

## **SPIN 2 VOLUME DATA – ELECTRONIC ACCESS AGREEMENT**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

BETWEEN:

### **HIS MAJESTY THE KING IN RIGHT OF ALBERTA**

as represented by the  
Minister of Service Alberta and Red Tape Reduction  
(Hereinafter referred to as "Minister")

- and -

(Hereinafter referred to as the "Customer")

### **BACKGROUND**

- A. The Customer has made an application to the Minister in order to obtain electronic access to SPIN 2 Volume Data.
- B. The Minister is prepared to grant such access on the terms and conditions set out below.

IN CONSIDERATION of the mutual terms and conditions set out below, the parties agree as follows:

### **DEFINITIONS**

- 1. In this Agreement:
  - (a) "Account" means the billing account or accounts established by the Minister for, and in the name of, the Customer.
  - (b) "Agreement" means this document (including the Background), the Customer's approved application, and the Minister's SPIN 2 Product Catalogue and User Manual.
  - (c) "ALTA" means the Alberta Land Titles Automation system database operated by the Minister.

- (d) “Demonstration Software” means software that includes SPIN 2 Volume Data and other data and is created by the Customer who licenses it to its clients (or potential clients) on a confidential basis for demonstration purposes.
- (e) “Due Date” means the last business day of the calendar month immediately following the Statement date.
- (f) “SPIN 2” means Spatial Information System, a computer application of the Minister that provides search and retrieval services for land title data and other associated Government of Alberta land related data.
- (g) “SPIN 2 Product Catalogue and User Manual” means an online document, as amended from time to time, prepared by the Minister which outlines the fees payable and the policies, standards and procedures to be followed in accessing SPIN 2 Volume Data.
- (h) “SPIN 2 Volume Data” means electronic information, accessed by the Customer pursuant to this Agreement, which relates to surface or sub-surface titles to parcels of land, as contained in ALTA, but excluding the name of the registered owners of those parcels (except in the case of agreements with other Government agencies where owner information may be provided).
- (i) “Statement” means a written or electronic notice from the Minister to the Customer, which outlines the fees payable by the Customer to the Minister with respect to the SPIN 2 Volume Data accessed by the Customer during a stipulated time period.
- (j) “Third Party Recipient” means any third party to whom the Customer provides SPIN 2 Volume Data.
- (k) “User ID Code” means identification assigned to the Customer by the Minister.

## **FEES**

2. The fees that are payable by the Customer to the Minister, for SPIN 2 Volume Data (and any other information that the Customer might be provided with access to pursuant to this Agreement) are as set out in the SPIN 2 Product Catalogue and User Manual. The Minister reserves the right to make changes to the amount of the fees and such changes shall apply to access requests made after the date upon which the changes are reflected in the SPIN 2 Product Catalogue and User Manual.
3. The monthly amount(s) payable by the Customer to the Minister for SPIN 2 Volume Data provided to the Customer are:

- (a) based on the fees set out in SPIN 2 Product Catalogue and User Manual as (may be changed from time to time); and
- (b) automatically charged to the Account and deemed to be authorized by the Customer.

## **PAYMENT**

4. At the end of each calendar month, the Minister shall prepare and send to the Customer, in paper or electronic format, a Statement showing all amounts charged to the Account in that month and such Statement shall constitute a demand for payment of the amounts so indicated by the Due Date.
5. If any amount set out in a Statement is not paid by the Due Date, then interest, at the rate of 1% per month calculated monthly (12.68% per annum), shall be payable by the Customer to the Minister with respect to such amount. Interest shall be payable from the 30th day until the date that payment is received by the Minister. Payments made by the Customer shall be applied firstly to interest and secondly to principal. The Minister may change the interest rate by giving 30 days written or electronic notice to the Customer.
6. The Minister may require the Customer to provide a Letter of Credit payable to the Minister in an amount, form and from a financial institution acceptable to the Minister. In the event the Customer fails to pay any outstanding fees by the Due Date (or fails to provide a replacement Letter of Credit if required) then the Minister may, in whole or in part, call on the Letter of Credit.
7. The Customer shall not be permitted to obtain SPIN 2 Volume Data when it has not paid all amounts outstanding by the Due Date for those amounts.
- 8 (1) Nothing in this Agreement restricts the remedies of the Minister, in the event of a failure by the Customer to pay any amounts on or before the Due Date, and the Minister reserves the right to terminate this Agreement, suspend the Customer's access, make a call on any Letter of Credit and commence a legal proceeding.
- (2) Should it be determined that the Customer's application for credit, which was submitted in conjunction with the establishment of the Account, is materially inaccurate or misleading then the Minister may terminate this Agreement or suspend the Customer's access.
9. In the event the Customer is a partnership and such partnership dissolves:
  - (a) the Customer shall forthwith notify the Minister; and
  - (b) any new firm or firms, resulting from such dissolution, that wish to continue to obtain SPIN 2 Volume Data shall be required to enter into a

new Agreement and first pay to the Minister any amounts outstanding to the Minister with respect to the dissolved partnership. This is without prejudice to any other remedies that the Minister may have at law with respect to the outstanding amounts including a call on the Letter of Credit.

