

**SUBCONTRACT AGREEMENT
BETWEEN
DIGITAL SIGNATURE TRUST CO.
AND
NATIONAL INFORMATION CONSORTIUM**

This Subcontract Agreement is entered into as of this 13 day of Oct., 2000, by and between Digital Signature Trust Co., a Utah Corporation, having an office at Suite 201, 1095 East 2100 South, Salt Lake City, UT 84106 ("DST"), and National Information Consortium having an office at at 12 Corporate Woods, 10975 Benson Street, Suite 390, Overland Park, KS 66210 ("NIC") (collectively "the Parties").

WHEREAS, the Parties entered into a Teaming Agreement on 13 Oct., 2000, with Novell, Inc ("Novell") (the "Teaming Agreement"), which is hereby incorporated by reference; and

WHEREAS, DST is the recipient of the eUtah Business Network Contract as Prime Contractor for the State of Utah under Requisition No. GH0055 ("eUBN Contract"); and

WHEREAS, the eUBN Contract approves collaborative effort by DST as Prime Contractor and NIC as Subcontractor, and the Parties have agreed to use their personnel, facilities, and best efforts in the performance of the work requirements contemplated by the eUBN Contract;

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. GENERAL PURPOSE: The purpose and intent of this Subcontract is to fulfill the eUBN Contract requirements of building and maintaining an online business development portal and directory service to assist Utah Businesses and Consumers to utilize e-business technologies and engage in Business-to-Business ("B2B") and Business-to-Consumer ("B2C") transactions. The Parties agree that they act as independent contractors under the eUBN Contract and not as partners, agents or joint venturers.

2. DEFINITIONS:

Directory: A table, database or directory of Utah businesses containing business-related information, including: name, address, phone number, SIC code, certificate subscriber, subscriber's public key, and other "to be determined" attributes.

Portal Site: an online business development portal to be created and maintained in accordance with the eUBN Contract

Project: the work to be performed in accordance with the eUBN Contract

Project Revenues: Revenue generated by the Parties in performance of the eUBN Contract, less direct or reasonable and necessary costs or expenses for the Project and exclusive of amounts paid to the State in accordance with the eUBN Contract,

State: the State of Utah, namely the Office of the Chief Information Officer (OCIO) and the Department of Community and Economic Development (DCED).

Subcontractors: Novell and NIC

3. **STANDARD TERMS AND CONDITIONS:** NIC agrees to abide by Attachment A to the eUBN Contract, Standard Terms and Conditions.
4. **SPECIAL PROVISIONS:** The Parties have agreed to divide equally (with Novell) the responsibilities for meeting the requirements of Attachment B-Special Provisions of the UBN Contract, and other contractual commitments of the RFP and Best and Final Offer. Specifically,

(a) DST shall be primarily responsible for the following:

- (1) Design, development, implementation, maintenance and first and second level support for certificate-related issues / access control to the Directory during initial three months of UBN Contract, second level support thereafter;
- (2) Creating site policy documents;
- (3) Ongoing digital certificate and database administration;
- (4) Hosting of the Directory and Portal Site at DST's secure facility in Salt Lake City, including providing adequate security and recovery of the site by means of access control, physical security, backing up data and protection with UPS;
- (5) Recordkeeping and auditing, in accordance with the UBN Contract (the Parties acknowledge that they may be subject to audits by the State under the UBN Contract);
- (6) Marketing and promotion, as needed;
- (7) As Prime contractor, DST will be responsible for disbursing the project revenues in as agreed to in this and the UBN Contract; and
- (8) Filing the Business Name Registration /DBA Application for eUtah Business Network as Applicant/Owner.

(b) Novell shall be primarily responsible for the following:

- (1) Design, development, implementation and maintenance of the Directory with capabilities such that a) businesses can update their own profile, and b) the data for businesses are searchable by name, geographic area, type and/or other "to be determined" attributes;
- (2) Design, development and implementation of Directory registration process;
- (3) Design User Interface for Directory pages;
- (4) Initial hosting of the Directory for staging and pilot purposes;
- (5) Marketing and promotion, as needed;
- (6) Maintenance and second level support of Directory-related issues; and
- (7) Arranging with a third party vendor to donate the server on which the site will be hosted.

(c) NIC shall be primarily responsible for the following:

- (1) Design, development, implementation and maintenance of the Portal Site, including site content, ~~advertising~~ and B2B, and B2C exchanges;

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- (2) First level support for Portal Site, Directory registration and certificate-based access control to Directory;
- (3) Billing and collection in accordance with the UBN Contract;
- (4) Marketing and promotion; and
- (5) Auditing the revenues attributable to Project transactions and subscriptions.

If during the term of this Subcontract the Parties determine that the equal division of responsibilities requires a reallocation or addition to the responsibilities identified above, the Parties agree that they will cooperate in good faith to modify such responsibilities, in writing agreed to by their authorized representatives.

5. **REVENUE SHARING:** Except for the Initial \$75,000.00 paid by the State for costs of the UBN contract, which DST and Novell shall share in equal proportions, DST will have the responsibility of distributing all funds attributable to Project transactions and subscriptions ("Project Revenue") as follows:

5% to the eUtah Business Network Council ("eUBNC") for payment of reasonable and necessary expenses, as described in the eUBNC's financial plan;
31.67% to DST;
31.67% to NIC; and
31.67% to Novell.

