

Application and Agreement To Be Considered for Placement on One or More of the Towing Rotations List Created and Maintained by Davis County, Through the Davis County Sheriff's Office Dispatch Center, for the State of Utah's Fiscal Year—July 1, 2017 through June 30, 2018

APPLICATION

Section A - Application Checklist

Please Note - You will not be considered for placement on one or more of the towing rotation lists unless, on or before July 28, 2017, you: (a) submit a fully completed and signed Application and Agreement To Be Considered for Placement on One or More of the Towing Rotation Lists Created and Maintained by Davis County Through the Davis County Sheriff's Office Dispatch Center, for the State of Utah's Fiscal Year—July 1, 2017 through June 30, 2018 (hereinafter collectively "this Application and Agreement") to Davis County, through the Davis County Sheriff's Office (hereinafter "the DCSO") Dispatch Center (hereinafter "the Dispatch Center"); and (b) fully satisfy each of the items set forth in the Application Checklist below.

Tow Truck Company Information:

- Complete Section B – Tow Truck Company Information
- Provide the tow truck company's business license for each of the tow truck company's places of business within the boundaries of Davis County; alternatively, if the tow truck company's business license for one or more of the tow truck company's places of business within the boundaries of Davis County has yet to be received by the tow truck company, provide the applicable receipt(s) for payment of the tow truck company's business license(s) for each place of business within the boundaries of Davis County
- Provide one or more Certificates of Liability Insurance that satisfy the insurance provisions of this Application and Agreement
- Provide the tow truck company's motor carrier tow truck company certification
- Provide the tow truck company's rate sheet given to customers and/or posted at yard office(s)
- Provide one or more of the tow truck company's original business cards
- Clearly indicate a desire to service Northern Davis County, Southern Davis County, or both; Clearly indicate desire to provide light/medium duty services, heavy duty services, or both

Tow Truck Operator Information:

- Complete Section C – Tow Truck Operator Information
- Provide a photo-quality color photocopy of both sides of valid Utah Driver License for each operator
- Provide a photo-quality color photocopy of both sides of valid Utah Medical Card as required by the Utah Department of Transportation (hereinafter "UDOT") for each operator
- Provide a photo-quality color photocopy of both sides of the NDCP towing certification for each operator (only AAA, TRAA, Utah Safety Council, or Wreckmaster accepted)
- Provide the original BCI Criminal History Report for each operator that shows "Criminal History Verified" and has all of the arrest history attachments (Arrests that do not have dispositions listed

may not be acceptable for the background check unless the court summary is attached showing disposition of charges; Copies of the BCI Criminal History will not be accepted)

- Provide a Utah Driver License Division Driver License History for each operator (Driver License Reports will not be accepted)

Tow Truck Information:

- Complete Section D – Tow Truck Information
- Provide the Utah DMV Registration Certificate for each tow truck to be used for rotation calls within the boundaries of Davis County
- Provide the UDOT Inspection Form and Certification for each tow truck to be used for rotation calls with the boundaries of Davis County (The date of issue shall be clearly visible)
- Provide color photos for each tow truck to be used for rotation calls with the boundaries of Davis County, including, but not limited to, the following color photos:
 - Left and right sides of each tow truck (showing the front bumper and the rear bumper)
 - Front and rear of each tow truck (showing entire width)
 - License plate close-up
 - Right driver door close-up showing required tow truck company decals and UDOT numbers
- All tow truck photos shall be printed on or affixed to an 8.5” x 11” sheet of paper (Loose photos of the two trucks will not be accepted)

Tow Truck Impound Lot/Yard Information:

- Complete Section E – Tow Truck Impound Lot/Yard Information
- Provide Central Office Authorization letter, if applicable
- Provide Utah State Tax Commissions letter for each of the tow truck company’s impound lots/yards within the boundaries of Davis County
- Provide the tow truck company’s business license for each of the tow truck company’s impound lots/yards within the boundaries of Davis County; alternatively, if the tow truck company’s business license for one or more of the tow truck company’s impound lots/yards within the boundaries of Davis County has yet to be received by the tow truck company, provide the applicable receipt(s) for payment of the tow truck company’s business license(s) for each of tow truck company’s impound lots/yards within the boundaries of Davis County.
- If the tow truck impound lot/yard is not owned by the two truck company, provide a copy of the current rental/lease agreement of the impound lot/yard property
- Provide color photos for each of the tow truck company’s impound lots/yards within the boundaries of Davis County including, but not limited to, the following color photos:
 - Fence (Top and bottom)
 - Close-up of impound lot/yard signage posted on the fence of the impound lot/yard clearly showing all lettering
 - Entire impound lot/yard storage area, including, but not limited to, any indoor storage space (provide multiple photos, if necessary)

- On-site office space including, but not limited to, the following:
 - Exterior office entrance showing address
 - Exterior office signage
 - Interior office space
- All impound lot/yard photos shall be printed on or affixed to an 8.5" x 11" sheet of paper (Loose photos of the impound lot/yard will not be accepted)

Section B – Tow Truck Company Information

Full Legal Name of Business/Company: _____

Business Address: _____ City: _____ Zip: _____

Business Mailing Address: _____ City: _____ Zip: _____

Business Telephone #: _____ Dispatch Telephone #: _____

Business Facsimile #: _____ Business E-mail Address: _____

Application Date: _____ Date Received by Davis County: _____

Commercial General Liability Insurance Company: _____

Insurance Policy Number: _____ Insurance Policy Expiration Date: _____

Automobile Liability Insurance Company: _____

Insurance Policy Number: _____ Insurance Policy Expiration Date: _____

Workers Compensation and Employers Liability Insurance Company: _____

Insurance Policy Number: _____ Insurance Policy Expiration Date: _____

UDOT MCTTCC Expiration Date: _____

Type of Business: Corporation Limited Liability Company Partnership Sole Proprietorship

Business Owner(s)/Officer(s):

1. Name: _____ Title: _____ DOB: _____

Street Address: _____ City: _____ Zip: _____

Telephone (Home): _____ Telephone (Cell): _____

E-mail: _____

2. Name: _____ Title: _____ DOB: _____

Street Address: _____ City: _____ Zip: _____

Telephone (Home): _____ Telephone (Cell): _____

E-mail: _____

Area(s) applied for: North South Heavy

[If necessary, provide additional business owner(s)/officers information on a separate attached sheet]

Section C – Tow Truck Operator Information

1. Name: _____ DOB: _____
Street Address: _____ City: _____ Zip: _____
Telephone (Home): _____ Telephone (Cell): _____
E-mail: _____ Medical Card Expiration: _____
Driver License Number: _____ Diver License Expiration: _____
Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
2. Name: _____ DOB: _____
Street Address: _____ City: _____ Zip: _____
Telephone (Home): _____ Telephone (Cell): _____
E-mail: _____ Medical Card Expiration: _____
Driver License Number: _____ Diver License Expiration: _____
Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
3. Name: _____ DOB: _____
Street Address: _____ City: _____ Zip: _____
Telephone (Home): _____ Telephone (Cell): _____
E-mail: _____ Medical Card Expiration: _____
Driver License Number: _____ Diver License Expiration: _____
Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
4. Name: _____ DOB: _____
Street Address: _____ City: _____ Zip: _____
Telephone (Home): _____ Telephone (Cell): _____
E-mail: _____ Medical Card Expiration: _____
Driver License Number: _____ Diver License Expiration: _____
Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
5. Name: _____ DOB: _____
Street Address: _____ City: _____ Zip: _____
Telephone (Home): _____ Telephone (Cell): _____
E-mail: _____ Medical Card Expiration: _____
Driver License Number: _____ Diver License Expiration: _____
Wrecker Certification Type: _____ Wrecker Certification Expiration: _____

