



Contract # 186143

STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following agency of the State of Utah:
Department Name: Department of Technology Services (DTS) Agency Code: 110, referred to as (STATE), and the following Contractor:

<u>CentraCom Interactive</u>		
Name		
<u>PO Box 7</u>		
Address		
<u>Fairview</u>	<u>Utah</u>	<u>84629-0007</u>
City	State	Zip

LEGAL STATUS OF CONTRACTOR

- Sole Proprietor
- Non-Profit Corporation
- For-Profit Corporation
- Partnership
- Government Agency


Contact Person Brad Welch Phone #435-427-0639 Email bradw@centracom.com
Vendor #05078AB Commodity Code #92002


- 2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide communication services, e.g., business voice analog/digital lines, trunks & circuits; data circuits and video circuits. For additional information, see *Attachment B: Scope of Work, Contract Pricing, and Contract Payments*.
- 3. PROCUREMENT: This contract is entered into as a result of the procurement process on RQM #, RQM -110 180000000000036, FY 18, Bid: _____ or a pre-approved sole source authorization (from the Division of Purchasing) #SS FT18027SS.
- 4. CONTRACT PERIOD: Effective Date 10/27/2017 Termination Date 10/26/2022 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any) n/a. All payments under this contract will be completed within 90 days after the Termination Date.
- 5. CONTRACT COSTS: CONTRACTOR will be paid a maximum of \$ 20,300 for costs authorized by this contract. Additional information regarding costs: see *Attachment B: Scope of Work, Contract Pricing, and Contract Payments*.
- 6. ATTACHMENT A: *State of Utah Standard Information Technology Terms and Conditions (For DTS Related Contracts)*
ATTACHMENT B: *Scope of Work, Contract Pricing, and Contract Payments*
ATTACHMENT C: *Master Service Agreement*
ATTACHMENT D: *Service Level Agreement*

Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A then B.

- 7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
 - a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
 - b. Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid # FT18027SS, dated 10/19/2017.

IN WITNESS WHEREOF, each signatory represents that he or she has the authority to sign and enter into this contract.

CONTRACTOR

 Contractor's signature Date 11/20/17
BRADLEY WELCH VP
 Type or Print Name and Title

STATE

 Executive DTS Date 11-20-17
11-22-17
 Date
 CONTRACTOR RECEIVED AND PROCESSED BY
 DIVISION OF FINANCE
 Director, Division of Finance Date
 NOV 24 2017

**ATTACHMENT A: STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS
(FOR DTS RELATED CONTRACTS ONLY)**

This is for a low risk contract of information technology Procurement Item meaning, no sensitive, confidential, private, controlled protected, non-public records or data is involved. CONTRACTOR is not producing, creating or otherwise completing a custom deliverable to the State. There is no substantial risk of physical injury, death and or property by performance of the CONTRACT. This Attachment A may only be used by the Department of Technology Services.

1. DEFINITIONS:

- a. "Contract" means the Contract Signature Page(s), all referenced attachments and documents incorporated by reference. This Contract may include any purchase orders that result from the parties entering into this Contract.
- b. "Contract Period" means the length of this Contract, as set forth in the Solicitation and Contract Signature Page(s).
- c. "Contract Signature Page(s)" means the cover page that DTS and Contractor sign.
- d. "Contractor" means the individual or entity performing the Services identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, partners, and/or any other person or entity for which Contractor may be liable under federal, state, or local laws.
- e. "DTS" means the Department of Technology Services, as identified on the Contract Signature Page(s). "Procurement Item" means a service that Contractor is required to deliver to the State Entity under this Contract.
- f. "Services" means the installation, configuration, implementation, of telecommunications services, and technical support, warranty, maintenance, all as specifically identified in the Contract.
- g. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, and instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.

2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all the Services delivered under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements.
4. **NO WAIVER OF SOVEREIGN IMMUNITY:** In no event shall this Contract be considered a waiver by DTS or the State of Utah of any form of defense or immunity, whether sovereign immunity, governmental immunity, or any other immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. If a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Utah, or before the Federal Communications Commission, if applicable. This paragraph only applies to a claim brought against DTS or the State of Utah to the extent Congress has abrogated DTS's or the State of Utah's sovereign immunity and this paragraph is not consent by DTS or the State of Utah to be sued in federal court.
5. **RECORDS ADMINISTRATION:** Contractor shall maintain all records necessary to properly account for Contractor's performance under this Contract. These records shall be retained for at least six (6) years after final payment. Contractor agrees to allow, at no additional cost access to all such records.
6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of DTS or the State of Utah, unless disclosure has been made to DTS. Contractor agrees to comply and cooperate in good faith will all conflict of interest and ethic laws, including Section 63G-6a-2404, Utah Procurement Code, as amended.
7. **INDEPENDENT CONTRACTOR:** Contractor's legal status is that of an independent contractor, and in no manner shall Contractor be deemed an employee or agent of DTS or the State of Utah, and therefore is not entitled to any of the benefits associated with such employment. Contractor, as an independent contractor, shall have no authorization, express or implied, to bind DTS or the State of Utah to any agreements, settlements, liabilities, or understandings whatsoever, and agrees not to perform any acts as an agent for the DTS or the State of Utah. Contractor shall remain responsible for all applicable federal, state, and local taxes, and all FICA contributions.
7. **INDEMNITY CLAUSE:** Contractor shall be fully liable for the actions of its agents, and subcontractors, and shall fully indemnify, defend, and save harmless DTS and the State of Utah from all claims arising out of Contractor's performance of this Contract caused by any act or negligence of Contractor, its agents and subcontractors, without limitation. Contractor shall not indemnify for that portion of any claim, arising due to the fault of DTS or the State of Utah.
8. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by any other applicable laws, regulations, or orders that prohibit the discrimination or sexual harassment of any kind of any of Contractor's employees.
9. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract, by any governmental department or agency, whether

international, national, state, or local. Contractor must notify DTS within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity during this Contract.

12. **TERMINATION:** this Contract may be terminated, with cause, after the 14 day cure period, by either party, in advance of the specified termination date, upon written notice being given by the other party. The parties may also agree to terminate this Contract prior to the expiration of the Contract Period by written agreement.

13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of DTS, if DTS reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects DTS's ability to pay under this Contract. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor. If a written notice is delivered under this section, DTS will reimburse Contractor for the Service properly ordered until the effective date of said notice and may be liable for early termination provisions under the Contract with Contractor.

14. **SALES TAX EXEMPTION:** The Procurement Items being purchased by DTS under this Contract are being paid from DTS's funds and used in the exercise of DTS's essential function as a State of Utah entity. DTS will provide Contractor with a copy of its sales tax exemption number upon request. It is the Contractor's responsibility to request the sales tax exemption number from DTS.

15. **[RESERVED FOR FUTURE USE].**

16. **PUBLIC INFORMATION:** Contractor agrees that this Contract, any purchase orders, invoices, pricing lists, and attachments may be requested as public documents, and may be available for distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). If Contractor considers this Contract or portions thereof, including but not limited to, any purchase orders, invoices, pricing lists, and attachments confidential, it shall make a claim of confidentiality in accordance with GRAMA, and DTS shall make reasonable efforts to provide Contractor advance notice of any GRAMA request that seeks information claimed to be confidential so that Contractor can take reasonable steps to protect the confidential information.

