

**INTERLOCAL AGREEMENT BETWEEN  
THE NORTH TEXAS TOLLWAY AUTHORITY AND  
THE DALLAS/FORT WORTH INTERNATIONAL AIRPORT BOARD  
REGARDING PARKING CLEARINGHOUSE SERVICES**

**THIS AGREEMENT**, by and between the **NORTH TEXAS TOLLWAY AUTHORITY** (the “**NTTA**”), a regional tollway authority and a political subdivision of the State of Texas, and the **DALLAS/FORT WORTH INTERNATIONAL AIRPORT BOARD** (the “**Airport Board**”), a public governmental agency of the Cities of Dallas and Fort Worth, created by Contract and Agreement dated April 15, 1968, pursuant to statutory authority under the Laws of the State of Texas, is executed to be effective as of the 4<sup>th</sup> day of September, 2003 (the “**Effective Date**”).

**WHEREAS**, the NTTA uses on its turnpike projects (“**Projects**”) an electronic toll collection system (together with any subsequent modifications, the “**NTTA AVI System**”) that employs transponders to communicate with AVI Readers (hereinafter defined) to identify vehicles using the Projects (the transponders currently used in the NTTA AVI System being referred to as “**TollTags**”®);

**WHEREAS**, TransCore, LP, a Delaware limited partnership (“**TransCore**”) has heretofore provided clearinghouse operations in connection with parking, ground transportation (“**GT**”), and parking plaza (barrier lane) entry-exit transactions at Dallas/Fort Worth International Airport (“**DFW**”), utilizing an electronic fee collection system (“**PassKey**”) that employs transponders to identify public or ground transportation vehicles and commercial buses parking at DFW and/or passing through related DFW entry and exit barriers;

**WHEREAS**, the Airport Board has elected to discontinue TransCore Clearinghouse Services at DFW and has requested the NTTA to provide similar services at DFW using TollTags, and the NTTA desires to provide those services on the terms and conditions set forth in this Agreement;

**WHEREAS**, Section 366.181 of the Texas Transportation Code authorizes the NTTA to promote the use of its Projects by such means as the NTTA determines appropriate;

**WHEREAS**, the use of TollTags by the NTTA's patrons improves the operation and efficiency of the NTTA's Projects, which enhances mobility, increases the attractiveness of the NTTA's Projects, and promotes their use by the traveling public;

**WHEREAS**, greater distribution and increased use of TollTags can be accomplished by including the collection of Public Parker Fees, Public Non-Parker Fees, and GT Fees at DFW as part of the billing services offered by the NTTA in connection with TollTag transactions;

**WHEREAS**, offering its customers the option to pay parking charges at DFW using TollTags and utilizing NTTA's electronic fee collection system and related clearinghouse functions to support parking revenue collection at DFW meets the Airport Board's strategic imperative of exceeding customer expectations to increase DFW customer loyalty and expand its core business of operating a global air transportation facility;

**WHEREAS**, Section 366.033(f) of the Texas Transportation Code authorizes the NTTA to rent, lease, franchise, license, or otherwise make available for use by others portions of its properties, including the NTTA AVI System and the NTTA's "back-office operations" related to toll collections;

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governments to contract with one another to perform governmental functions and services, and the NTTA and the Airport Board have determined that is in their best interests for the NTTA to provide to the Airport Board the services described in this Agreement on the terms and conditions set forth below; and

**WHEREAS**, the Airport Board at its meeting on September 4, 2003, approved Board Resolution No. 2003-09-308 authorizing the Airport Board to enter into this Interlocal Agreement (Board Contract No. 7003533) with the NTTA in order utilize NTTA's electronic fee collection system and related clearinghouse functions to support DFW parking revenue collection;

## **AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual covenants herein contained, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually covenant and agree as follows:

### **ARTICLE 1 - DEFINITIONS**

As used in this Agreement, the capitalized terms set forth herein shall have the following meanings:

**1.1. "Agreement"** means this Agreement and all Exhibits attached hereto as the same may be amended in writing from time to time pursuant to Section 5.15. For Airport Board purposes, this Agreement also is identified and may be referred to as Airport Board Contract No. 7003533.