6. **INTELLECTUAL PROPERTY:**

- 6.1 Each party will maintain all ownership rights to any pre-existing software, systems, works of authorship or products ("IP Rights") owned by it, and to improvements, modifications updates and upgrades thereto, whether or not such improvements, modifications, updates or upgrades are jointly developed or paid for by any other party. Each party will maintain all ownership rights to any work product developed exclusively by it, unless otherwise provided below.
- 6.2 With respect to any UBN-related applications developed or tailored specifically to interface with any proprietary system of another party, such work shall be owned by the party owning the proprietary system, unless such UBN-related applications have use beyond the proprietary system in which case the party or parties developing the application will own the application, provided it does not incorporate any IP Rights or trade secrets of such proprietary system.
- 6.3 The parties participating ("Contributors") in the development of joint works will maintain joint ownership of Joint Works. "Joint Works" are interfaces to any proprietary system which (i)(a) are created as a result of the joint effort of two or more of the parties; or (b) are created as a result of the exclusive effort of one party but paid for by the other party; and (ii) are not derived from or consist of a portion of all of the IP Rights owned by the party.
- 6.4 In the event that any party applies for any copyright or patent rights in Joint Works, ownership of the same shall be equal among the contributors to the Joint Work, and the contributors shall share equally the costs of registering and maintaining the same, provided, however, no party shall license or assign such copyright or patent right absent the express written consent of the other(s). The owners of Joint Work shall not have any

obligation to account for or share profits resulting from such license or assignment, except as provided in this agreement.

6.5 Each party grants to the other the non-exclusive, non-transferable, limited license to use its IP Rights solely in connection with the performance of the eUBN Contract, and any extensions, modifications or renewals of such eUBN Contract ("Renewals") for so long as such party continues to receive its share of Project Revenues. Such limited license includes the right to copy, modify, display and perform the IP Rights in the performance of the eUBN Contract and Renewals, but does not include the right to grant sublicenses.

7. **BUSINESS NAME AND LOGO REGISTRATION:** DST will act as the applicant/owner of the eUtah Business Network business name and logo. As the Business Name Registrant and owner of the DBA "eUtah Business Network" aka "eUBN," DST grants NIC the restricted right to use the eUtah Business Network name and logo in its marketing and promotional materials, subject to DST's prior review and approval. DST and NIC agree to use the name and logo solely for actions in furtherance of the Project.

8. **FINANCIAL AUDIT.** Each Party shall maintain complete and accurate accounting records, in accordance with generally accepted accounting practices, to support and document all financial transactions occurring in the course of this Project and shall retain such records for three (3) years after the date of the transaction. A Party shall, upon written request of the other Party, provide audit access to such records to the other Party or its representative. If auditors should find a variance of more than 5% between reported figures and actual figures, the party responsible for the records shall be responsible to pay for the audit. Such access shall be granted only during normal business hours and no more frequently than once in each calendar year. All information received during the audit shall be held in confidence by the parties.

9. **CONFIDENTIAL INFORMATION**

- A. DST and NIC acknowledge that Confidential Information may be disclosed to each other throughout the term of this Contract. For purposes of this Contract, and except as otherwise expressly provided in this Contract, "Confidential Information" means all non-public business, technical and financial information of the parties, and all other information clearly marked "confidential," or if disclosed orally, all information that is designated orally as "confidential," or is otherwise treated as confidential, at the time of disclosure or within a reasonable period of time thereafter. For purposes of this Section, "Discloser" means the party disclosing Confidential Information, and "Recipient" means the party receiving the Discloser's Confidential Information.
- B. The Recipient agrees that it will hold in confidence the Confidential Information disclosed by the Discloser. The Recipient shall exercise reasonable care to protect the other party's Confidential Information from unauthorized disclosure, which care shall in no event be less than the Recipient takes to protect its own Confidential Information of a like nature. The Recipient may disclose Confidential Information only to its employees or agents who need to know such information for purposes of this Agreement, and shall inform such employees and agents, by way of policy and agreement, that they are bound by obligations of confidentiality.
- C. The Recipient's duty to hold confidential information in confidence expires five (5) years after its return or destruction. The expiration of the duty of confidentiality shall not

modify other restrictions on the Recipient, including, for example, any restrictions under patent or copyright laws.

D. Confidential Information will not include information that:

- 1) was rightfully in the Recipient's possession before receipt from the Discloser;
- 2) is or becomes a matter of public knowledge through no wrongful act of the Recipient;
- 3) is disclosed by the Discloser to a third party without a duty of confidentiality on the third party;
- 4) is independently developed by the Recipient; is disclosed under operation of law (provided, that before disclosing any Confidential Information under a court order or operation of law, the Recipient shall provide the Discloser reasonable notice of such order or law and provide the Discloser an opportunity to object to or limit such disclosure); or
- 5) is disclosed by the Recipient with the Discloser's prior written approval.

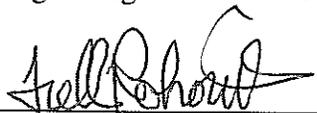
E. Either party shall be free to use the residuals resulting from access to or work with the other party's Confidential Information, provided that such party otherwise complies with the non-disclosure provisions hereof. The term "residuals" means general information in non-tangible form that may be retained in memory by individuals who have had access to the Confidential Information. The Recipient shall have no obligation to limit or restrict the assignment of such persons. The foregoing residuals rights shall not be deemed to grant either party a license, by implication, estoppel or otherwise, under the other party's patents or copyrights.

10. TERM: The obligations of the parties under this Subcontract shall be contemporaneous with the term of the eUBN Contract.

11. INTERPRETATION: If there is any conflict among the provisions of this Subcontract, the Teaming Agreement or the eUBN Contract, then those conflicts will be resolved in the following order precedence: the eUBN Contract, this Subcontract and the Teaming Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Subcontract to be executed as of the date first indicated above.

For Digital Signature Trust Co.:

By: 

Name: TRELL ROHOVIT

Title: VP PRODUCT MGMT.

Date: 9/7/2000

For National Information Consortium:

By: 

Name: RICHARD L. BROWN

Title: NETWORK MANAGER

Date: 10/13/2000