6. Name: _____ DOB: _____
 Street Address: _____ City: _____ Zip: _____
 Telephone (Home): _____ Telephone (Cell): _____
 E-mail: _____ Medical Card Expiration: _____
 Driver License Number: _____ Diver License Expiration: _____
 Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
7. Name: _____ DOB: _____
 Street Address: _____ City: _____ Zip: _____
 Telephone (Home): _____ Telephone (Cell): _____
 E-mail: _____ Medical Card Expiration: _____
 Driver License Number: _____ Diver License Expiration: _____
 Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
8. Name: _____ DOB: _____
 Street Address: _____ City: _____ Zip: _____
 Telephone (Home): _____ Telephone (Cell): _____
 E-mail: _____ Medical Card Expiration: _____
 Driver License Number: _____ Diver License Expiration: _____
 Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
9. Name: _____ DOB: _____
 Street Address: _____ City: _____ Zip: _____
 Telephone (Home): _____ Telephone (Cell): _____
 E-mail: _____ Medical Card Expiration: _____
 Driver License Number: _____ Diver License Expiration: _____
 Wrecker Certification Type: _____ Wrecker Certification Expiration: _____
10. Name: _____ DOB: _____
 Street Address: _____ City: _____ Zip: _____
 Telephone (Home): _____ Telephone (Cell): _____
 E-mail: _____ Medical Card Expiration: _____
 Driver License Number: _____ Diver License Expiration: _____
 Wrecker Certification Type: _____ Wrecker Certification Expiration: _____

[If necessary, provide additional tow truck operator information on a separate attached sheet]

Section D – Tow Truck Information

1. Year: _____ Make: _____ Model: _____
VIN Number: _____ Lien Holder: _____
Utah License Plate: _____ Plate Expiration: _____
Truck/Fleet Number: _____ UDOT Inspection Date: _____
Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
2. Year: _____ Make: _____ Model: _____
VIN Number: _____ Lien Holder: _____
Utah License Plate: _____ Plate Expiration: _____
Truck/Fleet Number: _____ UDOT Inspection Date: _____
Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
3. Year: _____ Make: _____ Model: _____
VIN Number: _____ Lien Holder: _____
Utah License Plate: _____ Plate Expiration: _____
Truck/Fleet Number: _____ UDOT Inspection Date: _____
Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
4. Year: _____ Make: _____ Model: _____
VIN Number: _____ Lien Holder: _____
Utah License Plate: _____ Plate Expiration: _____
Truck/Fleet Number: _____ UDOT Inspection Date: _____
Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
5. Year: _____ Make: _____ Model: _____
VIN Number: _____ Lien Holder: _____
Utah License Plate: _____ Plate Expiration: _____
Truck/Fleet Number: _____ UDOT Inspection Date: _____
Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
6. Year: _____ Make: _____ Model: _____
VIN Number: _____ Lien Holder: _____
Utah License Plate: _____ Plate Expiration: _____
Truck/Fleet Number: _____ UDOT Inspection Date: _____
Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____

7. Year: _____ Make: _____ Model: _____
 VIN Number: _____ Lien Holder: _____
 Utah License Plate: _____ Plate Expiration: _____
 Truck/Fleet Number: _____ UDOT Inspection Date: _____
 Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
8. Year: _____ Make: _____ Model: _____
 VIN Number: _____ Lien Holder: _____
 Utah License Plate: _____ Plate Expiration: _____
 Truck/Fleet Number: _____ UDOT Inspection Date: _____
 Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
9. Year: _____ Make: _____ Model: _____
 VIN Number: _____ Lien Holder: _____
 Utah License Plate: _____ Plate Expiration: _____
 Truck/Fleet Number: _____ UDOT Inspection Date: _____
 Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
10. Year: _____ Make: _____ Model: _____
 VIN Number: _____ Lien Holder: _____
 Utah License Plate: _____ Plate Expiration: _____
 Truck/Fleet Number: _____ UDOT Inspection Date: _____
 Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
11. Year: _____ Make: _____ Model: _____
 VIN Number: _____ Lien Holder: _____
 Utah License Plate: _____ Plate Expiration: _____
 Truck/Fleet Number: _____ UDOT Inspection Date: _____
 Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____
12. Year: _____ Make: _____ Model: _____
 VIN Number: _____ Lien Holder: _____
 Utah License Plate: _____ Plate Expiration: _____
 Truck/Fleet Number: _____ UDOT Inspection Date: _____
 Type: Wheel Lift Only Flat-bed Heavy Duty Other (specify): _____

[If necessary, provide additional tow truck information on a separate attached sheet]

Section E – Tow Truck Impound Lot/Yard Information

(All Tow Truck Impound Lots/Yards Must Be State Tax Commission Approved)

All of the tow truck lots/yards listed below must have a lot/yard office staffed and open for business from 8:00 a.m. until 5:00 p.m., Monday through Friday, excluding Holidays, unless a tow truck company provides evidence of the Central Office Authorization from the Utah State Tax Commission, Motor Vehicle Division. If the tow truck company provides evidence of the Central Office Authorization from the Utah State Tax Commission, Motor Vehicle Division, Lot/Yard 1 below shall be listed as the central office and a copy of the written Central Office Authorization form must be submitted with this Application and Agreement.

Central Office Location (if applicable) or Lot/Yard 1:

Street Address: _____ City: _____ Zip: _____

Telephone: _____ Business License Expiration: _____

Operator Name: _____ Date of Birth: _____

Tax Commission Inspection Date: _____ Impound Yard Number _____

Check One: Own Lot/Yard Lease Lot/Yard Rent Lot/Yard

Lot/Yard 2:

Street Address: _____ City: _____ Zip: _____

Telephone: _____ Business License Expiration: _____

Operator Name: _____ Date of Birth: _____

Tax Commission Inspection Date: _____ Impound Yard Number _____

Check One: Own Lot/Yard Lease Lot/Yard Rent Lot/Yard

Lot/Yard 3:

Street Address: _____ City: _____ Zip: _____

Telephone: _____ Business License Expiration: _____

Operator Name: _____ Date of Birth: _____

Tax Commission Inspection Date: _____ Impound Yard Number _____

Check One: Own Lot/Yard Lease Lot/Yard Rent Lot/Yard

[If necessary, provide additional tow truck impound lot/yard information on a separate attached sheet]

AGREEMENT

This Agreement To Be Considered for Placement on One of more of the Towing Rotation Lists Created and Maintained by Davis County, Through the Davis County Sheriff's Office Dispatch Center, for the State of Utah's Fiscal Year—July 1, 2017 through June 30, 2018 (hereinafter "this Agreement") is made and entered into by and between Davis County, a body corporate and politic and legal subdivision of the state of Utah (hereinafter "Davis County"), and the tow truck business/company (hereinafter "the Company") submitting the accompanying Application To Be Considered for Placement on One of more of the Towing Rotation Lists Created and Maintained by Davis County, Through the Davis County Sheriff's Office Dispatch Center, for the State of Utah's Fiscal Year—July 1, 2017 through June 30, 2018 (hereinafter "the Application") and executing this Agreement.

