



## Utah Retirement Systems

### Retirement Office

560 East 200 South  
Salt Lake City, UT 84102-2021

(801) 366-7700  
(800) 365-8772 Toll Free  
[www.urs.org](http://www.urs.org)

ROBERT V. NEWMAN  
Executive Director

## URS ELECTRONIC TRADING PARTNER AGREEMENT

The provisions of this Agreement are intended to govern the rules of conduct and methods of operation between the Utah Retirement Systems (hereinafter referred to as URS), and Employer Units who have previously entered into arrangements (hereinafter referred to as Employers) with URS, in relation to the interchange of data by use of the "*URS for Employers*" website.

The *URS for Employers* website provides a means by which an Employer may inquire about its employer profile, fund participation, contribution rates, contribution reporting, and other information and or services that may be added or deleted from time to time (hereinafter referred to as Services).

Therefore, in consideration of the mutual promises and covenants contained herein, the sufficiency of which is acknowledged, the parties agree as follows:

### 1. SERVICES

1.1 Availability. This Agreement applies to the Services described, as modified and supplemented from time to time. Unless otherwise indicated in the related description, the *URS for Employers* website is available to Employers twenty-four (24) hours a day, seven (7) days a week. URS may temporarily suspend access and services at its discretion.

1.2 Training and Support. URS will provide training in the use of the *URS for Employers* website, and may publish a fee schedule related to this training. URS will provide support and help desk services to Employers between 8:00 a.m. and 5:00 p.m., Mountain Standard Time (Mountain Daylight Savings time), Monday through Friday, excluding holidays, weekends, and off-hours. URS reserves the right to bill for on-site support requested by the Employer, and as such Employers agrees to pay for time, materials, and travel expenses at URS's rates then in effect.

### 2. CONDITIONS OF USE AND ACCESS

2.1 Employers Responsibility for Use. Employers will use the *URS for Employers* website in a manner consistent with applicable laws. Employers are solely responsible for all use of their *URS for Employers* account and for any violation of the terms of this Agreement by anyone using its account. For purposes of this Agreement, Employer's "use" (a) means (i) use by Employer's employees, agents and contractors who have obtained Employer's Signatures in their employment or engagement, (ii) use by Employer's employees, agents and contractors following their separation from employment or engagement by Employer enabled by the use of Signatures obtained in their employment or engagement, (iii) use by any person who obtains Employer's Signatures because of Employer's negligence, (iv) and use by any person who obtains Employer's Signatures from any person described in (i), (ii) or (iii) above and (b) specifically excludes the unauthorized use of

Employer's *URS for Employers* account by any person not described in (i) – (iv) above or unauthorized access or use of Employer's Signature.

### **3. CONFIDENTIALITY, PRIVACY AND SECURITY**

**3.1 Use and Disclosure of Protected Information.** The following provisions apply specifically to the possession, use and disclosure of Protected Information obtained by means of a Transaction, and is intended to document each party's assurances that it will appropriately use and safeguard such data:

**(a) Definition.** "Protected Information" shall have the broadest meaning given under applicable laws, and generally refers to individually identifiable information transmitted or maintained in any form or medium.

**(b) Standard.** URS may use any information (i) for URS's proper management and administrative services or (ii) to carry out URS's legal responsibilities.

**(c) Obligations Regarding Protected Information.** URS and Employer each agree, for the benefit of each other and additionally for the benefit of entities to whom URS or Employer may be a "business associate" that:

(i) it will not use or further disclose Protected Information in a manner that would violate the requirements of applicable laws, if so used or disclosed by the originator of the Transaction;

(ii) it will not use or further disclose Protected Information other than [A] as permitted or required by this Agreement or supplemental agreements now or hereafter existing which govern its business relationship or arrangement with other entities or [B] as required by law;

(iii) it will implement appropriate safeguards to prevent use or disclosure of Protected Information, other than as provided by this Agreement;

(iv) it will have a written policy to prevent the improper use or disclosure of Protected Information;

(v) it will require that any third parties, including agents and contractors, to whom it provides Protected Information agree to the same restrictions and conditions that apply to the Employer with respect to such information, including those in this Section 3.1(c);

(vi) it will make its internal practices, books and records relating to the use and disclosure of Protected Information available for purposes of determining its compliance with applicable laws pertaining to Protected Information; and

(vii) at termination of this Agreement, if feasible, it will return or destroy all Protected Information received in a Transaction that it still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of this Agreement and this Section 3.1 to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

**(d) Breach.** If URS or Employer breaches a material obligation under this Section 3.1 or is in violation of the requirements of applicable laws respecting Protected Information, the non-breaching party in its sole discretion may take, but is not obligated to take, reasonable steps to cure the breach or terminate this Agreement.