17. **ORDERING AND INVOICING:** A purchase order must be sent to the vendor by DTS prior to any work being initiated, product shipped, or invoices cut under this contract. Contractor will promptly submit invoices (within 30 days of shipment or delivery of services, or otherwise with the exclusion of end of fiscal year invoicing) to the contact listed in the Contract. The contract number and purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to an order under this Contract. The prices paid by DTS will be those prices listed in this Contract. DTS has the right to adjust or return any invoice reflecting incorrect pricing. Contractor must send all invoices no later than July 10, or the last working day prior, to the State for all work completed or items received during the State's fiscal year of July 1-June 30.

18. **PAYMENT AND NOTICE:**

1. Payments will be made within thirty (30) days from when a correct invoice is received. A correct invoice will contain the contract and purchase order numbers as indicated in section 17. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest in accordance with Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended.

2. All payments to Contractor will be remitted by mail, by electronic funds transfer, or by the State of Utah's purchasing card (major credit card). DTS will not allow Contractor to charge electronic payment fees of any kind.

3. Notice: Wherever under this Contract one party is required to give formal notice to the other, such notice shall be given in writing and delivered by overnight mail, personal service or courier services at the following addresses:

Contractor:	State of Utah - DTS:
	Email sent to

5. Overpayment: Except as may be limited by an applicable statute of limitations, Contractor agrees that if during, or subsequent to the contract performance, a DTS audit or a State of Utah audit determines that payments were incorrectly reported or paid by DTS, and then Contractor shall, upon written request, immediately refund to DTS any such overpayments. Contractor further agrees that DTS shall have the right to withhold any or all subsequent payments under this Contract until recoupment of overpayment is made.

6. Payment withholding: Contractor agrees that the adequate reporting, record keeping, and compliance requirements specified in this Contract are a material element of performance and that if Contractor's record keeping practices, compliance, and/or reporting to DTS are not conducted in a timely and satisfactory manner, DTS shall notify Contractor in writing of such deficiencies. If Contractor does not cure such record keeping practices within thirty (30) days of receipt of written notice from DTS, DTS may withhold part or all payments under this contract until such deficiencies have been remedied.

19. **[RESERVED FOR FUTURE USE].**

20. **OWNERSHIP IN INTELLECTUAL PROPERTY:** DTS and Contractor each recognizes that it has no right, title, or interest, proprietary or otherwise, in or to the name or any logo, or intellectual property owned or licensed by the other. DTS and Contractor each agree that, without prior written consent of the other or as described in this Contract, it shall not use the name, any logo, or intellectual property owned or licensed by the other.

21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of DTS.
22. **DEFAULT AND REMEDIES:** Any of the following events constitute default of this Contract: (a) nonperformance of contractual requirements or (b) a material breach of any term or condition of this Contract. DTS will issue a written notice of default providing a thirty (30) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after the cure period, DTS may: (a) exercise any remedy provided by law; (b) terminate this Contract and any related contracts or portions thereof (c) receive such service credits as may be set forth in any Service Level Agreement.
23. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. DTS may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.
24. **LIABILITY INSURANCE:** Contractor agrees to provide and to maintain during the performance of this Contract, at its sole expense, a policy of general liability insurance. The limits of the policy shall be no less than \$1,000,000.00 for each occurrence and \$2,000,000.00 aggregate.
25. **CONFLICT OF TERMS:** In the event of any conflict in the contract terms and conditions, the order of precedence shall be: (a) The SLA, if any; (b) This Attachment A; (c) Contractor Master Services Agreement; (d) Scope of Work, then (e) Customer Order form if any. Attachment A will be given precedence over any conflicting provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.
26. **ENTIRE AGREEMENT:** This Contract shall constitute the entire agreement between the parties, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
27. **WAIVER:** The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract.
28. **CONTRACT INFORMATION:** During the duration of this Contract, the State of Utah Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies.
29. **COMPLIANCE WITH ACCESSIBILITY STANDARDS:** Contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Rule R895-14-1-4-2, states that vendors providing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents. Contractor acknowledges that all Services that it provides to DTS under this contract are accessible to people with disabilities.
30. **RIGHT TO AUDIT:** Contractor agrees to, upon written request, permit DTS, or a third party designated by DTS, to perform an audit, in order to confirm Contractor's compliance with this Contract; and applicable laws, regulations, and industry standards.

ATTACHMENT B:

Scope of Work, Contract Pricing, and Contract Payments

I. Scope of Work

CentraCom will install a 10MB wireless point to point radio from the existing fiber facilities located on the west side of Scofield Reservoir to the designated location on the structure determined at the site survey within the Scofield State Park main entrance area.

CentraCom will carry the point to point circuit from the radio facilities on its existing fiber facilities and terminate the service at the existing interconnection with the State of Utah DTS at the Richfield State Data Center. (May also be terminated to State DTS interconnection at Provo Regional Building if determined to be more beneficial for the State DTS).

See Attachment C Service Level Agreement for additional information on the Ethernet service to be provided.

II. Contract Pricing

Description	Quantity	Monthly Cost	One Time Cost	Total 5 Year Cost
10Mb Ethernet Connection	1	\$325	\$800	\$20,300

III. Contract Payments

- a. For purchases and services pursuant to this contract, invoices shall be sent electronically to Richard Erickson at the Department of Technology Services.
rckericks@utah.gov
- b. Invoices approved for payment shall be sent electronically to:
dtsaccountspayable@utah.gov

Payments will be processed in accordance with the State of Utah Standard Information Technology Terms and Conditions, included herein as Attachment A.

ATTACHMENT C
MASTER SERVICE AGREEMENT

This Master Service Agreement (this "Agreement") is entered into this 30th day of October, 2017 ("Effective Date") by and between **Central Telecom Services, LLC**, a Utah limited liability company doing business as Centracom ("CTS") with its principal office located at 35 South State, Fairview, UT, 84629, on behalf of itself and Department of Technology Services ("Customer"). Customer desires to purchase, and CTS desires to supply, communications services under the following terms and conditions.

ARTICLE 1. DEFINITIONS

1.1 "Affiliate" shall mean an entity that now or in the future, directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement. For purposes of the foregoing, "control" shall mean the ownership of (i) greater than fifty percent (50%) of the voting power to elect the directors of the company, or (ii) greater than fifty percent (50%) of the ownership interest in the company.

1.2 "Connection Notice" shall mean a written notice via electronic mail from CTS that the Service ordered has been installed by CTS pursuant to the Customer Order, and has been tested by CTS and is functioning properly as of the date of the Connection Notice.

1.3 "Customer Commit Date" shall mean the date that Service will be available to Customer, as set forth in the accepted Customer Order.

1.4 "Customer Order" shall mean a request for Service submitted by Customer in the form designated by CTS.

1.5 "Customer Premises" shall mean the location or locations occupied by Customer or its end users to which Service is delivered.

1.6 "Excused Outage" shall mean any outage, unavailability, delay or other degradation of Service related to, associated with or caused by, (i) a Force Majeure Event, as defined in Section 7.1 (ii) a Planned Service Outage as set forth in the Service Level Agreement; (iii) Customer actions or inactions; (iv) Customer provided power or equipment; (v) Customer's end users; or (vi) any third party with whom CTS does not have a contractual relationship related to the Service.

