SERVICE LEVEL AGREEMENT FOR ELECTRONIC TRANSACTION AND ACCESS TO UTAH DEPARTMENT OF TRANSPORTATION

THIS SERVICE LEVEL AGREEMENT (SLA) is made and entered into this ___ day of _____, 2005, by and between Utah Department of Transportation ("The Agency") and Utah.gov ("The Network"), the state electronic government portal managed for the state by Utah Interactive, LLC ("Network Manager") as an initiative of the State of Utah, to be approved by the Utah Chief Information Office ("CIO"), upon the following premises:

RECITALS

WHEREAS, the State of Utah has entered into that certain Contract for Network Manager Services (hereinafter, "Master Contract") with the Network Manager, a for-profit Utah corporation (hereinafter "Network Manager"), to provide electronic access to public records and transactions through a gateway network (hereinafter "the Network"); and

WHEREAS, pursuant to the Master Contract, the Network Manager is to negotiate an agreement with data-providing state and local governmental agencies for the provision of such agencies' public records while protecting and securing from unauthorized and inappropriate access to non-public government records;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENTS

SECTION 1: Statement of Purpose.

The purpose of this agreement is to define circumstances and responsibilities relating to providing on-line electronic access and, if applicable, transactions at The Agency's discretion through the Network to certain Non-Confidential Records maintained in electronic form, or which will in the future be maintained in electronic form, by The Agency.

SECTION 2: Term of Agreement.

This Agreement shall be in full force and effect for a period of time equal to that of the Master Contract between the State and Network Manager, together with any extensions thereto (consistent with the CIO capabilities as allowed under Utah State contract No. PD 1068) after the date it is fully signed. Thereafter, this Agreement shall continue for successive monthly periods upon the same terms, provisions and conditions as provided in this Agreement, except that at either party's option, this Agreement may be terminated at any time after the original term of the Master Contract, upon thirty (30) days' advance written notice to the other party. Termination at any time during the original term of this agreement may be granted upon The Agency's written request to the CIO explaining the rationale and reason for the Network service termination without cause. Within 30 days of The Agency's termination request for convenience, the State will provide written notice to both the Network Manager and The Agency establishing the effective date of the Network service termination. Absent this action, this Agreement remains effective.

SECTION 3: Definition of Terms.

a. Data records - information maintained in electronic form for communication or processing.

b. Network users - individuals or organizations who use the Network for computer-assisted research, information retrieval and electronic transactions.

c. Agency division(s) - The Agency's section or unit serviced by The Agency's internal computer section, and whose data files are available to other sections or units of The Agency, and sometimes to other agencies besides The Agency.

d. Public Record(s) - a record that is not private, controlled, or protected and that is not exempt from disclosure.

e. Non-Confidential Records – Public Records and such Private records as the division director may authorize such to be outlined in a Schedule A to this agreement.

f. Application - the development of one particular database of Non-Confidential Records on the Network or the Software Bridge to one particular database of Non-Confidential Records stored elsewhere for information lookup or one particular electronic transaction for gathering data or processing requests from the public (such as filings or permit applications) and the user interface to allow public access and/or interaction with the same on-line.

g. Transaction – the electronic filing or gathering or dissemination of data by an agency for a governmental purpose.

h. "Premium services" means those services or information that are made available in such a way that they have commercial value or add convenience to the user.

SECTION 4: The Agency Responsibilities.

The Agency will:

a. Oversee the timely and effective performance of this Agreement from The Agency's perspective, and assist the Network Manager in resolving constructively any problems thereunder and any new issues that arise in connection therewith.

b. Provide reasonable levels of support to any of The Agency's central data or computer department or service, and to any of The Agency's Agency division(s), in placing on-line with the Network, The Agency's non-confidential records as mutually agreed between The Agency and the Network Manager, with due regard to the workload and priorities of the Network Manager, and with due regard to the desires and needs of users of, and subscribers to, the Network.

c. Direct the central The Agency data or computer department or service to perform as follows:

i. When requested, help in interpreting the agency's Non-Confidential Record data for users or subscribers to the Network, provide a point of contact for such interpretation; provide advice on display screen designs when consulted, and cooperate with the Network Manager in placing onto the Network, The Agency Non-Confidential Records as mutually agreed between The Agency and the Network Manager, with due regard to the workload and priorities of the Network Manager, and with due regard to the desires and needs of users of, and subscribers to, the Network.