**1.2. "Airport Board"** has the meaning provided in the Recitals.

**1.3. "Airport Charge"** means a GT Fee, Public Non-Parker Fee, and/or Public Parker Fee payable from a TollTag Account.

**1.4. "APS"** means the automated parking system being designed, installed, and implemented for use at DFW by Federal APD pursuant to Airport Board Contract No. 7003295.

**1.5. "AVI Readers"** means devices that receive signals from an RF Module, decode an ID code, verify and validate the ID code, append auxiliary data to the detected TollTag ID or PassKey ID, and communicate the resulting data stream to the Host Computer.

**1.6. "Bad Debt"** has the meaning provided in Section 4.1(b).

**1.7. "Business Rules"** means the document so identified and agreed upon from time to time by the NTTA and the Airport Board, through their designated executive representatives, that specifies the requirements for integrating the collection of Airport Charges with the NTTA's clearinghouse system.

**1.8. "Clearinghouse Services"** means those support services and functions related to DFW parking operations and electronic revenue collection, either as provided by TransCore under its contract with the Airport Board related to PassKey or to be provided by NTTA in accordance with Article 3 of this Agreement and the Business Rules, as determined by context.

**1.9. "Clearinghouse Fee"** means the fee payable by the Airport Board to the NTTA in consideration of the NTTA's provision of Clearinghouse Services under this Agreement. On

the Implementation Date, the Clearinghouse Fee shall equal four percent (4.0%) of each Airport Charge processed by the NTTA. Thereafter, the Clearinghouse Fee shall be evaluated, and may be adjusted, from time to time as provided in Section 4.3.

**1.10. "Communications Protocol"** means the technical specifications so identified and agreed upon from time to time by the NTTA and the Airport Board, through their designated executive representatives, that govern the format and content of all data to be transmitted to the NTTA by the Airport Board to allow the NTTA to clear Airport Charge transactions.

**1.11. "Confidential Information"** has the meaning provided in Section 5.6(a).

**1.12. "Confirmation Amount"** has the meaning provided in Section 4.1(a).

**1.13. "Disputed Debt"** has the meaning provided in Section 4.1(c).

**1.14. "ETC"** means Electronic Transaction Consultants Corporation, a Texas corporation.

**1.15. "Effective Date"** has the meaning provided in the Recitals.

**1.16. "Federal APD"** means Federal APD, Inc., the contractor for the Airport Board's new automated parking system.

**1.17. "GT"** has the meaning provided in the Recitals.

**1.18. "GT Fee"** means a fee designated and charged by the Airport Board with respect to a GT Vehicle that passes through a DFW entry or exit barrier lane. GT Fees are designated by the Airport Board in the DFW Airport Schedule of Charges, as the same may be amended from time to time, and different GT Fees may be charged for different classes of GT Vehicles.

**1.19. "GT Vehicle"** means a commercial ground transportation vehicle for hire (including, but not limited to, a taxicab, limousine, shared-ride vehicle, or courtesy vehicle authorized by the Airport Board to operate at DFW) or a commercial bus that operates at DFW. Nothing in this Agreement is intended to or shall operate to modify, amend, suspend, or revoke the Airport Board's requirements, including but not limited to the Code of Rules and Regulations of the DFW International Airport, related to commercial ground transportation or courtesy vehicle service at DFW.

**1.20. "Host Computer"** means a computer attached to a network providing computation and database access.

**1.21. "Implementation Date"** means October 1, 2003.



**1.22. "Interface"** means an interface between the TransCore PassKey clearinghouse Host Computer in use at DFW and the NTTA's clearinghouse computer that will allow PassKey transactions generated at DFW to be transferred from the PassKey clearinghouse Host Computer to the NTTA for processing.

**1.23. "NTTA"** has the meaning provided in the Recitals.

**1.24. "NTTA AVI System"** has the meaning provided in the Recitals.

**1.25. "NTTA Mark"** has the meaning provided in Section 5.2.

**1.26. "PassKey"** means TransCore's Transponder-based electronic fee collection system utilized for parking revenue collection and related services at DFW pursuant to Airport Board Contract No. 7002273.

