

**Virtual Escrow Software License Agreement**

This End-User Software License Agreement (the "Agreement") is made and entered into as of \_\_\_\_\_, 19\_\_\_\_ by and between Virtual Escrow Title Technology Solutions., LLC, a California corporation with its principal place of business located at 360 E. 1<sup>st</sup> Street #397, Tustin, California 92780 ("Licensor"), and \_\_\_\_\_ with its principal place of Business located at \_\_\_\_\_ ("Licensee").

**WITNESSETH:**

**WHEREAS**, Licensor has the right to license and distribute certain computer software commonly known as "Virtual Escrow" as well as the user manuals and other documents accompanying the Software (collectively, the "**Licensed Material**"); and

**WHEREAS**, Licensee desires to acquire from Licensor, and Licensor desires to grant to Licensee, a non-exclusive, non-transferable license to utilize the Software, on the terms and subject to the conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the receipt, sufficiency and adequacy of which are mutually acknowledged by each party, it is agreed as follows:

**§ 1 Definitions.**

For purposes of this Agreement: (i) "**Server**" means a single central processing unit ("CPU") that enables other CPUs electronically-linked to the Server to access data and software;

(ii) "**Computer**" means a single CPU that is not used as a Server for any other CPUs; (iii) "**Network**" means a group of CPUs electronically-linked to a Server and capable of accessing data and software by means of that Server; and

(iv) "**Update**" shall mean and be limited to a revised version of the Software containing corrections of defects and other updates.

(v) "**Computer software**" means the computer programs devised and utilized by Licensor in the operation of the above-described business, which programs are to be offered to Licensee as an Internet Based System. For purposes of this Agreement, computer software shall also include any enhancements to the computer programs that Licensor may from time to time furnish to Licensee pursuant to this Agreement.

(vi) "**Enhancement**" means any changes or modifications to the computer software made by Licensor that add significant new functions or substantially improved performance by changes in system design or coding and related supporting documentation.

(vii) "**Licensed Material**" means all specifications, manuals, documents, drawings, and other tangible materials pertaining to the computer software, processes and procedures.

**§ 2 Grant of License.**

Licensor hereby grants, and Licensee hereby accepts, subject to the terms and conditions of this Agreement, a Non-exclusive, license to use the Software and Licensed Materials No rights to use, copy, displays, or prints the Software or Licensed Materials, in whole or in part, is granted, except as expressly provided in this Agreement.

### § 3 Covenants of Licensee.

During the term of this Agreement:

Licensee shall: (i) adopt and enforce such internal policies, procedures and monitoring mechanisms as are necessary to ensure that the Software is used only in accordance with the terms of **Section 2** hereof; and (ii) take all steps necessary to ensure that no person or entity will have unauthorized access to the Software.

Licensee shall not: (i) assign, sublicense, lease, encumber or otherwise transfer or attempt to transfer the Software or Licensed Material or any portion thereof, other than in accordance with **Section 16** hereof; (ii) permit any third party to use or have access to the Software, whether by timesharing, networking (except as expressly permitted hereunder) or any other means; (iii) modify, translate, reverse engineer, decompile or disassemble the Software, other than to the extent Licensor is required by law to permit Licensee to do so; (iv) possess or use the Software or any portion thereof, other than in machine readable object code; (v) make any copies of the Software, other than as permitted by **Section 2** hereof; or (vi) remove any copyright, trademark, patent or other proprietary notices from the Software or any portion thereof.

### § 4 Intellectual Property and Confidentiality

Licensee acknowledges and agrees that Licensor or its licensors have and will retain all right, title, interest and ownership in and to the Software and any copies or updates of the Software. Licensee acknowledges that the Software constitutes proprietary information and trade secrets of Licensor and its licensors, whether or not any portion thereof is or may be the subject of a valid copyright or patent. Licensee shall maintain all information and data contained in the Software or any portion thereof in strict confidence and shall not publish, communicate or disclose, or permit to be published, communicated or disclosed, to third parties such information and data without Licensor's prior written consent. Licensee agrees to take all appropriate steps to ensure that persons having access to the Software shall refrain from any unauthorized reproduction or disclosure of the Software or any portion thereof.