### **ACCESS TO SPIN VOLUME DATA**

- 10 Access to SPIN 2 Volume Data can occur as follows:
- (a) through the use of the Volume data search interface of SPIN 2; or
  - (b) through the use of a web service which provides for direct request and delivery.

### **USER ID CODE/COMPUTER SYSTEM**

11. The Minister shall assign a User ID Code and any use of such User ID Code for the purpose of accessing SPIN 2 Volume Data constitutes a request by the Customer to the Minister to provide the SPIN 2 Volume Data and an agreement by the Customer to pay to the Minister the fees associated with such SPIN 2 Volume Data as a result of same.
12. The Customer is responsible for the security of its User ID Code and shall not:
- (a) permit any person other than its employees or agents to use the User ID Code; or
  - (b) use the User ID Code of any other person.
13. The Customer shall not:
- (a) attempt to access, modify or reverse engineer the computer programs used by the Minister;
  - (b) test, examine or challenge the security arrangements or reveal details of any security mechanism included in the hardware or computer programs used;
  - (c) take any action which, in the opinion of the Minister, is detrimental to the computers, systems, software or any database of the Minister; or
  - (d) alter the format or content of a print or screen display.
14. All SPIN 2 Volume Data access shall be effected by using the computer screen formats and contents which from time to time are established or provided by the Minister.

15. The Minister reserves the right to update, change or modify any technology that it uses for recording, storing and transmitting of SPIN 2 Volume Data. The Customer shall be responsible for the costs of any technology changes or updates that may, from time to time, be required to allow the Customer to continue to access the SPIN 2 Volume Data.

#### **DATA TRANSMITTED TO CUSTOMER**

16. Any and all SPIN 2 Volume Data transmitted to the Customer, both in the electronic format and as printed out by the Customer, is personal as between the Minister and the Customer, and subject to what is set out in Article 17 below, any passing, transferring, exchanging, transmitting, releasing, publishing, sharing, selling, giving or marketing of such SPIN 2 Volume Data to third parties constitutes a breach of this Agreement.
- 17(1) The provisions of Article 16 do not prohibit the Customer from including such SPIN 2 Volume Data in any report, opinion, appraisal or other advice prepared by the Customer applying its professional, consulting or technical expertise for the benefit of its clients.
  - (2) In addition, if the Customer is in the business of re-selling the SPIN 2 Volume Data it may only do so provided it first advises the Minister of the Third Party Recipient to whom it will be providing such data and that Third Party Recipient signs an agreement with the Minister, relating to its use and dealings with such Spin 2 Volume Data. The Third Party Recipient's agreement must be signed and in the Minister's possession before the Customer provides the Spin 2 Volume Data to that Third Party Recipient. Attached as Appendix "A" is an example of the form of a Third Party Recipient's agreement that the Minister may use – but the Minister reserves the right to make changes to fit individual fact situations. The obligations set out above respecting a Third Party Recipient do not apply in the case of Demonstration Software used during a demonstration period of no more than 30 days.

#### **NON-EXCLUSIVITY AND OWNERSHIP OF DATA**

18. Nothing in this Agreement, or otherwise, provides the Customer with any form of exclusive rights or interest in, or to, the SPIN 2 Volume Data and the Minister shall at all times remain the sole proprietary owner of the SPIN 2 Volume Data and, without limiting the generality of the foregoing, the Minister retains the copyright and all other intellectual property rights in respect to the SPIN 2 Volume Data and any other information that might be provided pursuant to this Agreement.

#### **NO MINISTER LIABILITY**

19. While the Minister will take reasonable steps to ensure the accuracy of, and accessibility to, the SPIN 2 Volume Data, the Minister is not responsible for any

error or omissions in the SPIN 2 Volume Data or for any losses or damages, howsoever caused, that the Customer may suffer as a result of any error or omission of whatever nature that relates to the SPIN 2 Volume Data, or for any problems the Customer may, from time to time, have in accessing the SPIN 2 Volume Data.

### **NOT CERTIFIED COPY OF CERTIFICATE OF TITLE**

20. SPIN 2 Volume Data does not constitute certified copies of certificates of title. If the Customer wants a certificate of title, it may order same at the regular fee for a certificate of title as set out in enactments or Ministerial Orders. The Customer will have the option to request a ASCII certificate of title (uncertified) only when ordered in conjunction with the purchase of a certificate of title.

### **SPIN 2 PRODUCT CATALOGUE AND USER MANUALS**

21. In addition to compliance with the other provisions of the Agreement and all applicable enactments, the Customer shall also comply with all of the Minister's policies, standards and procedures, as amended from time to time, which are set out in the SPIN 2 Product Catalogue and User Manual or otherwise made known to the Customer by the Minister.