1.7 "Facilities" shall mean any property owned, licensed or leased by CTS or any of its Affiliates and used to deliver Service, including terminal and other equipment, conduit, fiber optic cable, optronics, wires, lines, ports, routers, switches, channel service units, data service units, cabinets, racks, private rooms and the like.

1.8 "Gateway" shall mean data center space owned or leased by CTS or any of its Affiliates for the purpose of, among other things, locating and collocating communications equipment.

1.9 "Local Loop" shall mean the connection between Customer Premises and a CTS Gateway or other Facility.

1.10 "Megabit per second" or "Mbps" shall mean a unit of data rate equal to 1 million bits per second.

1.11 "Off-Net" shall mean Service that originates from or terminates to any location that is not on the CTS network.

1.12 "On-Net" shall mean Service that originates from and terminates to a location that is on the CTS network.

1.13 "Service" shall mean any CTS service described in a Service Level Agreement and identified on a particular line item of a Customer Order.

1.14 "Service Commencement Date" shall mean the first to occur of (i) the date set forth in any Connection Notice, unless Customer notifies CTS that the Service is not functioning properly as provided in Section 3.1 (or, if two or more Services are designated as "bundled" or as having a "sibling relationship" in any Customer Order, the date set forth in the Connection Notice for all such Services); and (ii) the date Customer begins using the Service.

1.15 "Service Levels" shall mean the specific remedies CTS provides regarding installation and performance of Service as set forth in the particular Service Level Agreement respecting the applicable Service.

1.16 "Service Level Agreement" shall mean a schedule attached hereto, or any other service schedule or addendum that is signed between the parties from time to time and expressly incorporated into or by its terms governed by this Agreement, setting forth terms and conditions specific to a particular Service, Facilities or other tools made available by CTS.

1.17 "Service Term" shall mean the duration of time (measured starting on the Service Commencement Date) for which Service is ordered, as specified in the Customer Order. The Service Term shall continue on a month-to-month basis after expiration of the stated Service Term, until terminated by either CTS or Customer upon thirty (30) days' written notice to the other.

ARTICLE 2. DELIVERY OF SERVICE

2.1 **Submission of Customer Order(s)**. To order any Service, Customer may submit a Customer Order requesting Service. Unless otherwise agreed, Customer is not obligated to submit Customer Orders. The Customer Order and its backup detail must include a description of the Service, the non-recurring charges and monthly recurring charges for Service, the requested Service Commencement Date, and the applicable Service Term.

2.2 **Acceptance by CTS**. Upon receipt of a **Customer Order**, if CTS determines (in its sole discretion) to accept the Customer Order, CTS will notify Customer in person, by email, or in writing of its acceptance of the Customer Order and/or Service Order. CTS will become obligated to deliver ordered Service only if CTS has accepted the Customer Order and/or Service Order.

2.3 **Credit Approval and Deposits**. Customer will provide CTS with credit information as requested, and delivery of Service is subject to credit approval. CTS may require Customer to make a deposit or deliver another form of security as a condition to CTS's acceptance of any Customer Order, or as a condition to CTS's continuation of Service. The deposit will be held by CTS as security for payment of Customer's charges. When Service to Customer is terminated, the amount of the deposit will be credited to Customer's account and any remaining credit balance will be refunded. Any deposit paid by Customer pursuant to this Section 2.3 will be held by CTS in accordance with the applicable law governing such deposit.

2.4 **Customer Premises**. Customer shall allow CTS access to the Customer Premises to the extent reasonably determined by CTS for the installation, inspection and scheduled or emergency maintenance of Facilities relating to the Service. CTS shall notify Customer at least two (2) business days in advance of any Planned Service Outage that will require access to the Customer Premises or that may result in a material interruption of Service. Customer will be responsible for providing and maintaining, at its own expense, the level of power, heating and air conditioning necessary to maintain the proper environment for the Facilities on the Customer Premises. In the event Customer fails to do so, Customer shall reimburse CTS for the actual and reasonable cost of repairing or replacing any Facilities damaged or destroyed as a result of Customer's failure. Customer will provide a safe place to work and comply with all laws and regulations regarding the working conditions on the Customer Premises. While entering the Customer Premises or State of Utah Property, CTS is liable for all acts of their agents/employees including property damage and tort liability, and CTS employees shall abide by all laws to include sexual harassment. Prior to entering Customer Premises or State property, CTS employee shall have a background check. Felons or persons convicted of crimes of moral turpitude or breach of trust are not permitted to enter Customer premises or State property.

2.5 **CTS Facilities**. Except as otherwise agreed, title to all Facilities shall remain with CTS. CTS will provide and maintain the Facilities in good working order. Customer shall not, and shall not permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Facilities, without the prior written consent of CTS. The Facilities shall not be used for any purpose other than that for which CTS provides them. Customer shall not take any action that causes the imposition of any lien or encumbrance on the Facilities. In no event will CTS be liable to Customer or any other person for interruption of Service or for any other loss, cost or damage caused by or related to improper use or maintenance of the Facilities by Customer or any third party gaining access to the Facilities by Customer in violation of this Agreement, and Customer shall reimburse CTS for any damages incurred as a result thereof. Customer agrees (which agreement shall survive the expiration, termination or cancellation of any Customer Order) to allow CTS to remove the Facilities from the Customer Premises:

- (A) after termination, expiration or cancellation of the Service Term of any Service in connection with which the Facilities were used; or
- (B) for repair, replacement or otherwise as CTS may determine is necessary or desirable, but CTS will use reasonable efforts to minimize disruptions to the Service caused thereby.

2.6 **Customer-Provided Equipment**. CTS may install certain Customer-provided communications equipment upon installation of Service, but CTS shall not be responsible for the operation or maintenance of

any Customer-provided communication equipment. CTS undertakes no obligations and accepts no liability for the configuration, management, performance or any other issue relating to Customer's routers or other Customer-provided equipment used for access to or the exchange of traffic in connection with the Service.

ARTICLE 3. BILLING AND PAYMENT

3.1 Commencement of Billing. Upon installation and testing of the Service ordered in any Customer Order, CTS will deliver to Customer a Connection Notice. Upon receipt of the Connection Notice, Customer shall have a period of seventy two (72) hours to confirm that the Service has been installed and is properly functioning. Unless Customer delivers written notice to CTS within such seventy two (72) hour period that the Service is not installed in accordance with the Customer Order and is not functioning properly, billing shall commence on the applicable Service Commencement Date, regardless of whether Customer has procured services from other carriers needed to operate the Service, and regardless of whether Customer is otherwise prepared to accept delivery of ordered Service. In the event that Customer notifies CTS within the time period stated above that the Service is not installed and functioning properly, then CTS shall correct any deficiencies in the Service and deliver a new Connection Notice to Customer, after which the process stated herein shall be repeated.