From time to time, Licensor or Licensee may find it necessary to provide to the other party certain confidential information that the disclosing party considers proprietary. The disclosing party before disclosure to the recipient (Confidential information) shall identify such information in writing as confidential. For a period of twenty (20) years from the Effective Date, each party agrees to keep confidential all Confidential Information disclosed to it by the other party in accordance herewith, and to protect the confidentiality thereof in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of Confidential Information); provided, however, that neither party shall have any such obligation with respect to use or disclosure to others not parties to this Agreement of such Confidential Information as can be established to: (1) have been known publicly; (b) have been known generally in the industry before communication by the disclosing party to the recipient; (c) have been developed independently by the recipient; (d) have become known publicly, without fault on the part of the recipient, subsequent to disclosure by the disclosing party; (e) have been known otherwise by the recipient before communication by the disclosing party; or (f) have been received by the recipient at any time from a source (other than the disclosing party) lawfully having possession of such information.

Notwithstanding the above, nothing herein shall prevent a recipient from disclosing all or part of the Confidential Information that is legally compelled to disclose (by oral deposition, interrogatories, request for information or documents, subpoena, civil investigative demand, or any other process); provided, however, that before any such disclosure the recipient shall notify the disclosing party in writing of any such order or request to disclose and cooperate with the disclosing party (at the disclosing party's cost) with respect to any procedure sought to be pursued by the disclosing party in protecting against any such disclosure.

## § 5 License Fee.

As consideration for the license granted to Licensee hereunder, Licensee shall pay to Licensor the license fee specified in **Exhibit A** hereto, which license fee shall be paid to Licensor within thirty (30) days after the date of Licensor's invoice therefore. Any amount payable to Licensor hereunder and not paid when due shall accrue interest at a rate of the lower of six percent (6) per month or the maximum rate permitted by applicable law.

Licensee shall pay all sales, use and other taxes (excluding taxes on Licensor's income) imposed by any jurisdiction arising out of or related to the license granted under this Agreement or to Licensee's use of the Software, regardless of when such tax liability is asserted.

## § 6 Protection

Licensee will not copy all or any portion of the Licensed Programs other than expressly allowed herein. Licensee agrees to respect and not to remove, obliterate, or cancel from view any copyright, trademark, or confidentiality notice, mark, or legend appearing on any of the Licensed Materials or output generated by the Licensed Materials. Should a sub licensee modify or adapt any of the Licensed Materials for his own use, said sub-licensee may not copyright or otherwise claim any proprietary interest in the modified materials and Licensor's proprietary interest in the Licensed Materials shall be unaffected thereby. Further, Licensee agrees not to modify, disassemble, or de-compile the computer software, or any portion thereof, or attempt to subvert the process by which the computer software is made operative, and agrees that the Licensed Materials constitute and contain valuable proprietary products and trade secrets of Licensor, embodying substantial creative efforts and confidential information, ideas, and expressions. Accordingly, Licensee agrees to treat (and take precautions to ensure that its sub-licensees treat) the Licensed Materials as confidential in accordance with the confidentiality requirements and conditions set forth in Section 14 below.

Licensee agrees not to modify, adapt, translate, disassemble, or de-compile, attempt to derive the source code or create, program, develop derivative work based upon the idea, design, purpose, methodology, and general concept of the computer software, or any portion thereof. Licensee may not modify, reverse-engineer, decompile, disassemble, or otherwise reduce the computer software a licensed content, to a human – perceivable form.