(e) Incorporation of Additional Requirements; Construction. The requirements of applicable law pertaining to Protected Information are, to the extent not adequately provided for in this Section 3.1 or elsewhere in this Agreement, hereby incorporated by reference and shall become a part of this Agreement. This Agreement and this Section 3.1 shall be construed as broadly as necessary to implement and comply with applicable privacy laws, including URS Board Resolutions. This Section 3.1 is intended to document the assurances and other requirements respecting the use and disclosure of Protected Information that must be obtained by entities from contracting parties who are “business associates”.

3.2 Interception of Transactions. To the maximum extent permitted by law, URS is not liable for the interception by improper means or the theft by persons, other than URS employees, agents or contractors, of Transactions carried on the *URS for Employers* website.

3.3 Signatures. Access to the *URS for Employers* website and use of Services require an electronic identification which may consist of user names, passwords, symbols or codes (“**Signatures**”). EMPLOYER SHALL MAINTAIN THE CONFIDENTIALITY, AND CONTROL THE USE OF ITS SIGNATURE. SUCH SIGNATURES SHALL BE DEEMED “CONFIDENTIAL INFORMATION” UNDER SECTION 3.1 OF THIS AGREEMENT.

3.4 Governmental Entities. Employers that are Utah governmental entities may be subject to the Government Records Access and Management Act (Utah Code Ann. (1953), §§ 63-2-101 *et seq.*, as amended, “**GRAMA**”). Under GRAMA, certain records within a governmental entity’s possession or control may be subject to public disclosure. Notwithstanding anything to the contrary in this Agreement, a Employer that is a Utah governmental entity subject to GRAMA may disclose information to the extent required by GRAMA or as otherwise required by law. URS is not subject to GRAMA. Nothing in this Agreement shall require URS to be subject to GRAMA or any other State or federal law, which requires disclosure of information.

#### **4. AUDIT**

4.1 If URS has reasonable cause to believe that Employer’s use of the *URS for Employers* website is not in compliance with this Agreement, URS may audit stored Transactions for compliance, *provided that* URS first notifies Employer of the audit and gives Employer the opportunity to have a representative present. Any audit shall be conducted so as not to cause the improper disclosure or use of Transactions or their content.

#### **5. CONTRACTORS**

5.1 URS may perform its obligations under this Agreement directly or through contractors. URS shall cause its contractors to comply with the obligations, restrictions and conditions applicable to URS regarding the contents of Transactions and Confidential Information, security and privacy contained in Section 3. Notwithstanding that URS may contract certain communication and support services, URS shall remain primarily responsible for the performance of such Services.

#### **6. INTERNET (ISP) ACCESS AND OTHER EMPLOYER RESOURCES**

6.1 Employer, at its own expense, will provide and maintain the hardware, software, equipment and services necessary to effectively and reliably access the *URS for Employers* website and to format, transmit and receive Transactions complying with the Standards and use of other Services. This means, at a minimum, an internet service provider and internet browser that supports the use of 128 byte SSL encryption. The Employers web browser must be enabled to

accept "cookies".

## **7. COMPLIANCE WITH LAW**

7.1 Generally. URS and Employer will each comply with laws applicable to this Agreement, to the use of the *URS for Employers* website and other Services and to the content of Transactions. This Agreement will be interpreted, to the maximum extent possible, so as to be consistent with such laws.

7.2 No Agency. URS provides specific *URS for Employers* services to Employers, but does not act for Employers as a general matter. URS is not responsible for the contents of Transactions.