NOW, for and in consideration of the mutual promises, obligations, and/or covenants contained herein, and for other good and valuable consideration, the receipt, fairness, and sufficiency of which are hereby acknowledged, and Davis County and the Company (hereinafter collectively "the Parties") intending to be legally bound, the Parties do hereby mutually agree as follows:

- 1. Establishment of Tow Truck Rotation Lists.** Davis County, through the DCSO and the Dispatch Center, is seeking to establish the following three tow truck rotation lists, in accordance with applicable federal and state laws, rules, regulations, or otherwise, to be used when a peace officer contacts the Dispatch Center and requests the removal and towing of a vehicle located within the boundaries of Davis County (hereinafter collectively "the Tow Truck Rotation Lists"):
 - a. The Dispatch Center will establish a light and medium duty northern tow truck rotation list (hereinafter "the Northern Tow Truck Rotation List") that will service the areas within Davis County that are north of the northern boundary of Farmington City to the southern boundary line of Weber County;
 - b. The Dispatch Center will establish a light and medium duty southern tow truck rotation list (hereinafter "the Southern Tow Truck Rotation List") that will service the areas within Davis County that are south of the northern boundary of Farmington City to the northern boundary line of Salt Lake County; and
 - c. The Dispatch Center will establish a heavy duty tow truck rotation list (hereinafter "the Heavy Duty Tow Truck Rotation List") that will service all instances within Davis County that require heavy duty tow truck services and/or equipment under this Agreement.
- 2. Placement of the Company on One or More of the Tow Truck Rotation Lists.** In order for the Company to be placed on one or more of the Tow Truck Rotation Lists, the Company shall comply with and/or satisfy all of the following:
 - a. The Company must timely complete and submit the Application to the Dispatch Center;
 - b. An authorized representative of the Company must execute this Agreement;
 - c. The Company shall only provide tow truck services within the boundaries of Davis County;
 - d. The Company shall operate an impound lot/yard that is approved by the Utah State Tax Commission and located within the area of the applicable Tow Truck Rotation List (e.g. If the Dispatch Center notifies the Company that it is the next tow truck company listed on the Northern Tow Truck Rotation List, then the Company must operate an approved impound lot/yard located within Davis County that is north of the northern boundary of Farmington City); and
 - e. The Company shall comply with all applicable federal and state laws, rules, regulations, or otherwise, including, but not limited to, Title 49 of the Code of Federal Regulations, Titles 41, 53, and 72 of the Utah Code Annotated, and Rules R714-660, R873-22M, and R909-19 of the Utah Administrative Code.

3. **Term of This Agreement.** The term of this Agreement shall begin on the date that this Agreement is executed by both of the Parties and shall terminate on July 1, 2018 at 12:00 a.m., unless terminated earlier pursuant to the terms and/or provisions of this Agreement.
4. **Termination of This Agreement.** This Agreement may be terminated by any of the following actions:
 - a. By either party after any material breach of this Agreement;
 - b. By the mutual, written agreement of the Parties;
 - c. By Davis County if the Company engages in or permits any unlawful or disruptive conduct or any activity not permitted by applicable law, rule, regulation, ordinance, this Agreement, and/or the policies of Davis County;
 - d. By Davis County, if the Company fails to provide Davis County, prior to the commencement of this Agreement, with all necessary federal, state, county, and/or municipal licenses, permits, bonds or otherwise to lawfully conduct the services required under this Agreement;
 - e. By Davis County, due to Davis County's dissatisfaction with any of the Company's work/services under this Agreement, ten calendar days after Davis County has sent, by mail, the Company a written notice of termination of this Agreement; or
 - f. As otherwise set forth in this Agreement or permitted by law, equity, or otherwise.
5. **Application of This Agreement.** This Agreement does not apply to and is not intended to hinder the activities of any private tow truck business that provides tow truck services to the general public on a consent basis. More specifically, towing rates for public consent tows are the responsibility of the consumer and the tow truck motor carrier as contracted by such parties. This Agreement, however, does apply to requests made from the Dispatch Center to the Company when the Dispatch Center notifies the Company that it is next on one of the Tow Truck Rotation Lists.
6. **Tow Truck Rotations.**
 - a. The Company shall be notified to perform services under this Agreement by the Dispatch Center according to the Company's place on the Tow Truck Rotation Lists (e.g. if the Company is the fifth tow truck company listed on one of the Tow Truck Rotation Lists and the most recent tow truck company to be previously notified by the Dispatch Center to perform services on that particular Tow Truck Rotation List was the tow truck company listed fourth on the particular Tow Truck Rotation List, then, upon the next request from a peace officer to the Dispatch Center for the removal and towing of a vehicle within an applicable area for that particular Tow Truck Rotation List, the Dispatch Center will notify the Company to provide services under this Agreement because the Company is the next tow truck company listed on that particular Tow Truck Rotation List).
 - b. When the Dispatch Center notifies the Company that it is next on one of the Tow Truck Rotation Lists to perform services under this Agreement, this notification shall constitute the Company's turn on the particular Tow Truck Rotation List and the Company will not be notified again until the Company is once again the next tow truck company on the particular Tow Truck Rotation List to provide services under this Agreement, subject to the subsections of this Subsection 6.b. directly below.
 - 1) If the Dispatch Center notifies the Company that it is next on one of the Tow Truck Rotation Lists to perform services under this Agreement and the Company fails to answer its designated telephone number, is unable to respond, is unable to perform the required service, refuses to respond or provide service, or is canceled due to an excessive response time, this response or non-response shall constitute the Company's turn on the particular Tow Truck Rotation List

and the Dispatch Center shall contact the next tow truck company listed on the particular Tow Truck Rotation List to perform the requested services under this Agreement.

- 2) If, after the Dispatch Center notifies the Company that it is next on one of the Tow Truck Rotation Lists to perform services under this Agreement, it is determined by a peace officer that the Company is no longer needed to provide services under this Agreement and is canceled, up to and including arrival on scene and standby time which does not result in a tow, the Company shall not be entitled to any compensation; however, the Company will remain next on the particular Tow Truck Rotation List to provide services under this Agreement for the next instance requiring the services of a tow truck company under that particular Tow Truck Rotation List and this Agreement.
 - 3) If, after the Dispatch Center notifies the Company that it is next on one of the Tow Truck Rotation Lists to perform services under this Agreement, the vehicle owner or an agent of the vehicle owner expresses his/her desire to not use the services of the Company prior to the Company taking possession of the vehicle, the Company shall not be entitled to any compensation; however, the Company will remain next on the particular Tow Truck Rotation List to provide services under this Agreement for the next instance requiring the service of a tow truck company under that particular Tow Truck Rotation List and this Agreement. For purposes of this subsection, possession occurs when the vehicle is removed and is in transit or when the vehicle recovery operations or load salvage operations have commenced.
- c. Notwithstanding anything in this Agreement to the contrary, a peace officer or a scene incident commander is not precluded from the following:
- 1) Requesting the Dispatch Center to send a specific tow truck company that may or may not be on one of the Tow Truck Rotation Lists when a vehicle owner and/or his or her agent requests the services of a specific tow truck company; and
 - 2) Requesting the Dispatch Center to send only one tow truck to remove two vehicles if, among of circumstances, the situation at the scene is cluttered and/or it appears that additional tow trucks will worsen the situation.