Licensee further agrees that Licensed Materials constitute and contain valuable proprietary products, ideas, methodologies, and trade secrets of Licensor, embodying substantial creative efforts and confidential information, ideas, methods and expressions. Accordingly, Licensee agrees to treat (and take precautions to ensure that its sub-licenses treat) the Licensed Material as confidential in accordance with the confidentiality requirements and conditions set forth in Section 14 of this agreement.

Licensee may not modify, adapt, translate, sell, rent, lease, lend, transfer, resell for profit, distribute, create, or program a derivative work, or by-product based upon the idea, methodology, or concept of Computer Software, Licensed Material or any part thereof. Specifically. To offer his services as a consultant, subcontractor to companies that wish to create and operate a sub-agency Broker Escrow Business and to make the software available to his customers as part of the consulting, subcontracting services offered.

## **§ 7 Maintenance and Support Services.**

During the full term of this agreement following Licensee's training and installation of software, Licensor shall provide four hours of telephone support to Licensee, at no charge to Licensee, between the hours of 9:00 A.M. and 8:00 P.M. PST. Or as specified in **Exhibit A** hereto

## **§ 8 Term and Termination.**

(a) The license granted to Licensee hereunder is perpetual and will continue unless terminated as provided herein. This Agreement shall immediately terminate: (i) upon Licensor's written notice to Licensee if Licensee breaches or violates any of its obligations under Sections 3, 4, 5 and 6 of this Agreement; or (ii) automatically, without further notice to Licensee, if Licensee breaches or violates any term of this Agreement and fails to correct such breach or violation to the satisfaction of Licensor within ten (10) days after receiving notice of such breach or violation.

## **§ 9 Obligations on Termination.**

Within ten (10) days after termination or expiration of this Agreement, Licensee shall cease and desist all use of the Licensed Software, Licensed Material and Documentation and shall return to Licensor all full or partial copies of all Licensed Material and Documentation in Licensee's possession or under its control.

Sections 4 and 6 shall survive termination of this Agreement

## **§ 10 Warranties.**

(a) Licensor warrants and represents that it is the owner or licensee of the Software, that it has the right and authority to convey and grant the licenses set forth herein, and that Licensee's use of the Software as contemplated in this Agreement will not infringe any third party's proprietary rights in the Software. Licensee acknowledges that all proprietary rights in and appurtenant thereto, including but not limited to copyright, patent, and trade secret rights, are and shall remain the sole property of Licensor, subject to the limited rights of use specifically granted Licensee hereunder.

(b) EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 10, LICENSOR DOES NOT MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SOFTWARE OR THE APPLICATION, OPERATION OR USE THEREOF, THE DATA GENERATED BY THE OPERATION OR USE THEREOF, OR ANY SUPPORT SERVICES RENDERED WITH RESPECT THERETO. LICENSOR HEREBY EXCLUDES ALL IMPLIED WARRANTIES TO THE EXTENT PERMITTED BY LAW, INCLUDING, SPECIFICALLY, ANY IMPLIED WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE. LICENSOR HEREBY EXCLUDES ALL IMPLIED WARRANTIES OF MERCHANTABILITY, OR OF MERCHANTABLE QUALITY, OR OF FITNESS FOR ANY PURPOSE, PARTICULARLY, SPECIFIC OR OTHERWISE, OR OF NONINFRINGEMENT, CONCERNING THE SOFTWARE AND THE APPLICATION, OPERATION OR USE THEREOF.