**1.27. "Public Non-Parker Fee"** means a fee designated and charged by the Airport Board with respect to a vehicle (other than a GT Vehicle) that:

(a) passes through a DFW exit barrier lane not more than sixty (60) minutes after the vehicle passed through a DFW entry barrier lane; and

(b) does not park in a DFW remote, infield, or express parking facility.

**1.28. "Public Parker Fee"** means a fee designated and charged by the Airport Board with respect to:

(a) a vehicle (other than a GT Vehicle) that passes through a DFW exit barrier lane more than sixty (60) minutes after the vehicle passed through a DFW entry barrier lane; or

(b) a vehicle that parks in a DFW remote, infield, or express parking facility (including any replacements, expansions, additions to such facilities that may hereafter be constructed) or any area or facility designated for public parking at DFW now or in the future, as evidenced by the vehicle identification system utilized in connection with those parking facilities.

**1.29. "RF Modules"** means those devices which produce a continuous radio frequency ("RF") signal for broadcast to an attached antenna, receive a TollTag or PassKey signal from the antenna, extract the TollTag or PassKey signal from the produced continuous RF Signal, amplify the resulting demodulated TollTag or PassKey signal, and transmit the resulting signal to an attached AVI Reader.

**1.30. "Services"** has the meaning provided in Section 5.2.

1.31. **"TollTag"** means the transponder now or in the future used by the NTTA.

1.32. **"TollTag Account"** means a credit-card-secured account established with the NTTA for the payment of Airport Charges by use of a Transponder associated with that account.

1.33. **"TransCore"** has the meaning provided in the Recitals.

1.34. **"TransCore Fees"** means fees payable by the NTTA to TransCore allowing the NTTA, in connection with its processing of Public Parker Fees, to use the intellectual property covered by TransCore's United States Patent Numbers 5,414,624 and RE37,822, which relate to automated vehicle parking systems, or any other similar fees payable by NTTA to TransCore in connection with said patents or any other intellectual property owned by TransCore and used by the NTTA in processing Public Parker Fees. In consideration of TransCore's transferring data to the NTTA through the Interface from the TransCore PassKey clearinghouse Host Computer at DFW, the NTTA has agreed that for the purpose of calculating the TransCore Fees during the operation of the Interface (as described in Section 2.1), each DFW transaction cleared by the NTTA shall be deemed to be a Public Parker Fee. TransCore Fees shall not exceed \$0.04 per DFW transaction that is, or is deemed to be, a Public Parker Fee (as described in Section 1.28).

1.35. **"Transponder"** means a vehicle-mounted tag or other device that, upon receiving an interrogation signal, such as an RF signal, emits a response signal that is used to identify the tag or device.

## **ARTICLE 2 - TRANSITION FROM PASSKEY TO TOLLTAG**

2.1. **The Interface.** The NTTA has contracted with ETC to build the Interface. The Interface will not require any changes in PassKey lane software currently being used at DFW. The NTTA and ETC expect that the Interface will be ready for use on or before October 1, 2003, but the NTTA does not covenant or represent that the Interface will be complete and operable by any particular date, nor shall the NTTA have any liability to the Airport Board, Federal APD, or any other person or entity if the Interface is not operable by the date specified above. The Interface will be used to allow the NTTA to process Airport Charges until the new Airport Parking System, including the interoperations module, is satisfactorily completed and goes into production at DFW, or until such time as the Interface is not necessary in order to transfer information between the TransCore PassKey clearinghouse Host Computer at DFW and the NTTA.

**2.2. Transition Plan.** When the use of the Interface is initiated, TransCore has agreed to notify each of its PassKey members that PassKey privileges at DFW will be discontinued at a time to be determined among the Airport Board, the NTTA, and TransCore. This notification will state that (a) if the PassKey member has previously established a credit-card secured account with the NTTA for the payment of tolls on NTTA Projects (such account being referred to as an “**Existing TollTag Account**”), then as of the Implementation Date, the Existing TollTag Account shall be available for paying Airport Charges by use of the Transponder associated with that account, or (b) if the PassKey member has not established an Existing TollTag Account with the NTTA, the member must register his or her Transponder with the NTTA and open a credit-card-secured TollTag Account with the NTTA in order to continue to use a Transponder to pay Airport Charges. Separate notices will be sent to GT patrons. The Airport Board agrees to cooperate with TransCore and the NTTA to promote the transition of PassKey customers to TollTag Account holders.