ii. Provide computer access for the Network Manager to The Agency Non-Confidential Records as permitted by The Agency, subject to interruption of

service pursuant to SECTION 9, by an acceptable method, such as by electronic transmission, by disk, by email, or by some other acceptable method.

iii. Provide reasonable response time of on-line electronic inquiry within limitations of The Agency system resources and budget constraints.

iv. Provide reasonable levels of problem determination support to help isolate problems when requested, and if the problem resides on The Agency end of the system, provide reasonable fixes or repairs consistent with The Agency operational priorities.

v. Have final control and responsibility for security authorization of the Network (in cooperation with any agency division(s)) in granting access to its data to the Network (the Network users will not directly access The Agency system; it is only the Network host that accesses the system or transactions).

d. Direct The Agency division(s) to perform as follows:

i. When requested by the Network Manager, help in interpreting the Non-Confidential Record data for users or subscribers of the Network; provide a point of contact within the agency for such interpretation; provide advice on display screen designs when consulted; and cooperate with the Network Manager in placing Non-Confidential Records onto the Network as permitted by The Agency, but only if desired by the Network users or subscribers. The Agency may also volunteer such assistance to the Network Manager at The Agency initiative.

ii. In the absence of a central The Agency data or computer department or service, perform those duties and responsibilities outlined in subparagraph c. of this SECTION 4.

e. Assist the Network Manager in determining the information from The Agency necessary to comply with the cost recovery portions of the Utah Public Records law as necessary.

f. To cooperate in establishing with the Network Manager a recommendation to the CIO of a reasonable charge for any access or transaction for which the same is appropriate.

SECTION 5: Network Manager Responsibilities.

The Network Manager agrees:

a. To recognize that authorized on-line access or transactions provides no right to possession or ownership of The Agency data records at any time.

b. To take all reasonable precautions to protect against unauthorized access to The Agency data records.

c. To provide all equipment, software, and supplies necessary to establish electronic access to The Agency Non-Confidential Records.

d. To abide by The Agency administrative regulations which may now be in force or effect or which may in the future become effective.

e. To recognize there is no express or implied ownership of The Agency equipment by the payment of any fee or charge to The Agency.

f. In the event of for-a-charge access to any The Agency Non-Confidential Records or transactions, if any, to prepare and submit to The Agency a monthly statement accurately reflecting usage associated with same, and if any portion is payable to The Agency by statute, to bill, collect and remit the same monthly along with the statement, in accordance with the standard terms of the Master Contract.

g. To keep such records as are required to document usage associated with providing access to The Agency Non-Confidential Records and to provide The Agency access to these usage records at reasonable times for auditing purposes if so requested by The Agency.

h. To cooperate with The Agency and its agency division(s) in placing data records onto the Network as permitted by The Agency but only if desired by the Network users or subscribers, including securing proper access from the appropriate authority for, and providing necessary security to, each type of Non-Confidential Record desired, and only to the extent of reasonable Network Manager resources.

i. To recommend to The Agency and the CIO priorities for development and revision of agency applications, and to periodically re-examine the priority assigned as may be necessary, and to work diligently to accomplish each agency application in accordance with the relative priority among all agency applications.

j. To lead the process of determining such premium service applications in order to provide resources to develop, maintain, manage, operate and expand the network, including conducting market research, and to develop, in cooperation with The Agency, a recommendation to the CIO on which services to provide including proposed data access charges.

SECTION 6: Illegal Provisions.

If any provision of this Agreement shall be declared to be illegal, void or unenforceable by a court of competent jurisdiction, the other provisions shall not be affected but shall remain in full force and effect.

SECTION 7: Termination for Cause.

At The Agency option, this Agreement may be terminated immediately upon the occurrence of any of the following:

a. The Network Manager's allowance of unauthorized access prohibited by this Agreement.

b. The Network Manager's material breach of any term, provisions or condition of this Agreement.

At the option of the Network Manager and subject to review and concurrence by the CIO, a particular service application may be terminated if there is insufficient interest demonstrated by the Network users or subscribers in it; and this Agreement or a particular service may be terminated immediately for a continuing failure of The Agency to keep fresh and updated data in accordance with the schedule between the Network Manager and The Agency, the information to which electronic access is furnished by the Network.