## **§ 11 Limitation of Remedies.**

Licensee acknowledges and agrees that it has independently verified that the Software is appropriate for the purposes for which Licensee intends to use the Software, and that Licensee did not rely upon any skill or judgment of Licensor in such selection. Licensee assumes the entire risk related to the use of the Software. Licensor's liability in contract, tort or otherwise in connection with the Software or this Agreement shall not exceed the license fee paid to Licensor by Licensee for the Software. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, LICENSEE FURTHER AGREES THAT NEITHER LICENSOR NOR ITS LICENSORS SHALL BE LIABLE TO LICENSEE OR ANY OTHER PERSON OR ENTITY FOR DAMAGES IN THE FORM OF CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, LOST PROFITS, LOST SAVINGS, LOSS OF GOODWILL OR OTHERWISE, OR FOR EXEMPLARY DAMAGES, RESULTING FROM LICENSEE'S USE OR INABILITY TO USE THE SOFTWARE OR FROM ANY SUPPORT SERVICES RENDERED WITH RESPECT THERETO, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **§ 12 Indemnification.**

(a) Licensor will indemnify Licensee from and against any liability to third parties arising from a claim that the Software infringes upon any third party's patent, copyright or trade secret rights in the event Licensee: (i) promptly gives Licensor written notice of the claim, (ii) gives Licensor full authority to defend such claim and provides Licensor with all information and assistance Licensor requests in connection with any defense of such claim, and (iii) gives Licensor sole control of the defense of such claim and all negotiations for the compromise or settlement thereof including, without limitation, the right to delegate its obligations or rights under this Section 12, in whole or in part, to its licensors; provided, however, that Licensor's agreement to indemnify Licensee shall be limited in amount to the license fee paid by Licensee to Licensor hereunder and shall be limited to the Software in the form and as delivered to Licensee. If a third party claim against Licensee results in a judicial order preventing Licensee from using the Software, Licensor, in its sole discretion, may: (i) procure from the third party the right to allow Licensee to continue to use the Software; (ii) modify or replace the Software or infringing-portions thereof to become non-infringing; or (iii) in the event that the foregoing options are not, in the sole judgment of Licensor, reasonably practical, terminate this Agreement immediately upon written notice to Licensee, and in the event of such termination by Licensor the license fee paid by Licensee will be promptly refunded by Licensor.

(b) Neither Licensor nor its licensors shall have any indemnification obligation to Licensee nor otherwise be liable to Licensee for any infringement based on: (i) Licensee's operation of an application developed using the Software; (ii) Licensee's combination of the Software with other products not furnished by Licensor; or (iii) Licensee's use of a superseded or altered version of the Software. Licensor will have no obligation for any costs incurred by Licensee without Licensor's prior written authorization. THE PROVISIONS OF THIS SECTION 12 STATE THE EXCLUSIVE LIABILITY OF LICENSOR AND THE EXCLUSIVE REMEDY OF LICENSEE, WITH RESPECT TO ANY CLAIM OF PATENT, COPYRIGHT, OR TRADE SECRET INFRINGEMENT. LICENSEE SHALL MAKE NO CLAIM AGAINST LICENSOR'S LICENSORS ON ACCOUNT THEREOF.

### § 13 Dispute Resolution.

(a) Except as set forth in this Section 13, any claim or dispute between the parties hereto pertaining to or arising out of this Agreement (including, without limitation, the negotiation or execution of this Agreement, or the interpretation, performance or breach of any provision of this Agreement) shall be arbitrated in the State of California, before a single neutral arbitrator under the Commercial Arbitration Rules of the American Arbitration Association. Any arbitration award shall be accompanied by a written opinion of the arbitrator giving the reasons for the award, which award may be entered as a judgment in any court of competent jurisdiction. This provision for arbitration shall be specifically enforceable by the parties and, except as otherwise provided by applicable law, the decision of the arbitrator in accordance herewith shall be final and binding. The arbitrator shall have the power to issue and grant permanent injunctive relief and other equitable orders and remedies. Any such arbitration shall be conducted in confidence and in accordance with the confidentiality provisions of this Agreement. Each party shall pay its own expenses of arbitration and the expenses of the arbitrator shall be equally shared.