### **ARTICLE 3 - DATA TRANSFERS**

**3.1. AVI Compatibility.** The Airport Board agrees to require that all AVI Readers, RF Modules, and other automated vehicle identification equipment utilized at DFW for collection of Airport Charges during the term of this Agreement shall be compatible with Transponders associated with TollTag Accounts, provided that NTTA maintain its use of the Transponder associated with TollTag Accounts as of the Implementation Date of this Agreement. As used in this section, the term “compatible” means that the DFW equipment shall be capable of extracting from Transponders associated with TollTag Accounts all data required to allow the NTTA to clear Airport Charges pertaining to those Transponders. NTTA agrees that, during the term of this Agreement, if it intends to replace or upgrade the Transponders associated with TollTag Accounts as of the Implementation Date of this Agreement with transponders or similar devices that may or will require substantive modifications in order for the APS or other equipment utilized at DFW for collection of Airport Charges to remain compatible with such transponders, NTTA will provide not less than one hundred and twenty (120) days advance notice to the Airport Board of such intention and will cooperate with the Airport Board in devising a transition plan to minimize the impact of such changes on electronic collection of parking revenue at DFW.

**3.2. Data Format and Content.** Each party agrees to require that, during the term of this Agreement, all data regarding Airport Charges transmitted to the other party shall comply with the Communications Protocol, as the same is in effect from time to time.

**3.3. Modification of APS or Parking Revenue Collection Equipment.** During the term of this Agreement, neither the Airport Board nor NTTA will undertake or permit Federal APD, ETC, TransCore, or any other party to undertake a modification of the APS or any other DFW parking revenue collection equipment or any NTTA equipment, to the extent the Airport Board or NTTA have the right to exercise control over such equipment or third party actions, in a manner that impairs the NTTA's ability to provide Clearinghouse Services under this Agreement and in accordance with the Business Rules, as the same are in effect from time to time.

#### **ARTICLE 4 - CLEARINGHOUSE SERVICES**

**4.1. Collection and Disbursement of Airport Charges.** In consideration of the Airport Board's payment to the NTTA of the Clearinghouse Fees, the NTTA shall provide to the Airport Board Clearinghouse Services comprising (i) the collection of Airport Charges from TollTag Account holders whose accounts are secured by a valid credit card, and (ii) the remission of such charges to the Airport Board, as set forth in the Business Rules and this Agreement. To the extent of any conflict between the Business Rules and this Agreement with regard to operational issues pertaining to clearinghouse operations, the Business Rules shall control. The NTTA's Clearinghouse Services shall commence on the Implementation Date. The NTTA will provide Clearinghouse Services to the Airport Board on and subject to the following terms and conditions:

(a) **Posting and Distribution of Airport Charges.** All Airport Charges shall be calculated by the Airport Board's Host Computer, and such charges and other data specified in the Communications Protocol shall be transmitted to the NTTA. (During the operation of the Interface, the TransCore PassKey clearinghouse Host Computer at DFW shall be deemed to be the Airport Board's Host Computer for the purposes of this Agreement.) The NTTA shall have no obligation or authority to calculate Airport Charges. As provided in the Business Rules, if an Airport Charge equals or exceeds a particular amount (the "Confirmation Amount") specified in the Business Rules (as the same may be amended from time to time), the Airport Board will endeavor to confirm the accuracy and validity of the Airport Charge before it is transmitted to the NTTA. The

NTTA shall post each Airport Charge within 1 (one) business day after the Airport Charge is received by the NTTA's clearinghouse computer, and the NTTA will distribute to the Airport Board via Electronic Funds Transfer, within 1 (one) business day after posting, collected Airport Charges, less Clearinghouse Fees, TransCore Fees, and offsets for Bad Debts and Disputed Debts, as described in subparagraphs (b) and (c), respectively, below.