7. Responses to Notifications from the Dispatch Center.

- a. The Company shall respond to notifications from the Dispatch Center that the Company is the next tow truck company on one of the Tow Truck Rotation Lists to perform services under this Agreement twenty-four hours per day, seven days per week, three hundred sixty five days per year within the maximum response times established under Section 7, Subsection c of this Agreement.
- b. Upon the Company receiving notification from the Dispatch Center that the Company is the next tow truck company on one of the Tow Truck Rotation Lists to perform services under this Agreement, the Company shall dispatch a properly equipped tow truck of the class required to tow the applicable vehicle as well as a tow truck operator who satisfies all applicable terms of this Agreement and governing law, regulation, rule, or otherwise.
- c. The maximum response times for the Company to respond to notifications from the Dispatch Center that the Company is the next tow truck company on one of the Tow Truck Rotation Lists to perform services under this Agreement are as follows:
 - 1) Twenty minutes for both the Northern Tow Truck Rotation List and the Southern Tow Truck Rotation List, unless otherwise excused by the Dispatch Center due to inclement weather, unusual traffic conditions, or other reasonable grounds determined by the Dispatch Center; and

- 2) Thirty minutes for the Heavy Duty Tow Truck Rotation List, unless otherwise excused by the Dispatch Center due to inclement weather, unusual traffic conditions, or other reasonable grounds determined by the Dispatch Center.
- d. If the Company and another tow truck company are notified to respond to the same incident scene, the Dispatch Center shall generally provide direction regarding the removal and towing of the applicable vehicles. Nevertheless, the incident commander may make changes, if necessary, regarding the removal and towing of the applicable vehicles. When the incident commander makes such a change regarding the removal and towing of the applicable vehicles, the Company shall notify the Dispatch Center of the specific changes made by the incident commander regarding the removal and towing of the applicable vehicles.
 - e. The Company as well as the Company's tow truck operators shall not respond to and/or arrive at a scene for which the Company was not dispatched under this Agreement.
 - f. The Company as well as the Company's tow truck operators may only respond to and/or arrive at a scene for services under this Agreement when the Company has been notified by the Dispatch Center that it is the next tow truck company on one of the Tow Truck Rotation Lists to provide services under this Agreement. The Company as well as the Company's tow truck operators shall not respond to and/or arrive at a scene for services under this Agreement based on a request from anyone other than the Dispatch Center. The Company and the Company's tow truck operators shall not request another tow truck company to provide services under this Agreement on the Company's behalf.
 - g. The Company as well as the Company's tow truck operators shall not cruise or jump requests for tow truck services by, among other things, listening to the radio police band and/or driving the roadways to come across incidents that require the services of tow truck companies under any of the Tow Truck Rotation Lists. However, upon approaching an incident scene including, but not limited to, an accident, slide off, and/or break down, that requires the attention of a peace officer but where the Dispatch Center has not notified the Company that the Company is next on one of the Tow Truck Rotation Lists, the Company's tow truck operators shall turn on their tow truck's overhead lights to warn traffic, determine if there are injuries at the scene, and notify the Dispatch Center. Once a peace officer arrives at the scene, the Company's tow truck operators must leave the scene unless the peace officer on the scene specifically requests the assistance of the Company's tow truck operator. If the peace officer on the scene simply requests the Company's tow truck operator to move a vehicle to a safe location and then leave the vehicle, the Company shall not charge for this assistance and this assistance shall not impact the Company's place on the Tow Truck Rotation Lists.
 - h. When the Dispatch Center notifies the Company that it is next on one of the Tow Truck Rotation Lists to perform services under this Agreement, the Company shall ensure that:
 - 1) The Company responds to the applicable location with the Company's own permanently marked equipment (the Company shall not use equipment on temporary lease, substitute, partnership, a backup basis, or otherwise);
 - 2) The Company's operators provide only those services that are necessary and/or requested and shall, at the time of the tow, provide the owner or driver of the vehicle (if present at the scene) with the following documents:
 - a) The location where the vehicle will be stored;
 - b) A copy of the current rate schedule;
 - c) The terms of the vehicle recovery; and
 - d) The Utah Consumer Bill of Rights Regarding Towing;

- 3) The Company's operators do not leave the scene of a traffic accident until all debris and fluids from the towed vehicle (including, but not limited to, all absorbent material) have been removed from the roadway to the satisfaction of the ranking peace officer at the scene of the accident; and
- 4) The service ticket is completed at the time of the tow and includes the following information (clearly printed or electronically generated):
 - a) The start date and time dispatched;
 - b) The location of the tow;
 - c) The end date and time of arrival at the impound lot/yard where the vehicle will be stored;
 - d) The location of the approved impound lot/yard where the vehicle will be towed; and
 - e) The Company operator's name.

8. The Company's Representations, Warranties, Understandings, Acknowledgements, and Agreements. The Company represents, warrants, understands, acknowledges, and/or agrees as follows:

- a. The Company's placement on one or more of the Tow Truck Rotation Lists is a privilege and not a right;
- b. The Company's failure to comply with this Agreement and/or applicable federal or state laws, rules, regulations, or otherwise including, but not limited to, Title 49 of the Code of Federal Regulations, Titles 41, 53, and 72 of the Utah Code Annotated, and Rules R714-660, R873-22M, and R909-19 of the Utah Administrative Code, shall constitute a material breach of this Agreement and may lead to disciplinary actions, sanctions, penalties, or otherwise against the Company;
- c. The Company accepts full and sole responsibility for the Company's acts and omissions as well as the acts and omissions of the Company's Representatives;
- d. The Company's inclusion on one or more of the Tow Truck Rotation Lists is sought and continued through the voluntary actions of the Company and/or the Company's Representatives;
- e. The Company's falsification of any portion of this Application and Agreement and/or the documentation provided by the Company in connection with this Application and Agreement shall constitute a material breach of this Agreement and may subject the Company and/or one or more of the Company's Representatives to disciplinary actions, sanctions, penalties, and/or criminal charges;
- f. The Company is responsible for and will ensure that the Company's Representatives are aware of and fully comply with the terms and/or provisions of this Agreement;
- g. The Company will ensure that all operators, assistants, trainees, or otherwise have sufficient experience and/or training in currently recommended and industry standard towing techniques and are capable of performing their duties in a lawful, safe, proper, and effective manner;
- h. The Company shall accept payment offered in cash or by major credit or debit card and shall maintain sufficient cash on hand to make change of up to fifty-five dollars (\$55.00) (credit card processing fees and other similar credit care service charges are not permitted); the Company is not obligated to accept checks;
- i. The day and night business telephone number of the Company shall be answered in the name of the Company;
- j. Regardless of the class of tow truck that the Company sends to a scene under this Agreement, the Company shall not charge an amount that exceeds the permitted amount for the class of vehicle towed and/or serviced by the Company, except for recovery operations requiring a larger tow truck class;
- k. For light duty and medium duty vehicles, the Company will only be allowed to bill for one hour of tow services (The definition of these vehicles and the applicable maximum tow rates are found