(b) Licensee recognizes that Licensor will be irreparably harmed in the event of its breach or threatened breach of Section 4 of this Agreement, and that, notwithstanding anything contained herein to the contrary, Licensor may commence an action in any court of competent jurisdiction, to obtain equitable relief to prevent such breach or threatened breach at any time prior to the commencement of an arbitration proceeding and, if an arbitration proceeding has been commenced, at any time until an arbitration award is rendered in such arbitration proceeding or the claim or dispute is otherwise resolved. Licensee shall reimburse Licensor for all fees, costs and expenses including, without limitation, attorneys' fees, costs and expenses incurred by Licensor in taking such court action to obtain equitable relief. Licensor shall not be deemed to have waived its right to arbitrate any dispute, claim or controversy by reason of seeking such equitable relief.

### 14. Survival.

Upon termination of this Agreement, all rights and obligations of the parties shall cease, except for the obligations of Licensee under Sections 4, 6, 8(b), 13 and this Section 14, which obligations shall survive the termination of this Agreement.

### 15. Remedies.

**LICENSEE ACKNOWLEDGES AND AGREES THAT THE LICENSE FEES WHICH LICENSOR IS CHARGING HEREUNDER DO NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY LICENSOR OF THE RISK OF LICENSEE'S CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH LICENSEE'S OR ANY SUBLICONSEE'S USE OF THE LICENSED MATERIALS. ACCORDINGLY, LICENSEE AGREES THAT LICENSOR SHALL NOT BE RESPONSIBLE, UNDER ANY CIRCUMSTANCES, TO LICENSEE FOR ANY LOSS-OF-PROFIT, DIRECT, INDIRECT INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OR IN ANY WAY CONNECTED WITH THE LICENSING OR USE OF THE LICENSED MATERIALS; PROVIDED THAT LICENSOR SHALL BE RESPONSIBLE FOR SUCH COSTS AND EXPENSES ARISING IN CONNECTION WITH ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF THIRD PARTY PROPRIETARY RIGHTS.**

Except to the extent caused by Licensor's gross negligence or willful misconduct, (a) Licensor's liability to Licensee under any provision of this Agreement, or any transaction contemplated by this Agreement, shall be limited to one hundred percent (100%) of the amount of the license fee having been actually paid by Licensee to Licensor hereunder. Licensee releases Licensor from any and all obligations, liability, claims, or demands relating to the Licensed Materials and this Agreement in excess of the limitations provided in this Section. The parties acknowledge that the limitations set forth in this Section are integral to the amount of fees levied in connection with the license of the Licensed Materials, and that, were Licensor to assume further liability without such limitations, such fees would, of necessity be set substantially higher.

## **16. Binding Effect: Assignment.**

This Agreement and all of the terms, provisions and conditions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Except as otherwise provided in this Section 16, Licensee may not assign this License or any of its rights or obligations hereunder without the prior written consent of Licensor. Licensor will not withhold permission to transfer the Software as long as Licensee permanently transfers and ceases all use of the Software, and the proposed transferee agrees to be bound by the terms of this Agreement, and is in Licensor's opinion a responsible party. Any attempted assignment in violation of this Section 16 by Licensee of its rights or obligations under this Agreement, whether by operation of law or otherwise, shall have no force and effect.

## **17. Entire Agreement.**

This Agreement, together with Exhibit A attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof.

## **18. Amendment; Waiver.**

No modification, variation or amendment of this Agreement shall be effective without the written consent of both parties hereto. A failure of either party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way affect the full right to require such performance at any time thereafter. No waiver shall be deemed a waiver of any other breach of the same or any other term or condition hereof.

## **19. Notices.**

All notices or other communications required or permitted to be given or delivered under this Agreement shall be in writing and shall be sufficiently given to a party if delivered personally or mailed by registered or certified mail, postage prepaid, return receipt requested, or by overnight delivery by a nationally-recognized courier, to the address set forth above or to such other address or person as either party may from time to time designate to the other in writing. Any such notice or other communication shall be deemed to be given as of the date it is personally delivered, five (5) days after its being deposited in the United States mail, or one (1) day after being deposited with a nationally recognized courier for overnight delivery.

