

**TEXAS DEPARTMENT OF PUBLIC
CRIME RECORDS SERVICE
TEXAS DATA EXCHANGE (TDEx) USER/EQUIPMENT AGREEMENT**

This document constitutes an agreement between the Texas Department of Public Safety (TXDPS), State Administrator of the Texas Data Exchange (TDEx), P. O. Box 4143, Austin, Texas, 78765-4143 and a criminal justice or law enforcement agency, hereinafter referred to as the User Agency.

AGENCY _____

ADDRESS _____

This agreement is made pursuant to Chapter 791 of the Texas Government Code and/or Chapter 771 of the Texas Government Code and sets forth duties and responsibilities for both the TXDPS and the User Agency.

The User Agency will ensure that only approved persons performing authorized criminal justice functions have access to TDEx.

TDEx information, including any analytical products derived there from, may not be used as a basis for action or disseminated outside User Agency for any purpose or in any other manner, unless the User Agency first obtains the express permission of the agency or agencies that contributed the information in question. Specifically included within this prohibition is any inclusion of TDEx information in an official case file and any use of TDEx information in the preparation of judicial process such as affidavits, warrants, or subpoenas. User Agency may not electronically retain TDEx information without obtaining the TDEx contributing agency's permission. When TDEx information is summarized or otherwise documented, the User Agency shall indicate that the information was obtained from TDEx.

Notwithstanding the requirement in the preceding paragraph that TDEx information not be used as a basis for action or disseminated without first obtaining the permission of the contributing agency, in accordance with and to the extent permitted by applicable law, court process, or applicable guidelines, immediate dissemination of TDEx information without such permission can be made if the User Agency determines that:

- (a) there is an actual or potential threat of terrorism, immediate danger of death or serious physical injury to any person, or imminent harm to U.S. national security; and
- (b) it is necessary to disseminate such information without delay to any appropriate recipient for the purpose of preventing or responding to such a threat, danger, or harm.

The User Agency shall immediately notify TXDPS and the TDEx contributing agency if it disseminates any TDEx information under this exception. Any requests for reports or information in TDEx from anyone other than a party to this User Agreement will be directed to the TDEx User Agency which contributed the data.

TXDPS RESPONSIBILITIES REGARDING TDEx

TXDPS agrees to maintain, operate and manage TDEx communications and criminal justice information systems on a 24-hour, 7- day per week and 365 days per year basis. TXDPS further agrees to act as the State Administration Agency to facilitate the exchange of information between the User Agency and the following agencies: Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) National Data Exchange (N-DEx). TXDPS Driver's License Files (DL), Sex Offender Registration (SOR), Texas Department of Criminal Justice (TDCJ) probation/parole data and other data files may be implemented in future applications of information available to authorized users.

TXDPS reserves the right to restrict the type and scope of data to which the user may have access. TXDPS will provide system training to TDEx users at no charge to the User Agency at a time and location to be designated by TXDPS. The obligation of TXDPS to incur training costs is conditional upon sufficient funds budgeted and available. No financial liability will be incurred by TXDPS by virtue of this agreement beyond monies available to it for the purpose of fulfilling this agreement.

TXDPS may provide or assist User Agency with the initial installation of adapter hardware, records management system (RMS) and/or jail management system (JMS) software enhancements or interface functionality(s). User Agency RMS and/or JMS software enhancements delivered as the result of custom developed TDEx functionality are the property of the User Agency or User Agency RMS/JMS software vendor. User Agency is responsible for maintaining the capability to submit data to TDEx following User Agency RMS/JMS enhancements or replacement.

TXDPS agrees to maintain its applicable TDEx hardware, software and functionality including data adapter extraction and export methodology/technology plus future implementation(s) involving National Information Exchange Model (NIEM) Information Exchange Package Documentation (IEPDs). This determination may be made by TXDPS or its authorized designee.

TDEx maintains an audit capability that will log the date, time, subject, and originating account of all user queries. TXDPS will maintain the audit logs for five years or for the life of the records accessed, whichever is longer.

TXDPS reserves the right to immediately suspend service to the User Agency when applicable policies are violated. Service may be reinstated following such instances upon receipt of satisfactory assurances that such violations have been corrected. All costs for reconnection service are the responsibility of the User Agency. TXDPS shall have the authority to inspect and audit the equipment, records, and operations of the User Agency to determine compliance.

USER AGENCY RESPONSIBILITIES REGARDING TDEx

The User Agency may only access and use TDEx information for official criminal justice and national security purposes. TDEx information cannot be accessed or used for any other purpose. User Agency agrees to allow TXDPS to share User Agency data contributed to TDEx with other authorized criminal justice agencies.

The User Agency shall abide by all laws of the United States and the State of Texas, and shall abide by all present or hereinafter approved rules, policies and procedures of TDEx and N-DEx concerning the collection, storage, processing, search, retrieval, dissemination and exchange of criminal justice information.