in Rule R909-19, Utah Administrative Code.); In case of crashes involving serious injury, fatalities, or other tows which are significantly longer than one hour, the peace officer in charge of the scene may sign the tow receipt, noting the departure from the scene time, thereby authorizing billing longer than the standardized one hour (The billing time will only be extended to twenty (20) minutes past the departure time from the location of the tow);

- l. For tows not involving a Utah State Tax impound, if the vehicle's driver requests the vehicle be towed to a location other than the Company's impound lot/yard and the on-scene peace officer concurs with the request, the Company's operator shall comply with this request; billing in excess of the amount allowed in the subsection directly above will only be allowed should the requested address be outside the boundaries of Davis County; in these situations, any time in excess of the one-hour maximum must be documented and can only be billed from the original dispatch time to the drop-off time at the requested location;
- m. For heavy duty vehicles, the Company may bill for the actual time spent engaged in the towing process;
- n. The Company shall send a certified letter to the registered owner for all peace officer generated tows that are "hold-for-owner" by the end of the next business day after the tow is completed; if the Company is unable to locate an address for the registered owner via the IVS system, DMV, or paperwork within the vehicle, the Company may contact the DCSO for assistance in locating a valid mailing address for the registered owner of the vehicle;
- o. The Company shall ensure that once one of the Company's operators is given control of the vehicle at the tow site, notation is made on the invoice of the description of any property that is removed from the vehicle, the name of the person removing it, and the reason for its removal;
- p. The Company shall make every effort to resolve legitimate claims for damage or theft that are obviously related to the towing and/or storage of the vehicle and shall do so in a timely manner;
- q. The Company shall maintain complete and accurate records of all rotation tows under this Agreement and shall provide the Dispatch Center with such records upon request (these records shall be organized chronologically by date and maintained separate from all other towing records);
- r. The Company shall notify the Dispatch Center in writing within ten business days of any changes in the information submitted in this Application and Agreement, including, but not limited to, new operators, operator terminations, retired tow trucks, new tow trucks, new addresses, new telephone numbers, and/or new e-mail addresses;
- s. Prior to the expiration or lapse of any document or record submitted by the Company to the Dispatch Center in order to be placed on one or more of the Tow Truck Rotation Lists, the Company shall provide the Dispatch Center with copies of the renewed documents or records, including, but not limited to, licenses, certificates of insurance, registrations, certifications, and driver certificates;
- t. The Company shall submit to unannounced tow truck equipment inspections by authorized agencies and must successfully pass said inspections in order to remain on any of the Tow Truck Rotation Lists;
- u. The Company shall submit to unannounced lot/yard inspections during normal business hours (8:00 a.m. to 5:00 p.m.) by authorized agencies for each lot/yard used to store towed vehicles and must successfully pass said inspections to remain on any of the Tow Truck Rotation Lists;
- v. If the Company desires to be removed from one or more of the Tow Truck Rotation Lists for a specific period of time, the Company shall notify the Dispatch Center in writing; if the Company desires to be placed once again to one or more of the Tow Truck Rotation Lists, the Company shall make this request, in writing, to the Dispatch Center; if the Dispatch Center determines to place the Company once again on one or more of the Tow Truck Rotation Lists, the Company will be

placed at the bottom of all applicable Tow Truck Rotation Lists; notifications and requests made by the Company under this subsection must be on the Company's letterhead;

- w. The Company shall contact the Dispatch Center when responding to a request to remove a vehicle from Interstate 15 when the request did not arise under this Agreement and advise the Dispatch Center of the color, make, model, and year of the vehicle as well as the exact location of the vehicle to be removed in such circumstances; and
- x. The Company shall obtain and maintain the following minimum insurance coverages and list Davis County, Attn: Dispatch Center, P.O. Box 618, Farmington, UT 84025 as the certificate holder:
 - 1) A valid occurrence form commercial general liability insurance policy, which covers contractual liability and contractual agreements for hold harmless, defense, and indemnification costs, expenses, or otherwise, such as the indemnification and hold harmless provision set forth in this Agreement, with annual minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate;
 - 2) A valid automobile liability insurance policy with annual minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate;
 - 3) A valid garage liability insurance policy with annual minimum limits of \$100,000.00 per occurrence and \$200,000.00 aggregate;
 - 4) A valid motor truck cargo/on-hook liability insurance policy with annual minimum limits of \$100,000.00 per occurrence and \$200,000.00 aggregate; and
 - 5) A valid workers compensation and employers liability insurance policy with minimum limits as required by law (If any proprietor, partner, executive, officer, member, or otherwise of the Company is excluded from the Company's workers compensation and employers liability insurance policy, the Company shall provide the Dispatch Center with the applicable state issued waiver relating to any and all proprietors, partners, executives, officers, members, or otherwise of the Company where the workers compensation and employers liability insurance has been waived.

9. The Company's Tow Truck Operators. The following terms and/or provisions shall apply to the Company as well as the Company's tow truck operators:

- a. The failure of the Company and/or one or more of the Company's operators to comply with this Agreement and/or applicable federal or state laws, rules, regulations, or otherwise including, but not limited to, Title 49 of the Code of Federal Regulations, Titles 41, 53, and 72 of the Utah Code Annotated, and Rules R714-660, R873-22M, and R909-19 of the Utah Administrative Code, shall constitute a material breach of this Agreement and may lead to disciplinary actions, sanctions, penalties, or otherwise against the Company and/or the Company's operator(s);
- b. The Company shall ensure that none of the Company's operators who will provide services under this Agreement been convicted within the last five years (including pleas in abeyance) of any felony or misdemeanor crime involving violence, moral turpitude, weapons, driving under the influence, or illegal use of any controlled substance and shall provide the Dispatch Center with a BCI criminal background check performed no earlier than April 1, 2017 that evidences the lack of these convictions or pleas in abeyance;
- c. The Company shall ensure that none of the Company's operators who will provide services under this Agreement have had their driving privileges revoked, suspended, or denied within the last two years and shall provide the Dispatch Center with a Utah Driver License History Report performed no earlier than April 1, 2017 that evidences the lack of these actions on the Company's operators driving privileges;

- d. The Company's operators shall not engage in serious operator error while performing services under this Agreement. The Dispatch Center shall determine if one or more of the Company's operators has engaged in serious operator error while performing services under this Agreement;
- e. The Company's operators shall not operate a tow truck under this Agreement in violation of applicable law.
- f. The Company's operators as well as the Company's Representatives who respond to a scene under this Agreement shall wear long pants, closed toed shoes, and a reflective vest;
- g. The Company shall not use an unauthorized operator to perform any services under this Agreement;
- h. All of the Company's operators must possess a current, valid, and applicable Utah driver license in order to perform any services under this Agreement; and
- i. The Company must have and maintain at least two authorized and approved operators at all times under this Agreement.