## **20. Invalid, Illegal or Unenforceable Provisions.**

In the event that any one or more provisions of this Agreement shall for any reason be held by any tribunal of competent jurisdiction to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and each invalid, illegal or unenforceable provision shall be treated by the tribunal as modified to the least extent necessary to rectify its invalidity, illegality or unenforceability and shall be enforced as so modified.

## **21. "No Joint Venture".**

Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between the parties. Except as expressly set forth, no party by virtue of this Agreement is authorized as an agent, employee, or legal representative of any other party, and the relationship of the parties is, and at all times will continue to be, that of independent contractors.

**22. Governing Law.**

It is the intention of the parties hereto that the laws of the State of California shall govern the validity of this Agreement, the construction of its terms, and the interpretation and enforcement of the rights and duties of the parties hereto. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not govern this Agreement, the rights and obligations of the parties hereunder, nor any agreement that may be executed to implement this Agreement

**23. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument and all of which together shall constitute a single agreement.

**24 "Receipt"**. The parties hereto acknowledge having received and read a copy of this Agreement before signing same.

**IN WITNESS THEREOF**, the parties hereto have executed this instrument at Orange County, California, on the day and year indicated below

---

VIRTUAL ESCROW TITLE TECHNOLOGY SOLUTIONS, LLC. ("Licensor")

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_. ("Licensee")

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

---

**6. FEES CHARGES AND START-UP COSTS**

**A. License Fee:**” In Consideration of the licensed rights granted herein. Licensee shall pay with respect the initial fee as indicated. The license granted to Licensee hereunder is perpetual and will continue unless terminated as provided by section 8 herein.

<b>License Fee</b>	\$2,300.00
Discount – Current User Discount – (6 months)	-\$500.00
Advertised Discount at 25%	
<b>Total Start-Up</b>	<b>\$1800.00</b>

**B. Monthly Fee:**” In consideration of the licensed rights granted herein Licensee shall pay to licensor fees equal to:

**Monthly Cost**

Monthly Lease Payment	<u>\$525.00</u>
<b>Total Fixed Monthly</b>	<b>\$525.00</b>

**Additional Monthly fees as required**

Trust Reconciliations	\$1.25 (subject to change without notice)
Additional Training and Support over 4 hours billed at:	\$1.25 Per hour.

**Optional: Bank Package:**

- Monthly base cost for Trust Account: \$45.00 to 65.00 (subject to change without notice)
  - Positive Pay \$00.00
  - Daily recon (BAI files) \$00.00
  - ACH Debit Block \$00.00
  - Initial Check Order (250) \$00.00

**Optional Escrow Assistance Package (as needed)**

- Final balancing only case by case Refinance \$75.00 – Sale Escrows \$150.00
- Vacation or short term relief \$35.00 per hour – subject to change (subject to availability of personnel)
- Final balancing (only) all files – full time Refinance: \$100.00 – Sale Escrows \$175.00

**Monthly fees will be due within thirty days of invoice**

**C. Taxes:**” Licensee shall be responsible for paying all sales, use, excise, value-added, or other tax or governmental charges imposed on the licensing or use of the Licensed Materials hereunder, excluding any taxes based on the income of the Licensor

**D. Programming Charges:**” The licensee shall acknowledge that licensor may need to make improvements in the Licensed Materials to customize, tailor, and refine the same for the licensee’s purpose, however, the licensee shall recognize and agree that all such improvements shall remain the sole property of licensor, and shall be subject to the agreed upon confidentiality provisions.

**E. Travel Expenses**” Licensee shall reimburse Licensor for travel expenses when required or requested, Expenses shall include, but not limited to airfare, motel, and meals.

Signed \_\_\_\_\_

Signed \_\_\_\_\_

**ALL PRICES SUBJECT TO CHANGE WITHOUT NOTICIFACTION**