3.2 Charges. The Customer Order will set forth the applicable non-recurring charges and recurring charges for the Service. Unless otherwise expressly specified in the Customer Order, any non-recurring charges shall be invoiced by CTS to Customer upon the Service Commencement Date. However, in the event such Service requires CTS to install additional infrastructure, cabling, electronics or other materials in the provision of the Service, such Customer Order may include (as specified therein) non-recurring charges that are payable by Customer in advance of the Service Commencement Date, as mutually agreed between the parties. In the event Customer fails to pay such non-recurring charges within the time period specified in the Customer Order, CTS may suspend installation of the Service (without any liability, including but not limited to liability for Service Level credits) until receipt of such non-recurring charges, and thereafter, CTS may issue a new Customer Commit Date. If Customer requests and CTS approves (in its sole discretion) any changes to the Customer Order or Service after acceptance by CTS, including, without limitation, the Customer requested date for delivery of Service or Service Commencement Date, additional non-recurring charges and/or monthly recurring charges not otherwise set forth in the Customer Order may apply.

3.3 Payment of Invoices. Monthly recurring and all one-time charges shall be invoiced thirty (30) days in advance of service (the 1st of month for current month) and all usage charges shall be invoiced in arrears (the 1st of month for preceding month). Customer agrees to make all undisputed payments for Services within forty five (45) days of the invoice date (the "Due Date"). For any undisputed amounts not paid within forty five (45) days of the invoice date, CTS may assess interest on the overdue account charges at the lesser of one and one half percent (1.5%) per month or the maximum interest rate allowed by governing law.

3.4 Taxes and Fees. All charges for Service are net of Applicable Taxes (as defined below). Except for taxes based on CTS's net income, Customer will be responsible for and agrees to pay all applicable taxes that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes, fees, duties, charges or surcharges, however designated, imposed on, incident to, or based upon the provision, sale or use of the Service (collectively "Applicable Taxes"). If Customer is entitled to an exemption from any Applicable Taxes, Customer is responsible for presenting CTS with a valid exemption certificate (in a form reasonably acceptable to CTS). CTS will give effect to any valid exemption certificate provided in accordance with the foregoing sentence to the extent it applies to any Service billed by CTS to Customer only for the period following CTS's receipt of such exemption certificate.

3.5 Regulatory and Legal Changes. In the event of any change in applicable law, regulation, decision, rule or order that materially increases the costs or other terms of delivery of Service, CTS and Customer will negotiate regarding the rates to be charged to Customer to reflect such increase in cost and, in the event that the parties are unable to reach agreement respecting new rates within thirty (30) days after CTS's delivery of written notice requesting renegotiation, then (a) CTS may pass such increased costs through to Customer, and (b) if CTS elects to pass such increased costs through to Customer, Customer may terminate the affected Service without termination liability by delivering written notice of termination no later than thirty (30) days after the effective date of the rate increase.

3.6 Disputed Invoices. If Customer reasonably disputes any portion of a CTS invoice, Customer must pay the undisputed portion of the invoice and submit written notice of the claim (in a form reasonably requested by CTS) for the disputed amount. All claims must be submitted to CTS in writing within sixty (60) days from the date of the invoice for those Services. Customer waives the right to dispute any charges not disputed within such sixty (60) day period. In the event that the dispute is resolved against Customer, Customer shall pay such amounts plus interest at the rate referenced in Section 3.3.

3.7 Termination Charges.

- (A) Customer may cancel a Customer Order prior to the acceptance of an Order by CTS without liability or charges by providing written notice of such cancellation to CTS;
- (B) Customer may cancel a Service following CTS's acceptance of the applicable Customer Order and prior to the Customer Commit Date upon prior written notice to CTS. In the event that Customer does so, or in the event that the delivery of such Service is terminated by CTS as the result of an uncured default by Customer pursuant to Section 4.2 of this Agreement, Customer shall pay CTS a cancellation charge equal to the sum of:
- (i) any third party cancellation/termination charges related to the installation and/or cancellation of Service;
 - (ii) the greater of (1) the non-recurring charges (including any non-recurring charges that were waived by CTS at the time of the Customer Order) for the cancelled Service; or (2) charges incurred by CTS related to the installation of the cancelled services up to the date of cancellation; and
 - (iii) one (1) month's monthly recurring charges for the cancelled Service.

Customer's right to cancel any particular Service under this Section 3.7(A) shall automatically expire and shall no longer apply upon CTS's delivery to Customer of a Connection Notice for such Service.

- (C) In addition to Customer's right of cancellation under Section 3.7(A) and (B) above, Customer may terminate Service prior to the end of the Service Term upon thirty (30) days' prior written notice to CTS. In the event that, after either the original Customer Commit Date (if Customer requests and CTS agrees to a delay in delivery of a particular Service) or Customer's receipt of the Connection Notice for a particular Service (whichever occurs first) and prior to the end of the Service Term, Customer terminates Service or in the event that the delivery of Service is terminated by CTS as the result of an uncured default by Customer pursuant to Section 4.2 of this Agreement, Customer shall pay CTS a termination charge equal to the sum of:
- (i) all unpaid amounts for Service provided through the date of termination;
 - (ii) any third party cancellation/termination charges related to the installation and/or termination of Service;
 - (iii) the non-recurring charges (including any non-recurring charges that were waived by CTS at the time of the Customer Order) for the cancelled Service, if not already paid; and
 - (iv) the percentage of the monthly recurring charges for the terminated Service calculated from the effective date of termination as follows: (a) 100% of the remaining monthly recurring charges that would have been incurred for the Service for months 1-12 of the Service Term, plus (b) 50% of the remaining monthly recurring charges that would have been incurred for the Service for months 13 through the end of the Service Term.
- (D) The parties acknowledge that the cancellation or termination charges set forth in this Section 3.7 are a genuine estimate of the actual damages that CTS will suffer and are not a penalty.

3.8 **Fraudulent Use of Services.** Customer is responsible for all charges attributable to Customer incurred related to Service, even if incurred as the result of fraudulent or unauthorized use of Service; except Customer shall not be responsible for fraudulent or unauthorized use by CTS or its employees.

ARTICLE 4. TERM AND TERMINATION

4.1 Term.

- (A) This Agreement shall become effective on the Effective Date and shall continue for a period of three (3) years thereafter ("Initial Term"), unless earlier terminated as provided herein. At the end of the Initial Term, the Agreement shall automatically renew on a month-to-month basis ("Renewal Term") until terminated by either party upon thirty (30) days' prior written notice to the other party.
- (B) Except as otherwise set forth herein, CTS shall deliver the Service for the entire duration of the Service Term, and Customer shall pay all charges for delivery thereof through the end of the Service Term. To the extent that the Service Term for any Service extends beyond the Initial Term or any Renewal Term, then this Agreement shall remain in full force and effect for such Service until the expiration or termination of such Service Term.

4.2 Default By Customer. Subject to the Utah Governmental Immunity Act, Utah Code Section 63G-7-101 et. seq., if (i) Customer makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief; (ii) an involuntary petition in bankruptcy or other insolvency protection against Customer is filed and not dismissed within sixty (60) days; (iii) Customer fails to make any payment required hereunder when due, and such failure continues for a period of three (3) business days after written notice from CTS, (iv) Customer fails to observe and perform any material term of this Agreement (other than payment terms) and such failure continues for a period of thirty (30) days after written notice from CTS; or (v) Customer's use of Service materially exceeds Customer's credit limit, unless within one (1) business day's written notice thereof by CTS, Customer provides adequate security for payment for Service; (vi) fraud or other misrepresentation in any submission or information to CTS by Customer; or (vii) violation of the Acceptable Use policy as set forth in Section 7.5; then CTS may: (A) terminate this Agreement and any Customer Order, in whole or in part, in which event CTS shall have no further duties or obligations thereunder, and/or (B) subject to Section 5.1, pursue any remedies CTS may have under this Agreement, at law or in equity.