SECTION 8: The Agency Copyright and Content Non-Supervision Acknowledgment.

The Agency represents to the Network Manager that the content materials furnished to the Network Manager by The Agency for electronic access on the Network do not violate any third party's copyright rights under federal law. Further, The Agency acknowledges that the Network Manager exercised

no control, censorship, or direction over the content of The Agency Non-Confidential Records or the links The Agency may request to other non-Network sites which may be made available on the Network.

SECTION 9: Interruption of Service.

The Agency shall use its best efforts to provide adequate and uninterrupted service under the terms of this Agreement. However, The Agency shall not be liable for interruption of service when the same shall be due to circumstances beyond the control of The Agency, its agents or employees, including but not limited to unanticipated equipment malfunction or periodic maintenance or update of the computer system or systems upon which such data records reside which could not have been prevented with regular maintenance.

SECTION 10: Assignment.

The Network Manager may not assign this agreement without the prior written consent of The Agency and any such assignment of this Agreement without such permission shall be null and void.

SECTION 11: Notices.

All notices shall be in writing and shall be directed to the parties to this agreement as shown below or by electronic means mutually agreed to by the parties:

To the Network: Dave Fletcher
Deputy CIO
116 State Capitol
Salt Lake City, Utah 84114

To the Network Manager: Carrie Gott
Network General Manager
Utah Interactive, LLC
68 South Main, Suite 200
Salt Lake City, Utah 84110

To the Agency: Charles Larsen
Deputy Directory, Administrative Operations
Utah Department of Transportation
4501 South 2700 West
Salt Lake City, Utah 84114

SECTION 12: Data Records to be Accessed.

The Non-Confidential Records and transactions to be accessed under this Agreement are as follows:

a. Those listed on the attached Schedule A.

b. Such others as may in the future be mutually agreed between The Agency and the Network Manager by executing a Schedule A Addendum.

SECTION 13: Electronic Commerce with the State.

In addition to developing applications which will permit electronic access to The Agency Non-Confidential Records, the Network Manager and The Agency will cooperate in exploring ways in which it may be possible to further develop applications which will permit electronic filing of documents and electronic communications and other transactions from the Network users or subscribers with The Agency,

with the goal of developing such applications as may be appropriate, with due regard for any limitations or constraints upon either entity.

SECTION 14: The Agency Access to Records from Other State Agencies with a Fee.

The Agency is able to access free-of-charge all state information on the Network for which an electronic access charge is associated, if The Agency has Internet access. The Agency acknowledges that neither the Board nor the Network governs Internet access for state agencies. For information from other state agencies, which is available on the Network and for which an electronic access charge is associated, The Agency acknowledges and agrees that such access is governed by Board policy. That policy currently provides that an agency may obtain an agency account with the Network to obtain for-charge electronic access to records from other agencies without charge, PROVIDED that such records are accessed for internal agency use only, and that such records are neither resold nor furnished by The Agency outside its agency.

SECTION 15: Construction.

This Agreement shall be construed in accordance with the laws of the State of Utah.

SECTION 16: Paragraph headings.

The paragraph headings are inserted in this Agreement for convenience only and shall not be used in interpreting this Agreement.

SECTION 17: Total agreement.

This agreement constitutes the complete and exclusive statement of the agreement between the parties hereto. No amendment, waiver or alteration of this Agreement shall be effective unless signed by an authorized officer of each of the parties to this Agreement. Any oral agreement or representation shall bind neither The Agency nor the Network Manager.

SECTION 18: Incorporation of Clauses from Master Contract.

To the extent relevant, those clauses found in the Contract For Network Manager's Services (hereinafter the Master Contract) dated May 7, 1999 by and between Utah Interactive, LLC, and the State of Utah, are incorporated herein by reference as though fully set out. Any provision in this agreement found to be in conflict with the Master Contract shall be resolved in favor of the contract.

IN WITNESS TO THEIR AGREEMENT TO ALL THE ABOVE AND FOREGOING, the parties hereto have herein below executed this Agreement the day and year first above written, on the separate signature page attached hereto:

The Agency

By _____ Date 11/5/05
Charles Larsen, Deputy Directory, Administrative Operations

The Network Manager

By _____ Date 12/15/05
Carrie Gott, General Manager

The Network

By _____ Date 12/9/05
Dave Fletcher, Deputy CIO