(b) **Bad Debts.** If, after three (3) attempts, the NTTA is unable to collect an Airport Charge, whether because of a low TollTag Account balance, an invalid or expired credit card, or any other reason (any such transaction being referred to herein as a "**Bad Debt**"), the NTTA shall notify the Airport Board of the Bad Debt. The Airport Board shall have sole responsibility for collection of a Bad Debt; the NTTA shall have no obligation for collection of any such amounts unless and until the Airport Board resubmits the Bad Debt to the NTTA for clearance and it is paid. The NTTA shall provide account information as necessary to assist the Airport Board in collection of Bad Debts. Notwithstanding anything to the contrary set forth in subsection (a) above, no TransCore Fee shall be paid with regard to a Bad Debt unless and until the Airport Board resubmits the transaction to the NTTA for clearance and it is paid. A Clearinghouse Fee shall be collected by the NTTA when an initial attempt is made to clear a transaction that is ultimately classified a Bad Debt; no additional Clearinghouse Fee shall be charged by the NTTA when a Bad Debt resubmitted to the NTTA for clearance is paid. If the Airport Board notifies the NTTA that a Bad Debt is not collectible, the NTTA shall remit the Clearinghouse Fee collected for that Bad Debt to the Airport Board as part of the reconciliation described below in Section 4.2.

(c) **Disputed Debts.** An Airport Charge disputed in whole or in part by a TollTag Account holder shall be referred to the Airport Board for resolution. (The entire amount of such charge, not merely the portion in dispute, shall be referred to herein as a "Disputed Debt.") The NTTA shall provide account information to assist the Airport Board in such resolution efforts. Pending resolution of a Disputed Debt, the amount thereof shall be offset from remittances to the Airport Board under subparagraph (a) above. At the same time, the TransCore Fee paid by the Airport Board with respect to the Disputed Debt shall be reimbursed to the Airport Board (via an offset of TransCore

Fees) pending resolution of the Disputed Debt. Upon resolution of a TollTag Account holder's disputed Airport Charges, the Airport Board will provide the NTTA with satisfactory evidence of the amount of Airport Charges acknowledged or ordered to be payable by the TollTag Account holder, and the NTTA shall thereafter process such amount for posting, payment, and remittance, as provided in subparagraph (a) above, at which time the TransCore Fee payable with respect to such Disputed Debt shall be paid. A Clearinghouse Fee shall be collected by the NTTA when a transaction is initially cleared by the NTTA, regardless of whether the transaction is ultimately classified a Disputed Debt; no additional Clearinghouse Fee shall be charged by the NTTA when a Disputed Debt is resolved. If the Airport Board notifies the NTTA that a Disputed Debt should be reimbursed in whole or in part to the TollTag Account holder, the NTTA shall, as part of the reconciliation described below in Section 4.2, remit to the Airport Board the Clearinghouse Fee collected for the reimbursed portion of the Disputed Debt; provided, however, that if the Disputed Debt equals or exceeds the Confirmation Amount (as defined in Section 4.1(a)), the NTTA shall withhold from the remitted Clearinghouse Fee a percentage of the Disputed Debt that the NTTA reasonably determines to be a fair and reasonable estimate of the credit card charges incurred by the NTTA in processing the Disputed Debt. Notwithstanding the foregoing, the NTTA shall not post, nor have the obligation to remit to the Airport Board, disputed Airport Charges after the expiration or earlier termination of this Agreement, it being acknowledged and agreed that the Airport Board shall be solely responsible for collection of any such Disputed Debts that are ultimately resolved. The NTTA shall not return any Clearinghouse Fees with respect to Disputed Debts that are not fully resolved within ninety (90) days following the expiration or earlier termination of this Agreement. The Airport Board shall be fully responsible for TransCore Fees that are payable with respect to Disputed Debts that are not resolved within said ninety (90) days; this obligation shall survive the termination or expiration of this Agreement.

(d) **Termination of Accounts With Unpaid Amounts.** Upon written request by the Airport Board identifying the accounts in question and confirming nonpayment of Airport Charges for more than thirty (30) days, the NTTA will terminate TollTag accounts having Airport Charges that remain unpaid for longer than (30) days from the

date of posting; provided, however, this provision shall not apply to Airport Charges that are in dispute by the TollTag Account holder.

(e) **Prohibition of Surcharges or Monthly Fees.** No surcharge or monthly fee shall be assessed for the use of DFW parking and related facilities by patrons that use TollTags to pay for such uses. Such account holders shall be charged applicable entry-exit, parking, and GT Fees at the rates charged to other similarly-situated users of such facilities or services.