10. The Company's Tow Trucks and Equipment. The following terms and/or provisions shall apply to the Company as well as the Company's tow trucks and equipment:

- a. The Company shall ensure that all of the Company's tow trucks and equipment comply with the safety equipment requirements set forth in applicable law, regulation, rule, or otherwise, including, but not limited to, Title 72, Chapter 9, Part 6, Utah Code Annotated, and Rule R909-19, Utah Administrative Code;
- b. The Company shall ensure that all of the Company's tow trucks and equipment are permanently marked and specific to the tow truck;
- c. The Company shall ensure that all of the Company's tow trucks are equipped with the necessary safety and other equipment to perform services under this Agreement, including, but not limited to, equipment to safely tow vehicles, clean up debris and fluids from an accident; and securely transport all loose items pertaining to any towed vehicle;
- d. The Company shall ensure that the Company's tow trucks do not transport other vehicles, vehicle parts, people, or other items when providing services under this Agreement;
- e. The Company shall ensure that the Company's tow trucks, when responding to an incident that requires the tow of a motorcycle under this Agreement, shall be equipped to provide for one person loading as well as safe and secure upright transport of the motorcycle;
- f. The Company shall ensure that all of the Company's tow trucks are registered in the Company's name and/or owner's name, as applicable, and the addresses on the tow truck registrations are the same as the Company's address listed on the Company's business license;
- g. The Company shall ensure that the Company's accurate name, city, state, and UDOT number is permanently marked on all of its vehicles;
- h. The Company shall ensure that the Company does not use an unauthorized tow truck to perform any services under this Agreement;
- i. The Company shall ensure that the Company does not share tow trucks or other equipment with other tow truck companies;
- j. The Company shall ensure that it has at least one flat-bed tow truck for light and medium duty vehicles stationed within the applicable area (i.e. the boundaries for the Northern Tow Truck Rotation List or the boundaries for the Southern Tow Truck Rotation List); and
- k. The Company shall ensure that the heavy duty tow trucks are stationed within the boundaries of Davis County if the Company seeks to be placed and is placed on the Heavy Duty Tow Truck List.

11. Storage/Impound Lots/Yards. The following terms and/or provisions shall apply to the Company as well as the Company's storage/impound lots/yards:

- a. The Company shall ensure that the Company's storage/impound lots/yards are in compliance with and continue to be in compliance with all applicable laws, regulations, rules, or otherwise (The Utah State Tax Commission's requirements are a minimum standard, and the Company's compliance with these requirements does not guarantee that the company's storage/impound lots/yards will be acceptable under this Agreement);
- b. The Company shall provide the Dispatch Center with a copy of the Central Office Authorization as permitted in Rule R873-22M-17, Utah Administrative Code (This may be satisfied by the Company providing the Dispatch Center with a letter from the Utah State Tax Commission designating the Company's central office or a copy of storage/impound lot/yard inspection designating the central office);
- c. The Company shall ensure that the central office is staffed from 8:00 a.m. until 5:00 p.m. Monday through Friday and is located within the geographical area of the applicable Tow Truck Rotation List;
- d. If the Company is authorized to maintain multiple storage/impound lots/yards that are served by a central office, the Company, upon being contacted by the vehicle owner or authorized agent of the vehicle owner, shall:
 - 1) At the direction of the vehicle owner or authorized agent of the vehicle owner, respond to the lot/yard within either twenty minutes from 8:00 a.m. until 5:00 p.m. Monday through Friday or by an appointment that is acceptable to the vehicle owner or authorized agent of the vehicle owner and on the same day;
 - 2) Not charge the vehicle owner or authorized agent of the vehicle owner an additional fee for responding to the lot/yard from 8:00 a.m. until 5:00 p.m. Monday through Friday for purposes of:
 - a) Releasing a vehicle;
 - b) Releasing personal property contained within a vehicle; or
 - c) Inspecting the condition of a vehicle; and
 - 3) Not require the vehicle owner or authorized agent of the vehicle owner to respond to more than one of the Company's locations to arrange for and obtain the release of a vehicle;
- e. If a vehicle owner or authorized agent of a vehicle owner desires to access his/her vehicle under circumstances not addressed in the subsection directly above, the vehicle owner or authorized agent of the vehicle owner may access his/her vehicle on any day and at any hour for a reasonable fee, which fee shall not exceed an amount permitted by law (Prior to releasing the vehicle under these circumstances, the Company shall obtain a signed waiver from the vehicle owner or authorized agent of the vehicle owner indicating his/her consent to pay the after hour release fee);
- f. If the Company shares a storage/impound lot/yard with another tow truck company or other business establishment, the properties shall be physically separated and secured from one another by permanently affixed materials (i.e. permanent fencing or walls);
- g. The Company is responsible for the safekeeping and prevention of vandalism of all vehicles and their contents for towed and/or stored vehicles under this Agreement;
- h. The Company shall preclude frequent theft or vandalism problems to vehicles towed and stored under this Agreement;
- i. The Company shall ensure that the Company does not tow vehicles to a lot/yard that is not an approved lot/yard or transfer a vehicle from a lot/yard without prior notification and approval from the Dispatch Center Coordinator; except that vehicles that qualify for the Utah State Tax Sale (at

least thirty days old) may be transferred to another lot/yard for purposes of the Utah State Tax Sale without any prior notice to the Dispatch Center Coordinator providing that the information regarding the date of said transfer and the lot/yard where the vehicle was transferred to is recorded on the original invoice;

- j. The Company shall ensure that the vehicle is towed to the Company's nearest approved lot/yard unless the vehicle owner or authorized agent of the vehicle owner requests that the vehicle be taken to another location in which case the request will be honored upon satisfying the lawful towing company requirements for payment for services;
- k. If the Company has a practice of removing property from towed vehicles for "safe keeping," the Company shall ensure that such property is listed on the invoice provided to the vehicle owner or the vehicle owner's authorized agent and adopt a written policy, which shall be provided to the Dispatch Center Coordinator, that includes, but is not limited to, the type of property normally removed, where the removed property will be kept, who will be responsible for ensuring that the removed property is returned to the owner, who will release the removed property to the owner, and apply to property that is not attached to the vehicle;
- l. The Company shall ensure that the Company's lot/yard operator maintains a log of individuals, identified by at least name, applicable vehicle, date, time, and receipt number, who have been given access to vehicles for the purpose of removing personal property from such vehicles;
- m. The Company shall ensure that the Company's Representatives are properly trained to conduct business transactions related to towing, storage and release of vehicles/property;
- n. The Company shall display appropriate signage and provide adequate lighting (Lighting from nearby buildings does not constitute adequate lighting for purposes of this subsection) for the Company's lots/yards, which signage shall be clear, legible, and unobstructed from the view of the general public, and provide; and
- o. If the Company desires to be placed on the Heavy Duty Tow Truck Rotation List, the Company's lots/yards must have sufficient space to store at least one semi-truck cab and two semi-trailers.