4.3 Default By CTS. If (i) CTS makes a general assignment for the benefit of its creditors, files a voluntary petition in bankruptcy or any petition or answer seeking, consenting to, or acquiescing in reorganization, arrangement, adjustment, composition, liquidation, dissolution or similar relief; (ii) an involuntary petition in bankruptcy or other insolvency protection against CTS is filed and not dismissed within sixty (60) days; or (iii) CTS fails to observe and perform any material term of this Agreement (other than as provided in Article 6) and such failure continues for a period of thirty (30) days after written notice from Customer; then Customer may: (A) terminate this Agreement and/or any Customer Order, in whole or in part, in which event Customer shall have no further liabilities, duties or obligations thereunder, and/or (B) subject to Section 5.1, pursue any remedies Customer may have under this Agreement, at law or in equity.

4.4 Other Rights of Termination.

- (A) In lieu of any Service Level credits for installation delays, if CTS's installation of Service is delayed for more than thirty (30) business days beyond the Customer Commit Date for reasons other than an Excused Outage, Customer may terminate and discontinue the affected Service upon written notice to CTS and without payment of any applicable termination charge; provided such written notice is delivered prior to CTS delivering to Customer the Connection Notice for the affected Service. This Section 4.4(A) shall not apply to any Service where CTS (or a third party contractor engaged by CTS) is constructing Facilities in or to the Customer Premises necessary for delivery of such Service.
- (B) Customer may terminate and discontinue any Service prior to the end of the Service Term without payment of any applicable termination charge if: (i) such Service suffers a Chronic Service Outage as defined in the Service Level Agreement.

4.5 Certain Rights in Connection with Service Termination.

- (A) **Rights and Obligations.** Upon termination of this Agreement, all rights to the Services granted to Customer or its authorized user under this Agreement will immediately cease and terminate and Customer shall not be responsible for any charges for periods following the termination except to the extent provided for under Section 3.7 and Section 4.1(b). Termination of this Agreement does not release Customer from the obligation to pay and all accrued charges under this Agreement, unless otherwise expressly provided in this Agreement.
- (B) **Withdraw of Services.** Notwithstanding anything else herein or in the Agreement to the contrary, CTS reserves the right, in its sole discretion to discontinue the provision of any existing Services at any time during the Initial Term of the Agreement or any Renewal Term upon thirty (30) days prior written notice to Customer. In the event CTS discontinues such Services within the initial Service Term pursuant to this provision, CTS shall refund Customer a ratable portion of the non-recurring charges paid for such Service.

ARTICLE 5. LIABILITIES AND INDEMNIFICATION

5.1 No Special Damages. Notwithstanding any other provision hereof (other than Section 5.3), neither party shall be liable for any indirect, incidental, special, consequential, exemplary or punitive damages (including, without limitation, damages for lost profits, lost revenues or the cost of purchasing replacement services) arising out of the performance or failure to perform under this Agreement or any Customer Order. Nothing in this Agreement shall be construed as limiting the liability of either party for personal injury or death resulting from the negligence of a party or its employees.

5.2 Disclaimer of Warranties; Limitation of Liability. CTS MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH IN ANY APPLICABLE SERVICE LEVELS. CTS'S LIABILITY UNDER THIS AGREEMENT OR ANY SCHEDULE OR ORDER ATTACHED HERETO, OR ASSOCIATED HEREWITH, SHALL BE LIMITED TO THE SERVICE LEVEL CREDITS DESCRIBED IN ANY ATTACHED SERVICE LEVEL AGREEMENT.

5.3 Indemnification Subject to the Utah Governmental Immunity Act. Utah Code 63G-7-101 et. seq., each party shall indemnify the other from any claims by third parties and expenses (including legal fees and court costs) respecting damage to tangible property, personal injury or death caused by such party's negligence or willful misconduct.

ARTICLE 6. SERVICE LEVELS

6.1 Service Interruptions and Delivery. To report issues related to Service performance including degradation or interruption of Service, Customer shall contact CTS Network Operation Center by calling toll free (# to be provided) in the U.S or such other numbers for CTS Customer Service, twenty four (24) hours per day, seven (7) days per week. In order for CTS to investigate any reported issues, Customer agrees to provide CTS with supporting information as reasonably requested by CTS, which may include (as applicable), without limitation, circuit ID, circuit end-point(s), IP address(es), originating phone number and terminating phone number. In the event of a failure to deliver Service in accordance with the Service Levels, Customer's sole remedies are contained in (a) the Service Levels Agreement applicable (if any) to the affected Service, and (b) Section 6.3 below.

6.2 Maintenance. CTS may from time to time suspend Service for routine maintenance or rearrangement ("Planned Service Outage") as set forth in the Service Level Agreement. CTS will give Customer advance notice of such Planned Service Outages as set forth in the Service Level Agreement.

6.3 Service Level Credits. In the event CTS does not achieve a particular Service Level in a particular month as set forth in any applicable Service Level Agreement, CTS will issue a credit to Customer as set forth in the applicable Service Level Agreement upon Customer's request. To request a credit, Customer must contact CTS Customer Service or deliver a written request pursuant to Section 7.4 within thirty (30) days of the end of the month for which a credit is requested. CTS Customer Service may be contacted by calling toll free in the U.S. 1-800-427-8449 or such other numbers for CTS Customer Service as provided. Service Outage Credits shall be governed in accordance with the attached Service Level Agreement.

ARTICLE 7. GENERAL TERMS

7.1 Force Majeure. Neither party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond such party's reasonable control ("Force Majeure Event"). In the event CTS is unable to deliver Service as a result of a Force Majeure Event, Customer shall not be obligated to pay CTS for the affected Service for so long as CTS is unable to deliver the affected Service.

7.2 Assignment and Resale. Customer may not assign its rights and obligations under this Agreement or any Customer Order without the express prior written consent of CTS, which will not be unreasonably withheld. This Agreement shall apply to any permitted transferees or assignees. Notwithstanding any assignment by Customer, Customer shall remain liable for the payment of all charges due under each Customer Order. Customer may resell the Service to third party "end users"; provided that Customer agrees to indemnify, defend and hold CTS harmless from claims made against CTS by such end users.

7.3 Affiliates.

- (A) Service may be provided to Customer pursuant to this Agreement by an Affiliate of CTS, including, without limitation, an Affiliate authorized to provide Service in a country other than the country within which this Agreement has been executed. If a Customer Order requires the delivery of Service in a jurisdiction where, in order for such Customer Order to be enforceable against the parties, additional terms must be added, then the parties shall incorporate such terms into the Customer Order (preserving, to the fullest extent possible, the terms of this Agreement). Notwithstanding any provision of Service to Customer pursuant to this Agreement by an Affiliate of CTS, CTS shall remain responsible to Customer for the delivery and performance of the Service in accordance with the terms and conditions of this Agreement.
- (B) The parties acknowledge and agree that Customer's Affiliates may purchase Service under this Agreement; provided, however, any such Customer Affiliate purchasing Service hereunder agrees

that such Service is provided pursuant to and governed by the terms and conditions of this Agreement. Customer shall be jointly and severally liable for all claims and liabilities arising under this Agreement related to Service ordered by any Customer Affiliate, and any event of default under this Agreement by any Customer Affiliate shall also be deemed an event of default by Customer. Any reference to Customer in this Agreement with respect to Service ordered by a Customer Affiliate shall also be deemed a reference to the applicable Customer Affiliate.