(f) **Non-Revenue Tags.** Non-revenue or "VIP" tags issued by the NTTA for use on its facilities must be secured by a credit card to be operable for payment of Airport Charges at DFW. "Zero Dollar (\$0.00) transactions" at DFW, including those recorded by non-revenue or "VIP" tags issued by the Airport Board, will not be transmitted to the NTTA for clearance.

**4.2. Payment of Clearinghouse Fees and Reconciliation.** The NTTA shall deduct from its daily remittance of Airport Charges to the Airport Board the Clearinghouse Fees owed to it. Offsets and reimbursements for Bad Debts, Disputed Debts, Clearinghouse Fees, and TransCore Fees associated with Bad Debts and Disputed Debts shall be reconciled against Airport Charges remitted to the Airport Board on a daily basis. Reports, including the "Daily Authority Transaction Statement," shall be prepared and accessible as required by the Business Rules.

**4.3. Annual Adjustment of Clearinghouse Fees.** Not later than July 1 of each year during which this Agreement is in effect, the NTTA shall submit to the Airport Board a notice specifying the rate of Clearinghouse Fees that it proposes for the next 12-month period, effective as of the next anniversary of the Implementation Date or on any alternative date as mutually agreed in writing by the parties. The NTTA's proposed Clearinghouse Fees will be based upon its estimate of the actual costs anticipated to be incurred by the NTTA to process Airport Charges for the coming 12-month period or on such other basis as the NTTA and the Airport Board deem appropriate. The NTTA and the Airport Board shall attempt to agree on the Clearinghouse Fees, and if such agreement is reached, the new Clearinghouse Fees shall become effective on the anniversary of the Implementation Date or on such other date as is agreeable to both parties as reflected in a written amendment entered into under Section 5.15. If agreement cannot be reached, either party may terminate this Agreement as provided in Section 5.1(a)

below, or, if this Agreement is not terminated, the Clearinghouse Fees then in effect shall continue in effect until this Agreement either is so terminated or the Airport Board and the NTTA reach agreement on revised Clearinghouse Fees.

## **ARTICLE 5 - MISCELLANEOUS PROVISIONS**

**5.1. Term of Agreement.** Unless sooner terminated under Section 5.1(a), this Agreement shall be in effect from the Effective Date through the end of the day immediately preceding the third (3rd) anniversary of the Implementation Date; provided that (a) the Airport Board's obligation to pay Clearinghouse Fees for any period that predates the expiration or earlier termination of this Agreement, (b) the Airport Board's obligation regarding payment of TransCore Fees on Disputed Debts not resolved within ninety (90) days after the expiration or termination of this Agreement, and (c) the NTTA's obligation to remit to the Airport Board collected Airport Charges (less the reductions specified in Section 4.1) not previously remitted to the Airport Board, shall survive the expiration or earlier termination of this Agreement.

(a) **Early Termination.** Either party may terminate this Agreement with or without cause by giving the other party written notice thereof not less than ninety (90) days before the designated termination date. Each party shall fully perform all obligations of such party under this Agreement that accrue through the termination date.

(b) **Renewal Options.** At the end of the initial term of this Agreement, the Agreement may be renewed for an additional three-year (3-year) period by the written consent of both parties, and at the end of said first renewal term, the Agreement may again be renewed for a second three-year (3-year) period by the written consent of both parties, in each case on the same terms as are set forth in this Agreement as then in effect or on such other terms as are agreeable to both parties as reflected in a written amendment entered into under Section 5.15.

Upon termination or other expiration of this Agreement, each party shall promptly return to the other all papers, materials and properties of the other held by such party and required to be returned hereunder. In addition, each party will assist the other party and/or its contractors or authorized representative(s) in effecting the orderly termination of this Agreement and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each party.