## **8. STORAGE AND RETENTION**

8.1 Employer is solely responsible for providing and maintaining data backup and retention adequate for its needs, for maintaining adequate source records (which may be electronic) relating to Transactions and for complying with applicable law relating to the storage, maintenance and retention of such records.

## **9. LIMITED WARRANTY; DISCLAIMERS**

9.1 URS warrants that it will use its best efforts to correctly provide Services of *the URS for Employers* website in a timely manner. URS MAKES NO OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE SERVICES OR RESOURCES PROVIDED BY IT, OR USE OF SERVICES NOT COMPLYING WITH APPLICABLE LAW. URS DISCLAIMS LIABILITY RELATING TO ITS OR ITS EMPLOYERS' CONNECTION TO THE INTERNET OR THE INTERNET SERVICE PROVIDER, FOR THE FAILURE OF EMPLOYERS TO COMPLY WITH THIS AGREEMENT (INCLUDING ANY FAILURE TO COMPLY WITH APPLICABLE LAWS, RULES OR REGULATIONS RELATING TO THE SECURITY OR PRIVACY OF PROTECTED INFORMATION), OR FOR THE CONTENT AND USE OF SAID SERVICES. URS DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION, COMPATIBILITY WITH ANY PARTICULAR HARDWARE OR SOFTWARE, OR INTER-CONNECTIBILITY WITH OTHER NETWORKS OR SERVICES.

## **10. LIMITATION OF LIABILITY**

10.1 Regardless whether any remedy set forth herein fails in its essential purpose or otherwise, neither Employer nor URS will be liable to the other for lost profits or data, or any special, incidental, indirect, exemplary or consequential damages arising from or as a result of any delay, omission or error in the transmission or receipt of any Transactions or use of other Services or other claim arising out of this Agreement, even if advised in advance of the possibility of such damages.

## **11. INDEMNIFICATION**

11.1 By Employer. Except for claims arising out of URS's breach of this Agreement, its negligent acts or omissions, or willful misconduct, Employer agrees to indemnify, defend and hold harmless URS, its employees, directors, agents and contractors, from and against all damages and costs, including reasonable attorney's fees, that result from the claims of third parties arising out of Employer's use of the *URS for Employers* website and Services, including Employer's connection

to the internet, the content and use of the *URS for Employers* website by Employer and compliance by Employer with applicable laws (including those relating to the security and privacy of Protected Information), provided that URS notifies Employer in writing promptly upon discovery of any such third party claim, and fully cooperates with Employer in, the defense and settlement of such claim. For purposes of this Section and Employer's "use" of the *URS for Employers* website, and Services (a) means (i) use by Employer's employees, agents and contractors who have obtained Employer's Signatures in their employment or engagement, (ii) use by Employer's employees, agents and contractors following their separation from employment or engagement by Employer enabled by the use of Signatures obtained in their employment or engagement, (iii) use by any person who obtains Employer's Signatures because of Employer's negligence, (iv) and use by any person who obtains Employer's Signatures from any person described in (i), (ii) or (iii) above and (b) specifically excludes the unauthorized use of Employer's *URS for Employers* website account by any person not described in (i) - (iv) above or who accesses or uses Employer's Signature without authorization from same.

## **12. LIMITATION OF ACTION**

12.1 No action, regardless of form, arising out of this Agreement may be brought by either party more than three years after the cause of action has arisen.

## **13. TERMINATION**

13.1 By Either Party. This Agreement will remain in effect until terminated by either party with not less than thirty (30) days prior notice to the other party.

13.2 By URS for Cause. URS may terminate this Agreement (a) if Employer fails to comply with any of its material terms or conditions, and fails to cure such non-compliance within thirty (30) days of notice, or (b) if Employer uses or attempts to use the *URS for Employers* website or Services for any fraudulent or illegal purpose. URS may immediately suspend Employer's access to the *URS for Employers* website and Services, with or without terminating this Agreement, (i) if Employer uses or attempts to use the *URS for Employers* website or Services for any fraudulent or illegal purpose or (ii) Employer fails to comply with applicable state and/or federal laws.