### **INDEMNITY**

22. The Customer agrees to hold harmless the Minister from any and all third-party claims, demands, or actions for which the Customer is legally responsible, including those arising out of negligence or willful acts by the Customer or the Customer's employees or agents, or that result from:
- (a) any omission or any improper act of the Customer, its employees, agents, officers, directors, shareholders, and independent contractors working for or with the Customer, with respect to:
    - (i) Access to the SPIN 2 Volume Data; or
    - (ii) any alteration or destruction of the SPIN 2 Volume Data or computer screens, formats or programs or rendering of same meaningless, useless or ineffective; or
  - (b) the improper use of the User ID Code.

### **NO AGENCY**

- 23 (1) Nothing in this Agreement shall create, or be deemed to create, a principal-agent relationship between the Customer and the Minister. The Customer acknowledges that in accessing SPIN 2 Volume Data it is not doing so as an agent of the Crown but instead is acting on its own behalf.

- (2) The Customer shall not make any representation that it is an agent of the Crown or is accessing SPIN 2 Volume Data on behalf of the Crown.

### **SUSPENSION OF ACCESS**

- 24 (1) The Minister may suspend the Customer's access to SPIN 2 Volume Data at any time if, in the opinion of the Minister's representative:
  - (a) The Customer has not complied with the provisions of this Agreement or the provisions of any applicable enactment; or
  - (b) The Customer has not provided the Minister with a satisfactory Letter of Credit or a replacement Letter of Credit; or
  - (c) There is some other valid reason for doing so.
- (2) In no circumstance would the Minister be liable to pay to the Customer any compensation as a result of the suspension of access.

### **TERMINATION OF AGREEMENT**

- 25 (1) The Minister may immediately terminate this Agreement with respect to any breach of a provision of this Agreement by the Customer that the Minister deems sufficient to constitute a material breach. In such circumstances the Minister may prohibit the Customer from using or otherwise dealing with the SPIN 2 Volume Data and the Minister may obtain an injunction to enforce that requirement.
- (2) The Minister may terminate this Agreement, without cause, upon sixty (60) days notice to the Customer.
- (3) A notice of termination shall be in writing or in electronic format and provided as set out in Article 26 below.
- (4) A termination shall not affect the obligations of the Customer to pay any amounts outstanding, to indemnify and hold the Minister harmless as provided for in this Agreement and to comply with the restrictions set out in Articles 16 and 17 above. The provisions of Articles 18, 19 and 22 above, would also survive the termination of this Agreement.
- (5) In no circumstances would the Minister be liable to pay the Customer any compensation of whatever nature as a result of the termination of this Agreement.

### **REPRESENTATIVES OF THE PARTIES AND ADDRESSES**

- 26 (1) The representative of the Minister for the purposes of the Agreement, including the enforcement of the provisions of same, is the Director of Client Services and Support

or such other person as the Minister shall notify the Customer from time to time.

- (2) The address for notices to the Minister is as follows:

Land Titles Office  
John E. Brownlee Building  
10365 – 97 Street  
Edmonton, AB T5J 3W7  
E-Mail Address: LTOAdmin@gov.ab.ca

- (3) The representative of the Customer and the address for notices to the Customer is as follows:

Customer Name: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Postal Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

- (4) Notices shall be in writing or in electronic format and sent, delivered, transmitted or faxed to any of the other party's addresses as set out above. Notices sent by fax or electronic means shall be deemed to be received on the date of transmission, notices sent by mail shall be deemed to be received four (4) days after the posting of same and notices which are delivered shall be deemed received on the date of such delivery. In the event of postal interruption, notices shall not be sent by mail.
- (5) Either party may change any or all of its addresses by written or electronic notice to the other party.

### **AUDIT**

27. The Minister shall be provided with access to and the right to examine and inspect any and all records of the Customer pertaining to this Agreement at a time and place as reasonably determined by the Minister. This audit is for the purpose of ensuring compliance by the Customer with its obligations under this Agreement.

### **ASSIGNMENTS**

28. The Customer cannot assign this Agreement.



**INTERPRETATION**

- 29 (1) The Customer acknowledges that it has read and understands all of the provisions of this Agreement.
- (2) This Agreement shall be applied in accordance with the laws of, and in the courts of, the Province of Alberta.
- (3) The headings in this Agreement are for convenience only and shall not affect the interpretation of the provisions of this Agreement.

**SINGULAR AND CORPORATE**

- 30. Any reference to the singular or to the corporate shall be construed as also referencing the plural or individuals where the context or the parties hereto require, and vice versa.

**BINDING**

- 31 This Agreement is personal as between the parties and shall be for the benefit of and bind the parties hereto.

**TERM**

- 32. This Agreement comes into force on the date set out at the top of page one and continues thereafter until terminated in accordance with the provisions of this Agreement.

**PRIOR AGREEMENTS AND ARRANGEMENTS**

- 33. This Agreement replaces all prior agreements, understandings and arrangements between the parties that in any way relate to the SPIN 2 Volume Data or any other form of volume data, in whatever media, previously supplied by the Minister to the Customer.

IN WITNESS WHEREOF the parties have executed this Agreement under the hands of their duly authorized signatories.

HIS MAJESTY THE KING in Right of  
Alberta, as represented by the Minister of  
Service Alberta and Red Tape Reduction

(Customer)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date