- (C) Notwithstanding anything in this Agreement to the contrary, either party may provide a copy of this Agreement to its Affiliate or such other party's Affiliate for purposes of this Section 7.3, without notice to, or consent of, the other party.

7.4 Notices. Notices hereunder shall be in writing and sufficient and received if delivered in person, or when sent via facsimile, pre-paid overnight courier, electronic mail (if an e-mail address is provided below) or sent by U.S. Postal Service (or other applicable postal delivery service), addressed as follows:

IF TO CTS:

For billing inquiries/disputes, requests for Service Level credits and/or requests for disconnection of Service (for other than default):

CENTRAL TELCOM SERVICES, LLC
P.O. Box 7
35 South State
Fairview, Utah 84629
Attn: CentraCom Customer Care
Facsimile: 435-427-3200
Email: cutel@cut.net

IF TO CUSTOMER:

Email sent to dtsaccounts payable@utah.gov

or at such other address as the party to whom notice is to be given may have furnished to the other party in writing in accordance herewith. All such notices shall be deemed to have been given on (i) the date delivered if delivered personally, (ii) the business day after dispatch if sent by overnight courier, (iii) the third business day after posting if sent by U.S. Postal Service (or other applicable postal delivery service), or (iv) the date of transmission if delivered by facsimile or electronic mail (or the business day after transmission if transmitted on a weekend or legal holiday). Notwithstanding the foregoing, any notices delivered by CTS to Customer in the normal course of provisioning of Service hereunder shall be deemed properly given if delivered via any of the methods described above or via electronic mail to the address listed on any Customer Order.

7.5 Use of Services.

- (A) Prohibited Uses.

(i) Resale. Customer may not sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Services or any component thereof without express written consent from SCC, which may be withheld in SCC's sole discretion.

(ii) Use of Services in Violation of Law. In general SCC prohibits use of the Services for any activity that violates federal, state, local, or international law.

(iii) Use of Services in Violation of Acceptable Use Policy. Customer's use of Service shall at all times comply with CTS's then-current Acceptable Use Policy and Privacy Policy, as amended by CTS and communicated in writing to Customer from time to time and which are also available through CTS's web site at www.CTScommunications.com. CTS will notify Customer of complaints received by CTS regarding each incident of alleged violation of CTS's Acceptable Use Policy by Customer or third parties that have gained access to the Service through Customer. Customer agrees that it will promptly investigate all such complaints and take all necessary actions to remedy any actual violations of CTS's Acceptable Use Policy. CTS may identify to the complainant that Customer, or a third party that gained access to the Service through Customer, is investigating the complaint and may provide the complainant with the necessary information to contact Customer directly to resolve the complaint. Customer shall identify a representative for the purposes of receiving such communications.

7.6 Data Protection. During the performance of this Agreement, it may be necessary for CTS to transfer, process and store billing and utilization data and other data necessary for CTS's operation of its network and for the performance of its obligations under this Agreement. The transfer, processing and storing of such data may be to or from the United States. Customer hereby consents that CTS may (i) transfer, store and process such data in the United States; and (ii) use such data for its own internal purposes and as allowed by law. This data will not be disclosed to third parties.

7.7 Contents of Communications. CTS shall have no liability or responsibility for the content of any communications transmitted via the Service, and Customer shall defend, indemnify and hold CTS harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related to such content or for claims by third parties relating to Customer's use of Service. CTS provides only access to the Internet; CTS does not operate or control the information, services, opinions or other content of the Internet. Customer agrees that it shall make no claim whatsoever against CTS relating to the content of the Internet or respecting any information, product, service or software ordered through or provided by virtue of the Internet.

7.8 Confidentiality. Subject to GRAMA Utah Code 63G-2-101 et. seq, nothing in this paragraph is a waiver of GRAMA. As used in this Agreement, ("Confidential Information") means information not generally known to the public, whether of a technical, business or other nature that is disclosed by one party to the other as a result of the parties' communications and discussions, and that should reasonably have been understood by the receiving party, because of (i) legends or other markings, (ii) the circumstances of disclosure or (iii) the nature of the information itself, to be proprietary and confidential to the disclosing party. The parties agree that a disclosing party's proprietary or Confidential Information in either written, verbal, electronic or other form will not be disclosed by the other party either directly or indirectly, by any means, to any third person(s) without the express written permission of the disclosing party except as required to fulfill its obligations hereunder or unless otherwise required by governing authority or law, in which case the receiving party shall use reasonable efforts to notify the disclosing party of the require disclosure. Notwithstanding the foregoing, this Agreement and Confidential Information related hereto may be disclosed by each party to its affiliates, the party's or its affiliates' respective employees, current and prospective lenders and investors, counsel, accountants, ratings agencies or advisors who have a need to know such information and who are bound to obligations of confidentiality that are at least as restrictive as those contained herein or has a lawful obligation to keep such information confidential. Each Party shall use the same efforts (but in no case less than reasonable efforts) to protect the Information it receives hereunder as it accords to its own Information. The above requirements shall not apply to Information which is already in the possession of the receiving Party through no breach of an obligation of confidentiality to the disclosing Party or any third party, is already publicly available through no breach of this Agreement or has been previously independently developed by the receiving Party. Each Party acknowledges that its breach or threatened breach of this Section may cause the disclosing Party irreparable harm, which would not be adequately compensated by monetary damages. Accordingly, in the event of any such breach or threatened breach, the receiving Party agrees that equitable relief, including temporary or permanent injunctions, is an available remedy in addition to any legal remedies to which the disclosing Party may be entitled.

7.9 Disclosure of Customer Information. Neither party may place content on a public website or release a media notice, press release, or any other sales, promotion, or collateral material ("Press Release") for external use that uses the other party's name, service mark, or trademark without specific, per issuance prior written approval from the other party.

7.10 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Utah, U.S.A., without regard to its choice of law rules.

7.11 Entire Agreement. This Agreement, including any Service Level Agreement(s) and Customer Order(s) executed hereunder, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements relating to the Service, which are of no further force or effect. This Agreement is not exclusive to either Party.

7.12 Amendment. This Agreement, and any Service Level Agreement or Customer Order, may only be modified or supplemented by an instrument in writing executed by a duly authorized representative of each party. Without limiting the generality of the foregoing, any handwritten changes to a Customer Order shall be void unless acknowledged and approved in writing by a duly authorized representative of each party.

7.13 Policy Changes. CTS will provide the Customer with ten (10) days written prior notice of any and all changes in policy and technical issues that might affect Customer's compliance with this Agreement.

7.14 Order of Precedence. In the event of any conflict between this Agreement and the terms and conditions of any Service Schedule and/or Customer Order, the order of precedence is as follows: (1) the

Service Level Agreement, if any (2) The State of Utah Attachment A and (3) this Agreement. (4) Scope of Work (5) Customer Order

7.15 **Survival.** The provisions of this Article 7 and Articles 3, 5 and 6 and any other provisions of this Agreement that by their nature are meant to survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

7.16 **Relationship of the Parties.** The relationship between Customer and CTS shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, without limitation, for federal income tax purposes.