12. Towing, Storage and Administrative Fees.

- a) The Company shall ensure that fees charged for services provided under this Agreement are reasonable, valid, and not in excess of those rates charged for similar services provided by the Company and/or its competitors in response to requests initiated by private individuals.
- b) The Company shall ensure that the maximum towing rates and/or maximum storage rates set forth in Rule R909-19, Utah Administrative Code, or other applicable law, are complied with entirely.
- c) Unless precluded by law, the company may charge a \$32.00 administrative fee for inputting information into the IVS system for the services provided by the Company under this Agreement.
- d) An administrative fee of \$30.00 may only be charged if the Company provides a MVR print out and posted certified mail receipts at such time the vehicle is released to the owner.

13. Tow Complaints.

- a) Davis County, the DCSO, and/or the Dispatch Center will require all complaints against the Company and/or one or more of the Company's Representatives to be submitted in writing, including, but not limited to, all applicable supporting documents.
- b) The Company, for itself, and on behalf of the Company's Representatives agree to cooperate with the DCSO and/or the Dispatch Center prior to and during the course of an investigation by the DCSO and/or the Dispatch Center regarding the Company and/or one or more of the Company's Representatives.
- c) As a matter of practicality, the enforcement of certain sections of this Agreement occurs primarily as violations are brought to the attention of the Dispatch Center.

- d) If allegations within a written complaint against the Company and/or one or more of the Company's Representatives give rise to potential criminal conduct or, at any point during an investigation of a complaint against the Company and/or one or more of the Company's Representatives, allegations of potential criminal conduct arise, Davis County, the DCSO, and/or the Dispatch Center will refer the complainant(s) to the law enforcement agency who would have authority to investigate such allegations.

14. Grounds for Termination of This Agreement or Suspension.

- a. The Parties agree that any of the following are grounds for Davis County, the DCSO, and/or the Dispatch Center to terminate this Agreement, upon sending the Company a written notice of termination of this Agreement, or to suspend the Company from one or more of the Tow Truck Rotation Lists for a minimum of five business days up to a permanent suspension, upon sending the Company a written notice of suspension, which will preclude the Company from providing services under this Agreement until the period of suspension has expired:
 - 1) A breach or violation of this Agreement and/or a violation of applicable laws, rules, regulations, or otherwise by the Company and/or the Company's Representatives;
 - 2) The commencement of an investigation by one or more federal or state agencies or entities into alleged violations of law, rule, regulation, or otherwise by the Company or the Company's Representations;
 - 3) The commencement of an investigation by Davis County, the DCSO, and/or the Dispatch Center into alleged violations of this Agreement or applicable law, rule, regulation, or otherwise by the Company and/or the Company's Representatives or of a written complaint submitted against the Company and/or the Company's Representatives to Davis County, the DCSO, and/or the Dispatch Center;
 - 4) A second written notification from the Dispatch Center to the Company for the same or similar offense within the term of this Agreement that is a violation of one or more of the terms or provisions of this Agreement and/or a violation of one or more applicable laws, rules, regulations, or otherwise;
 - 5) The Company's or the Company's Representatives' operation of tow trucks in a negligent, reckless, or unsafe manner;
 - 6) The Company's charging of unauthorized fees;
 - 7) Threats made by the Company or the Company's Representatives to anyone arising from, in connection with, or relating in any way to the services performed by the Company under this Agreement;
 - 8) Damage to vehicles while in the possession, custody, or control of the Company, including, but not limited to, while towing or storing a vehicle;
 - 9) The lapse or expiration of any of the insurance policies required under this Agreement during the term of this Agreement and without a renewal insurance policy that satisfies the terms of this Agreement;
 - 10) The Company's failure to timely respond to a scene under this Agreement;
 - 11) The Company's failure to maintain and retain accurate and complete records as required by this Agreement and applicable law, rule, regulation, or otherwise;
 - 12) One or more requests or demands by the Company for a vehicle owner or a vehicle owner's authorized agent to sign any financial responsibility disclaimers;
 - 13) The Company's refusal to release a vehicle to the vehicle owner, the vehicle owner's authorized agent, or the vehicle owner's insurance company; or

- 14) The Company's refusal to release life-essential personal property to a vehicle owner or the vehicle owner's authorized agent until payment is made by the vehicle owner of the vehicle owner's authorized agent to the Company for services provided under this Agreement.
- b. Notwithstanding anything in this Agreement to the contrary, the DCSO and the Dispatch Center shall have sole discretion regarding the length of any suspension imposed upon the Company pursuant to the terms and/or provisions of this Agreement.
 - c. Notwithstanding anything in this Agreement to the contrary, Davis County, the DCSO, and the Dispatch Center may immediately suspend the Company from participating in services under this Agreement, terminate this Agreement, or deny the Company's application to participate in services under this Agreement if Davis County, the DCSO, or the Dispatch Center, in their sole discretion, determine(s) that the conduct of the Company and/or the Company's Representatives is a danger to the public or not in the best interest of the public, is unlawful, or is unreasonable.
 - d. The Company shall comply with all of the terms of the suspension (i.e. ceasing particular practices or conduct, restitution to victims, and fulfillment of court orders) before the Company may be considered for reinstatement under this Agreement or before the Company is permitted to re-apply in the future.
 - e. The Company may appeal a suspension issued by the Dispatch Center under this Agreement to the Dispatch Center Manager or other designated employee of the DCSO within thirty calendar days after Davis County, the DCSO, and/or the Dispatch Center mails a written notice of suspension to the Company. All decisions made by the Dispatch Center Manager or other designated employee of the DCSO on appeals made by the Company are final. While an appeal of a suspension is pending, the suspension shall remain in full force and effect.

15. General Terms and/or Provisions.

- a. *Best Efforts of the Company.* The Company agrees that it will at all times faithfully, industrially, and to the best of the Company's ability, experience, and talents, perform all of the duties, that may be required of and from the Company pursuant to the express and implicit terms of this Agreement, to the reasonable satisfaction of Davis County.
- b. *Indemnification, Hold Harmless, Waiver, and Release.* The Company, for itself, and on behalf of the Company's Representatives, agrees and promises to indemnify and save and hold harmless Davis County, as well as Davis County's officers, officials, employees, agents, representatives, contractors, and volunteers (hereinafter collectively "the Davis County Representatives"), from and against any loss, damage, injury, liability, claim, action, cause of action, demand, expense, cost, including defense cost, fee, or otherwise (hereinafter collectively "the Claims") that may arise from, may be in connection with, or may relate in any way to this Agreement and/or the acts or omissions, negligent or otherwise, of the Company and the Company's Representatives, whether or not the Claims are known or unknown, or are in law, equity, or otherwise. The Company, for itself, and on behalf of the Company's Representatives, agrees and promises that all costs, expenses, or otherwise relating to the Claims and incurred by Davis County or the Davis County Representatives or which Davis County or the Davis County Representatives would otherwise be obligated to pay, shall be paid in full by the Company within thirty (30) calendar days after Davis County provides the Company with documents evidencing such costs, expenses, or otherwise. No term or condition of this Agreement, including, but not limited to, insurance required under this Agreement, shall limit or waive any liability the Company may have arising from, in connection with, or relating to this Agreement and/or the Company or the Company's Representatives acts or omissions, negligent or otherwise.
- c. *Survival of Terms, Provision, Promises, or Otherwise of This Agreement after Termination.* Termination of this Agreement shall not extinguish or prejudice either Party's right to enforce this

Agreement, or any term, provision, or promise under this Agreement, regarding warranties, insurance, indemnification, defense, save or hold harmless, or damages, or with respect to any uncured breach or default of or under this Agreement.