13.3 Obligations on Termination. Upon termination for a reason other than stated in Section 13.2, URS and Employer will agree on a reasonable time, not to exceed thirty (30) days, within which Employer may pursue alternatives to the Services. During this time period, Employer may continue to use the *URS for Employers* website and Services in accordance with this Agreement, and the parties shall be subject to this Agreement for such time period. The effective date of termination will be the date on which Employer ceases to use the *URS for Employers* website and Services or thirty (30) days following notice of termination, whichever first occurs. Employer will, within thirty (30) days of the effective date of termination, turn over to URS or, if agreed to by URS, certify the destruction of, all property belonging to or provided by URS.

## **14. MODIFICATION**

14.1 The terms and conditions of this Agreement cannot be modified or waived except (a) in writing and signed by both parties or (b) by URS giving Employer thirty (30) days advance written notice of changes, in which case Employer's use of Services after the thirty (30) day notice period will constitute Employer's acceptance of the modification or waiver stated in the notice.

## **15. APPEALS**

15.1 Any action arising out of this Agreement shall be considered a "legal right" under Title 49 of the Utah Code Annotated and such action shall be subject to the appeals procedure as set forth in Utah Code Annotated Section 49-11-613.

## **16. GENERAL PROVISIONS**

**16.1 Assignment.** Neither URS nor Employer may transfer or assign its rights or obligations under this Agreement.

**16.2 Attorney's Fees.** The prevailing party in any legal action concerning this Agreement is entitled to recover its reasonable attorney's fees and costs following a final judgment.

**16.3 Construction; Severability.** To the maximum extent possible, this Agreement and its provisions will be interpreted consistently with applicable law. Any provision of this Agreement which is determined to be invalid or unenforceable will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions. The words "law" or "laws" shall have the broadest meaning in the context used, and will generally refer to Utah state and federal laws, rules and regulations.

**16.4 Entire Agreement.** This Agreement contains the parties' entire agreement respecting the subject matter hereof, supersedes and replaces all prior agreements between URS and Employer pertaining to the provision of Services, and may be modified only as provided herein. THIS AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT. ALL PRIOR ORAL DISCUSSIONS ARE MERGED IN THIS AGREEMENT. No course of dealing or failure or delay in exercising any right, privilege, remedy or option will operate as a waiver of any right, privilege, remedy or option under this Agreement.

**16.5 Excusable Delays.** No party will be liable for any failure to perform its obligations hereunder, where such failure results from any act of God or other cause beyond such party's reasonable control (including, without limitation, any mechanical, electronic or communications failure).

**16.6 Governing Law.** This Agreement is governed by the laws of Utah, excluding laws pertaining to choice of law.

**16.7 Headings.** Section headings are for convenience and will not affect the construction or interpretation of any provisions of this Agreement.

**16.8 Notice.** All notices hereunder will be by e-mail (excluding notices under Sections 3.1(c), 3.1(d), 14 and 16) or in writing sent by United States certified mail, postage prepaid, to the address of the other party which is set forth in this Agreement, or to such other addresses as the party will designate in writing. Any notice will be deemed to be effective upon delivery. Notice may be waived by mutual written consent of the parties.

**16.9 Ownership.** Employer has no rights of ownership or other property rights in any Services or other materials furnished by URS in connection with this Agreement.

**16.10 Survival.** The provisions of Sections 3, 7, 8, 9, 10, 11, 15 and 16 will survive the termination of this Agreement.

**16.11 Third Party Rights.** Nothing in this Agreement confers any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third parties to any party to this Agreement, nor will any provision give any third party any right of subrogation or action against any party to this Agreement.



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ROBERT V. NEWMAN  
Executive Director

### **URS ELECTRONIC TRADING PARTNER AGREEMENT**

**EXECUTED** this \_\_\_\_\_ day of January, 2019 .  
(date) (month)

**Employer** (entity name): Greater Salt Lake Municipal Services District

Designated Employer Representative:

Name: Cathy Jensen

Title: CFO

Authorized Binding Official(s):

Name(s): Joe Smoka

Title(s): Board Chair

Signature(s): \_\_\_\_\_

### **UTAH RETIREMENT SYSTEMS**

Designated Representative:

Name: Matthew K Judd

Title: URS, Records & Information Services Director

Authorized Binding Official:

Name: Matthew K Judd

Title: URS, Records & Information Services Director

Signature: \_\_\_\_\_