7.17 **No Waiver.** No failure by either party to enforce any right(s) hereunder shall constitute a waiver of such right(s).

7.18 **Severability.** If any provision of this Agreement shall be declared invalid or unenforceable under applicable law, said provision shall be ineffective only to the extent of such declaration and shall not affect the remaining provisions of this Agreement. In the event that a material and fundamental provision of this Agreement is declared invalid or unenforceable under applicable law, the parties shall negotiate in good faith respecting an amendment hereto that would preserve, to the fullest extent possible, the respective benefits and burdens imposed on each party under this Agreement as originally executed.

7.19 **Joint Product.** The parties acknowledge that this Agreement is the joint work product of the parties. Accordingly, in the event of ambiguities in this Agreement, no inferences shall be drawn against either party on the basis of authorship of this Agreement.

7.20 **Third Party Beneficiaries.** This Agreement shall be binding upon, inure solely to the benefit of and be enforceable by each party hereto and their respective successors and assigns hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any third party any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

7.21 **Attorney's Fees.** In the event a party takes action to enforce any of the terms of this Agreement, the prevailing party shall be awarded its costs, litigation expenses and reasonable attorney's fees.

7.22 **Counterparts.** This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

Attachment D
SERVICE LEVEL AGREEMENT

1. Overview. This Service Level Agreement (“SLA”) is attached to, and a part of, the Service Order Agreement, dated as of September 18, 2017 (the “SO”) by and between CentraCom and State of Utah DTS (“Customer”) describes target network performance and service level metrics (“Service Level”). CentraCom makes the following network performance and service level commitments.

CentraCom’s service provides Ethernet circuit with a total Bandwidth Profile, which indicates its maximum data throughput. Customer may request a change to the Bandwidth Profile at any time provided it does not exceed the physical line rate of the port on which the circuit is provisioned (e.g., Customer can not have a 150 Mbps Bandwidth Profile on a circuit delivered via 10/100BaseT connection). Bandwidth is inclusive of allowances for overhead within the Ethernet network.

2. Definitions.

- a. Committed Information Rate shall mean the rate, in bits per second, which CentraCom has committed to provide in connection with the specific Service provided pursuant to the SO and this SLA.
- b. Emergency Maintenance shall mean maintenance, which, if not performed promptly by CentraCom could result in a serious degradation or loss of service to CentraCom’s customers.
- c. Ethernet Private LAN Service (EPL) is a dedicated data service that interconnects two locations within the CentraCom network. Connections at the Customer locations are made using a native Ethernet interface with a set Committed Information Rate (CIR). The EPL service configuration provides the Customer with a logical point-to-point connection between two Customer locations, using physical connection and/or dedicated connections through the CentraCom network. EPL Service may be configured with “Route Protection” with “Data Channel Protection” options. EPL service is only available when both ends of the circuit are at any CentraCom On-Net location.
- d. Ethernet Virtual Private Line Service (EVPL) is a switched data service that interconnects two locations within an CentraCom network. Connections at the Customer locations are made using a native Ethernet interface with a set Committed Information Rate (CIR). EVPL service includes the connections from the Customer’s location to the CentraCom network. The EVPL service configuration provides the Customer with a logical point-to-point connection between two Customer locations, using physical connection and/or dedicated connections through the CentraCom

network. EVPL service is offered by CentraCom at any CentraCom On-Net location and/or an Off-Net location established by CentraCom utilizing special access circuits. Due to the nature of various special access circuits there are SLA and service differences when at least one portion of the circuit is established with a special access circuit. EVPL Service can be optionally configured with "Route Protection" and "Data Channel Protection" options when both end-points of the EVPL circuit is On-Net to CentraCom.

EVPL Service supports a "point-to-point" circuit configuration for a single circuit and an "aggregated port" circuit configuration for multiple circuits physically terminating on a common physical port. There is an additional NRC & MRC charges for an aggregated port configuration.

EVPL Service has three different service options; Best Effort, Standard and Burst.

Best Effort EVPL Service provides an Availability SLA. No SLAs are offered on Committed Information Rate, Latency, Jitter and Packet Loss. Best Effort Service is available On-Net only.

Standard EVPL Service is offered with SLAs that cover Committed Information Rate and Packet Loss.

Burstable Bandwidth EVPL Service offers a Customer a Committed Information Rate (CIR) EVPL service, plus the opportunity to use additional bandwidth beyond the CIR up to the limit of the agreed to interconnection. Service is "Best Effort" for bandwidth above the agreed to CIR. Burstable EVPL service is available when both ends of the circuit are On-Net with the CentraCom network.

- e. Ethernet Virtual Private LAN Service (EVLAN) is a switched data service that interconnects three or more locations within the CentraCom network. Connections at the Customer locations are made using a native Ethernet interface with a set Committed Information Rate (CIR). EVLAN service includes the connections from the Customer's location to the CentraCom network. The EVLAN service configuration provides the Customer with a logical point-to-multipoint or an "any point to any point" connection between the Customer locations, using a physical connection to the CentraCom network and a virtual connection through the CentraCom network. Bandwidth can be provisioned at each port with a Committed Information Rate. EVLAN service is offered by CentraCom at any CentraCom On Net location and/or an Off-Net location established by CentraCom utilizing special access circuits. Due to the nature of various special access circuits

there are SLA and service differences when at least one portion of the circuit is established with a special access circuit. EVLAN Service can be configured with "Route Protection" and "Data Channel Protection" options when the end points of each EVLAN Port is On-Net to CentraCom. There are additional Non-Recurring Charges ("NRC") and Monthly Recurring Charges ("MRC") for such options.

- f. Force Majeure. If either party's performance of this SO or any obligation hereunder (excluding Customer's obligation to pay for Telecommunications Services rendered by CentraCom) is prevented, restricted or interfered with by causes beyond its reasonable control, including but not limited to act of God, fire, explosion, vandalism, cable cut by a third party, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or state or local governments, or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more of said governments, or of any civil or military authority, or by national emergencies, insurrections, riots, wars, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, then the affected party shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction or interference.

- g. Layer 2 VPN Managed Service may be provided pursuant to a separate Addendum to the SO.

- h. Customer Order. Customer and CentraCom will execute a separate Customer Order as an attachment hereto for every separate Service to be ordered by the Customer.

- i. Mean Time to Repair shall mean the average time it takes to fix a problem and close out the associated Trouble Ticket during a calendar year. Trouble Tickets kept open at the Customer's request shall not be included in this calculation. The CentraCom MTTR objective is a yearly average six (6) hours per occurrence.

- j. Mean Time to Respond is the average time in which CentraCom will respond to Customer requests for repair and other technical problems within a mean response time of thirty (30) minutes (averaged per month based on all response times for all submitted Trouble Tickets) during normal TAC (Technical Assistance Center) business hours.

- l. Network Availability relates to the amount of time that the CentraCom network is available to the Customer. The Network Availability is measured from the ingress to CentraCom's network to the egress of CentraCom network .