If the User Agency provides TDEx derived criminal justice information to another criminal justice or law enforcement agency, which at that time is not operating through TDEx pursuant to a TDEx User Agreement, then it shall be the responsibility of the User Agency to verify that the non-user agency abides by the laws of the United States and the State of Texas and the operational policies of the applicable systems.

The User Agency agrees to appoint a TDEx Agency Administrator responsible for:

- a. Acting as the single point of contact for TDEx issues;
- b. Ensuring compliance with this agreement, current and future versions of policies and procedures regarding TDEx and all applicable state and federal laws;
- c. Vetting, authorizing and managing users through the role based user management tools provided in TDEx;
- d. Terminating user access immediately upon user separation from the agency or otherwise become ineligible for access;
- e. Ensuring that all users from that agency are trained and informed of policies and procedures;
- f. Reporting security incidents to the TXDPS CJIS Information Security Officer (ISO), as required by the User Agency's CJIS Security Addendum.

The User Agency must notify the TDEx State Administrator immediately whenever the incumbent Agency Administrator is replaced.

User Agency certifies that all User Agency staff with access to TDEx have undergone background checks consistent with Texas or federal requirements, so long as, at a minimum, those requirements included a criminal history and national fingerprint check.

The User Agency shall be responsible for maintaining the User Agency RMS and/or JMS in good working order. The User Agency agrees to maintain its applicable hardware, RMS, JMS, and adapter interface functionality(s) to maintain complete and continual functionality with TDEx. User Agency hardware (including workstations utilized to access), RMS, JMS and adapter interface shall be installed in a location where only authorized personnel have access.

The User Agency is responsible for providing its own Internet connectivity and maintenance which meets CJIS Security Policy requirements.

Each TDEx contributing User Agency retains sole ownership of, sole responsibility for, and exclusive control over the content of the information that it contributes to TDEx, and each User Agency may, at will and at any time, update, correct, or delete the information that it contributes to TDEx. Each TDEx contributing User Agency has the sole responsibility to ensure that information that it contributes to TDEx was not obtained and is not maintained in violation of any federal, state, or local law applicable to that agency. In addition, each TDEx contributing agency has the sole responsibility and accountability for ensuring compliance with all laws, regulations, policies, and procedures applicable to its entry and sharing of information into TDEx. TDEx User Agency will duly report to TXDPS and the contributing User Agency in writing any instance in which TDEx information is used in an unauthorized manner. Such notice is to be provided in a timely manner within three days of when the party first learned of the unauthorized use.

Each TDEx contributing User Agency has the duty, sole responsibility, and accountability to make reasonable efforts to ensure the accuracy upon entry, and continuing accuracy thereafter, of information that it contributes to TDEx. Should TXDPS receive a challenge to or reasonable question about the accuracy of the information in TDEx, TXDPS will notify the TDEx User Agency.

Any User Agency data or process related to TDEx that could affect and cause degradation of service to other TDEx users must be authorized by TXDPS prior to implementation. TXDPS reserves the right to refuse such application on TDEx should resources not be available, or in the best interest of the TDEx users.

TDEX USER AGREEMENT TERMINATION AND DURATION

This TDEx User Agreement may be terminated at any time upon the mutual written consent of the parties. In the event that both parties consent to terminate this TDEx User Agreement, the parties will consult prior to the date of termination to ensure termination on the most economical and equitable terms.

Either party may terminate this TDEx User Agreement upon 30 days written notice to the other party. Such notice will be the subject of immediate consultation by the parties to decide upon the appropriate course of action. In the event of such termination, the following will apply:

- (a) The terminating party will continue participation, financial or otherwise, up to the effective date of termination.
- (b) Each party will pay the costs it incurs as a result of termination.
- (c) All rights, obligations, responsibilities, limitations, and other understandings with respect to the disclosure and use of all information received during a party's participation in this MOU shall survive any termination.

This TDEx User Agreement will enter into force on the day it is signed by the last party and it will remain in effect until terminated or modified by the parties may be terminated at any time upon the mutual written consent of the parties. In the event that both parties

consent to terminate this MOU, the parties will consult prior to the date of termination to ensure termination on the most economical and equitable terms.

User Agency, to the extent authorized by law, agrees to indemnify and save harmless TXDPS, its Director and Employees from and against any and all claims, demands, actions and suits, including but not limited to any liability for damages by reason of or arising out of any false arrest or imprisonment or any cause of action whatsoever, arising out of or involving any negligence on the part of the User Agency or its employees in the exercise of enjoyment of this Agreement.

In WITNESS WHEREOF, the parties hereto caused this Agreement to be executed by the proper officers and officials.

TEXAS DEPARTMENT OF PUBLIC SAFETY

By Steven C. McCraw

Title Director

Signature Steven C. McCraw

Date 7/30/2009

USER AGENCY

By _____

Title _____

Signature _____

Date _____