- d. *Independent Contractor.* The Company shall perform this Agreement as an independent contractor. The Company and the Company's Representatives shall not be deemed to be an employee, agent, or representative of Davis County. The Company acknowledges and agrees that the Company and the Company's Representatives are not in any manner or degree employees of Davis County and shall have no right to and shall not be provided with any Davis County benefits.
- e. *Public Information.* This Agreement and all documents or records regarding, concerning, or relating to this Agreement, unless they are protected, private, controlled, or otherwise confidential pursuant to law, are public records and subject to disclosure under Utah law. The Parties agree and grant their express permission to allow disclosure of such records that are required to be disclosed by law.
- f. *Conflict of Terms or Provisions.* In the event of any conflict between the terms of this Agreement and any documents referenced in this Agreement and incorporated into this Agreement by reference including, but not limited to, exhibits or attachments to this Agreement, this Agreement shall control.
- g. *Assignment Restricted.* The Parties agree that neither this Agreement nor the duties, obligations, responsibilities, or privileges herein may be assigned, transferred, or delegated, in whole or in part, without the prior written consent of Davis County.
- h. *Waivers or Modification.* No waiver or failure to enforce one or more parts or provisions of this Agreement shall be construed as a continuing waiver of any part or provision of this Agreement, which shall preclude the Parties from receiving the full-bargained-for benefit under the terms and provisions of this Agreement. A waiver or modification of any of the provisions of this Agreement or of any breach thereof shall not constitute a waiver or modification of any other provision or breach, whether or not similar, and any such waiver or modification shall not constitute a continuing waiver. The rights of and available to each of the Parties under this Agreement cannot be waived or released verbally, and may be waived or released only by an instrument in writing, signed by the party whose rights will be diminished or adversely affected by the waiver.
- i. *Relationship of the Parties.* The relationship between the Parties is an arms-length contractual relationship, and is not fiduciary in nature. Nothing contained in this Agreement will be deemed to create an association, partnership, or joint venture between the Parties, give rise to fiduciary duties, or cause any of the Parties to be liable or responsible in any way for the actions, liabilities, debts or obligations of the other party. The Parties shall not have any right, power, or authority to make any representation or to assume or create any obligation, whether express or implied, on behalf of the other party, or to bind the other party in any manner.
- j. *Binding Effect; Entire Agreement, Amendment.* This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, assigns, officers, directors, employees, agents, representatives, subrogees and to all persons or entities claiming by, through or under them. This Agreement, including all attachments, if any, constitutes and/or represents the entire agreement and understanding between the Parties with respect to the subject matter herein. There are no other written or oral agreements, understandings, or promises between the Parties that are not set forth herein. Unless otherwise set forth herein, this Agreement supersedes and cancels all prior agreements, negotiations, and understandings between the Parties on this subject matter, whether written or oral, which are void, nullified and of no legal effect if they are not recited or addressed in this Agreement. Neither this Agreement nor any provisions hereof may be supplemented, amended, modified, changed, discharged, or terminated verbally. Rather, this

Agreement and all provisions hereof may only be supplemented, amended, modified, changed, discharged, or terminated by an instrument in writing, signed by the Parties.

- k. *Choice of Law; Jurisdiction; Venue.* This Agreement and all matters, disputes, and/or claims arising out of, in connection with, or relating to this Agreement or its subject matter, formation or validity (including non-contractual matters, disputes, and/or claims) shall be governed by, construed, and interpreted in accordance with the laws of the State of Utah, without reference to conflict of law principals. The Parties irrevocably agree that the courts located in Davis County, State of Utah (or Salt Lake City, State of Utah, for claims that may only be litigated or resolved in the federal courts) shall have exclusive jurisdiction and be the exclusive venue with respect to any suit, action, proceeding, matter, dispute, and/or claim arising out of, in connection with, or relating to this Agreement, or its formation or validity. The Parties irrevocably submit to the exclusive jurisdiction and exclusive venue of the courts located in the State of Utah as set forth directly above. Any party who unsuccessfully challenges the enforceability of this clause shall reimburse the prevailing party for its attorneys' fees, and the party prevailing in any such dispute shall be awarded its attorneys' fees.
- l. *Force Majeure.* In the event that either party shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, inclement weather, restrictive governmental laws or regulations, delays in or refusals to issue necessary governmental permits or licenses, riots, insurrection, wars, or other reasons of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.
- m. *Severability.* If any part or provision of this Agreement is found to be prohibited or unenforceable in any jurisdiction, such part or provision of this Agreement shall, as to such jurisdiction only, be inoperative, null and void to the extent of such prohibition or unenforceability without invalidating the remaining parts or provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render inoperative, null or void such part or provision in any other jurisdiction. Those parts or provisions of this Agreement, which are not prohibited or unenforceable, shall remain in full force and effect.
- n. *Authorization.* The persons executing this Agreement on behalf of a party hereby represent and warrant that they are duly authorized and empowered to execute the same, that they have carefully read this Agreement, and that this Agreement represents a binding and enforceable obligation of such party.
- o. *Rights and Remedies Cumulative.* The rights and remedies of the Parties under this Agreement shall be construed cumulatively, and none of the rights and/or remedies under this Agreement shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law, unless specifically set forth herein.
- p. *No Third-Party Beneficiaries.* This Agreement is entered into by the Parties for the exclusive benefit of the Parties and their respective successors, assigns and affiliated persons referred to herein. Except and only to the extent provided by applicable statute, no creditor or other third party shall have any rights under this Agreement.
- q. *Time of Essence.* Time is of the essence in respect to all parts or provisions of this Agreement, which specify a time performance or otherwise, and the Parties agree to comply with all such times.
- r. *Recitals Incorporated.* The recitals to this Agreement are incorporated herein by reference and made contractual in nature.

- s. *Counterparts; Electronically Transmitted Signatures.* This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same Agreement. Signatures transmitted by facsimile and/or e-mail shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed on the date indicated below.

<p>DAVIS COUNTY</p> <p>By: _____ James E. Smith, Chair Board of Davis County Commissioners Date: _____</p> <p>ATTEST:</p> <p>_____ Curtis Koch Davis County Clerk/Auditor Date: _____</p>	<p>THE COMPANY</p> <p>By: _____ Print Name: _____ Title: _____ Date: _____</p>
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