- m. Planned Service Outage shall mean outages in Services due to planned maintenance, software upgrades, hardware exchanges, alteration, implementation, provisioning, standard physical plant maintenance, and troubleshooting.
- n. Protected Service shall refer to service that utilizes a circuit providing both working and protection channels. The circuit is electronically switched to the protection channel in the event of a loss of signal (e.g., electronic failure). A circuit may be protected by means of a physical diverse path, which provides protection in the event of a fiber cut.
- o. Service Outage shall mean a complete disruption of a Service or a degradation of Service below the minimum performance standards applicable to this Agreement.
 - i. If the Customer reports Services, a facility, or a Circuit to be inoperative, but declines to release it to CentraCom for testing and repair, it is considered to be impaired but shall not be deemed a Service Outage.
 - ii. Unless specifically stated otherwise, Service Outages are not aggregated for purposes of determining the credit allowance.
- p. Service Outage Time shall mean the period beginning when the Customer reports a Service Outage to CentraCom (Trouble Ticket initiation) and ending when CentraCom closes the Trouble Ticket with the Customer. If the Customer does not initiate a Trouble Ticket with CentraCom, or does not release the circuit to CentraCom for testing, CentraCom will not be obligated to issue credits for the Service Outage. Any delay times associated with CentraCom's ability to access the Customer's or End User's Premises will be subtracted from the total Service Outage Time.
- q. Trouble Ticket shall mean the method to be used by the Customer when reporting to CentraCom a perceived Service Outage.
 - i. CentraCom shall maintain a twenty-four (24) hours a day, seven (7) days a week point of contact for Customers to report system troubles and open a Trouble Ticket.
- r. Unprotected Service is service that utilizes a circuit that does not have a protected path available in the event of a loss of signal.

s. **Responsibility of Customer.** When the Customer experiences a Service Outage, per Section 6.2 of the Master Service Agreement, the Customer must notify CentraCom Customer Service or deliver a written request, and open a Trouble Ticket. In order to receive a credit on a Performance Standard, the Customer must first open a Trouble Ticket by reporting the Service Outage within two (2) business days of the occurrence and then submit a written request for a credit as required by Sections 6.2 and 7.4 of the Master Service Agreement, or the claim for the credit is waived. The Customer must document the following information when requesting the credit: (1) the Trouble Ticket number, (2) the time the Trouble Ticket was opened and closed, and (3) the Circuit ID# for each circuit that experienced the Service Outage.

t. **Performance Standards.** Performance Standards are offered in conjunction with CentraCom's services for SDSL, Ethernet, Sonet, Optical Ethernet, TDM [T-1 and above], and IDSL end user circuits. There are Performance Standards for Core Network Availability, Mean Time to respond, and Mean Time to Repair (MTTR).

Description of Service Level	Metric
<p>Network/Service Availability Objective Per Month On-Net</p> <p>Off-Net</p>	<p><u>Wavelengths</u> 2.5 or 10 gigabit Unprotected 99.90%</p> <p><u>Gigabit Ethernet</u> Unprotected 99.90%</p> <p>Electrical/Optical DS-3 or OC-n/STM-n Unprotected 99.99%</p> <p>DS-3 or OC-n/STM-n Protected 99.999</p> <p>Off-Net Provider's Standards*</p> <p>*if there are off-net providers facilities in any described circuit, then the Network/Service Availability will be the CentraCom Service available Performance Standards or those of the Off-Net provider, whichever is less.</p>
<p>Layer 2 Packet Delivery</p>	<p>Less than 0.01%</p> <p>Greater than 99.90%</p>
<p>Background Bit Error Rate</p> <p>On-Net</p> <p>Off-Net</p>	<p>1×10^{-11}</p> <p>Off-Net Provider's Standards*</p>

	*
Error Bursts	No more than 10 event(s) second(s) per 24 hours
Error Free Seconds On-Net DS-3 and OC-n/STM-n Off-Net	99.99%, measured over a 24 hour period Off-Net Provider's Standards
Bi-Polar Violations	None
Clocking	Primary Reference source, either GPS or stand-alone Cesium clock, a Stratum 1 level source
Bandwidth Guarantee	CentraCom guarantees, for periods when the Service is available, that full port-to-port circuit bandwidth is available for the Customer's use at all times.
Mean Time to Respond (average)	30 minutes
Mean Time to Repair (average)	6 Hours

u. Response and Repair Times

a. In the event of a Service Outage, excluding a force majeure event, CentraCom will acknowledge Customer's Notification of Service Outage within thirty (30) minutes after receiving such notification and confirm that a Trouble Ticket has been opened. After receiving notification of the Service Outage from the Customer, CentraCom shall use its commercially reasonable efforts begin to work to restore the Service on the failed system.

v. **Customer Remedy for Chronic Optical Ethernet Transport Service Outage** If three (3) or more Service Outages in excess of forty (40) minutes each occur in a contiguous thirty (30) day period with respect to the same circuit, and the cause of the Service Outage is determined to be in CentraCom's fiber optic network or CentraCom's Supplied Equipment, such Service will be deemed a Chronic Trouble Service. Customer may, with thirty (30) day notice disconnect the affected Circuit, as described in this Exhibit without incurring Termination Charges.

w. **Credit Allowances.** CentraCom's network availability performance standard is 99.90%. In the event that CentraCom is unable to restore a portion of the Service as required hereunder, or in the event of a Service Outage, Customer shall be entitled to a credit for the prorated monthly recurring charges for the affected circuits for all unplanned outages in excess of minutes. Credit Allowances, if any, shall be deducted from the charges payable by the Customer and shall be expressly indicated on a

subsequent bill to the Customer. The Customer may not deduct or set-off a Credit Allowance, if any, from an invoice, but must, in all cases, wait for the invoice to reflect the Credit Allowance before the Customer can realize it. Service outages shall be measured as provided in Section 2.1. above.

- a. Credit Allowances do not apply to Service Outages (i) directly or indirectly caused by acts or omissions of Customer and/or End User or their agents, affiliates, representatives, employees, etc.; (ii) due to failure of power; (iii) the failure or malfunction of non-CentraCom equipment or systems; (iv) circumstances or causes beyond the reasonable control of CentraCom or its agents; (v) during any period in which CentraCom is not given access to the Service Premises; or (vi) a Planned Service Outage, unscheduled Emergency Maintenance, or any event constituting Force Majeure
- b. Network availability is calculated as the total number of minutes in a billing month during which network PVC routes and associated ports are available to exchange data between two network infrastructure node end points, divided by the total number of available minutes in a calendar month. A Service Outage is calculated as set forth above. Service outages beyond the responsibility of CentraCom are excluded from the calculation. Network availability is calculated as follows:

Monthly Network Availability Time (%) equals

$1 \text{ minus total minutes of unavailability in month} / \text{Total number of minute in month} \times 100$

8. Outage Credit

Service Outage Duration/Month	Credit per Circuit
30 Minutes or Less	None
Between 30 Minutes and 2 Hours	2% of CentraCom monthly recurring charge for the circuit
Each 2-hour period above 2 Hours	An additional 2% of the CentraCom monthly recurring charge for the circuit, capped at 75% of the CentraCom monthly recurring charge for any single Service Outage and cumulatively 100% of the CentraCom monthly recurring charge for all Service Outages to that same circuit in any month.

CentraCom'S LIABILITY UNDER THE SO OR THIS SLA OR ANY ORDER ATTACHED TO THE SO, OR ASSOCIATED THEREWITH, SHALL BE LIMITED TO THE SERVICE OUTAGE CREDITS DESCRIBED IN THIS SLA.