establishing and providing its own connection to the Appraiser's Web Site.

1.3 Member acknowledges and agrees that the Appraiser's Web Site was developed by, and is solely owned by, the County and that it will remain the exclusive property of the County.

II. FEES AND PAYMENT

2.1 Member shall and hereby agrees to pay the County an annual service fee in the amount of \$150. Payment in the amount of \$75.00 for service in 2003 is due on _____ 2003. Subsequent years payments shall be delivered to Osage County Appraiser on or before 1 January of each year. Payments shall be made to:

Osage County Appraiser's Office
P. O. Box 292
Lyndon, Kansas 66451

If County does not receive payment by 15 January of each year, County may cancel this Agreement without notice to Member.

2.2 The County expressly reserves the right to annually increase the fees set forth above. The County shall provide to Member thirty (30) days written notice of any such increase and Member shall have the option of terminating this Agreement within the thirty (30) day notice period if Member objects to the fee increase.

III. MEMBER'S RESPONSIBILITIES AND CERTIFICATION

3.1 Member acknowledges and agrees that only those persons authorized by K.S.A. 79-1437f are eligible to access the Service. Member certifies that Member is authorized by K.S.A. 79-1437f to receive sales price information contained in Kansas real estate sales validation questionnaires, and is for that reason eligible to access the Service, including the sales price data contained in the real estate sales validation questionnaires. Specifically Member is one of the following persons, or is an employee of a financial institution, and will use the data for one of the following purposes (Check appropriate box):

? K.S.A. 79-1437f (d) appraisers licensed or certified pursuant to K.S.A. 58-4101 *et seq.*, and amendments thereto, for appraisal of real property and preparation of appraisal reports;

? K.S.A. 79-1437f (e) financial institutions for conducting appraisals as required by federal and state regulators.

3.2 Member agrees that its use of the Service and of information obtained through the Service will be solely for purposes authorized by K.S.A. 79-1437f.

3.3 If Member's status changes, K.S.A. 79-1437f is amended or repealed, or for any other reason Member is no longer authorized under K.S.A. 79-1437f to access the contents of real estate sales validation questionnaires,

Member shall immediately notify the County, this Agreement shall automatically terminate without further notice, Member's Id. and password shall be canceled, and Member shall not thereafter access or use County provided real estate sales information..

3.4 Member is solely responsible for its use of the Service. Member agrees that it will not use the Service for any illegal purpose, in infringement of copyright, trademark, intellectual property or proprietary rights or laws, or in any manner or for any purpose that interferes with or disrupts other users, services, or equipment.

3.5 The County shall provide to Member user ID and password accessing the Service. Member is solely responsible for managing the user ID and password so provided. Member shall take all necessary and appropriate security measures to insure that Member's user ID and password is not disclosed to or used by other persons or entities. Member shall not share, loan, assign, transfer, or release its user ID and password to any other person or entity.

3.6 Member agrees that it will not use the data and information obtained through the Service for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed in such data; nor will Member sell, give or otherwise make available to any person any list of names or addresses contained in or derived from such data for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed. Member has read K.S.A. 45-220 and K.S.A. 21-3914 regarding the prohibition against using data for direct or indirect solicitation and agrees to comply with all applicable laws regarding use of the data and information obtained through the Service.

3.7 Member's subscription to the Service from County pursuant to this agreement is non-transferable by Member to any other person or entity.

IV. DISCLAIMER OF WARRANTIES

4.1 The County shall operate and maintain the Web Site, contingent upon the County's network and equipment capacity, and connection availability. Member acknowledges and agrees that the County does not operate or control the Internet or the World Wide Web.

4.2 The County disclaims, and Member waives, any express or implied warranties, representations, or endorsements regarding any information, products, or services provided pursuant to this Agreement or through the Web Site. Member acknowledges and agrees that the Web Site is for informational purposes only. The information, products, or services provided pursuant to this

Agreement or through the Web Site are provided on an “as is” and “as available” basis without warranties of any kind, express or implied, including but not limited to warranties of title, non-interruption of service, noninfringement, or implied warranties of merchantability or fitness for a particular purpose. No advice or information given by the County’s employees, agents, or contractors shall create a warranty. Under no circumstances shall the County be liable for any direct, indirect, incidental, special, punitive, or consequential damages or losses that result from Member’s use of or inability to access any part of the Web Site or Member’s reliance on or use of information, products, or services provided on or through the Web Site or that result from mistakes, omissions, interruptions, loss, theft, or deletion of files, errors, defects, delays in operation or transmission, computer viruses, or any failure of performance.

4.3 The parties recognize services which County provides under this Agreement may be interrupted temporarily from time to time. Such interruptions shall not be deemed to be a breach of this Agreement by County and shall not entitle Member to any fee or refund, nor shall County be liable to Member in any manner for such interruptions.

4.4 There are no third party beneficiaries to this agreement. Information which Member receives pursuant to this Agreement is for Member’s use only and no other person or entity may use or in any manner rely thereon for any reason.

V. HOLD HARMLESS AGREEMENT

5.1 Member shall at its sole expense defend, indemnify, and hold County harmless from any and all claims, actions, causes of action, damages, judgments, and executions arising out of services provided pursuant to this agreement or information obtained through Member’s use of the service.

VI. TERMINATION

6.1 This Agreement shall continue annually until termination by either party as provided herein. Either party may terminate this Agreement with or without cause by giving thirty (30) days written notice to the other party. Upon submission of such notice this Agreement shall terminate at the conclusion of the thirty-day notice period. In the event of termination Member shall receive a pro rated refund only if County terminates the Agreement for no fault or breach by Member, or is unable to provide service, otherwise no refund shall be paid to Member in the event of termination.

VII. MISCELLANEOUS

7.1 The waiver of any breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of the same or other provisions herein.

7.2 This instrument states the entire Agreement of the parties. Except for price increases authorized by paragraph 2.2, this agreement may be amended only by written agreement of the parties.

COUNTY

MEMBER

By: _____
Osage County Appraiser