## **5.2. Use of Service Marks or Brands.**

(a) **NTTA Marks.** The NTTA has adopted and uses the service mark (the “**NTTA Mark**”) shown on Exhibit A attached hereto and made a part hereof and has obtained a Federal Trademark Registration No. 2,695,371, issued March 11, 2003, for roadway electronic toll collection services. The NTTA has established substantial good will in the NTTA Mark due to its long and widespread use and promotion of the Mark and the services for which it is used, as a result of which, the Mark has become well-known and recognized by the general public and associated in the public mind with the NTTA. In consideration of the payment of the Clearinghouse Fees and the other mutual promises made in this Agreement, the NTTA grants to the Airport Board a non-exclusive license to use the Mark in the United States during the term of this Agreement for the advertising, promotion, dissemination of information, and sale of the roadway electronic toll collection services in connection with the collection of Airport Charges at DFW (the “**Services**”). The Airport Board recognizes the great value of the goodwill associated with the Marks, and acknowledges that the Marks and all rights therein and goodwill pertaining thereto belong exclusively to the NTTA, and that the Mark has a secondary meaning in the mind of the public. The Airport Board will not attack the title or any rights of the NTTA in and to the Mark and will assist the NTTA to protect its rights to the Mark. The NTTA shall have the sole right, but not the obligation, to institute and prosecute infringement or unfair competition proceedings involving the Mark against third parties. The License granted herein is personal to the Airport Board as to the Services. Neither this Agreement nor any rights granted hereunder shall be transferred, assigned, licensed or conveyed by either Party in whole or in part without the prior written approval of the other party. Licensee may not sublicense any rights or obligations, without the prior written consent of Licensor. Notwithstanding any of the foregoing to the contrary, the Airport Board may use, or allow Airport Board contractors to use, the NTTA Mark in materials such as the Airport Board’s Annual Report, which are prepared by or at the request of the Airport Board for Airport Board use.

**5.3. Airport Board Marks and Brand Image.** The Airport Board has adopted and uses, among several others, the service mark (the “**DFW Airport Board Mark**”) shown on Exhibit B attached hereto and made a part hereof and has obtained a Federal Trademark

Registration No. 2,588,498, issued July 2, 2002, for airport services. The DFW Airport Board Mark is also the official brand of the Dallas/Fort Worth International Airport, as approved by Airport Board Resolution No. 2001-08-312 at its meeting on August 2, 2001. The Airport Board has established substantial good will in the DFW Airport Board Mark and brand image due to its long and widespread use and promotion of the Mark and the services for which it is used, as a result of which, the Mark has become well-known and recognized by the general public and associated in the public mind with the Airport Board and/or DFW. In consideration of NTTA's provision of the Clearinghouse Services and the other mutual promises made in this Agreement, the Airport Board grants to the NTTA a non-exclusive license to use the Mark and related brand images and logotypes in the United States during the term of this Agreement for the advertising, promotion, dissemination of information, and sale of the roadway electronic toll collection services in connection with the collection of Airport Charges at DFW (the "Services"). The NTTA recognizes the great value of the goodwill associated with the DFW Airport Board Marks and brand image, and acknowledges that the Marks, brand images, and all rights therein and goodwill pertaining thereto belong exclusively to the Airport Board, and that the Mark has a secondary meaning in the mind of the public. The NTTA will not attack the title or any rights of the Airport Board in and to the Mark and will assist the Airport Board to protect its rights to the Mark. The NTTA and its contractors shall use the Mark and any DFW Airport branding in accordance with the brand guidelines established by the Airport Board from time to time and available on the Airport Board's website at <http://www.dfairport.com>. The Airport Board shall have the sole right, but not the obligation, to institute and prosecute infringement or unfair competition proceedings involving the Mark against third parties. The License granted herein is personal to the NTTA as to the Services. Neither this Agreement nor any rights granted hereunder shall be transferred, assigned, licensed or conveyed by either Party in whole or in part without the prior written approval of the other party. Licensee may not sublicense any rights or obligations, without the prior written consent of Licensor. Notwithstanding any of the foregoing to the contrary, the NTTA may use, or allow NTTA contractors to use, the DFW Airport Board Mark in materials such as the NTTA's Annual Report, which are prepared by or at the request of the NTTA Board for NTTA use, provided such use is in accordance with applicable brand guidelines and is approved by the Airport Board's Chief Executive Officer or designee prior to release or publication.

**5.4. Marketing, Media Releases, and Publicity.** The NTTA and the Airport Board agree to work cooperatively throughout the duration of this Agreement to encourage usage of TollTag Accounts for payment of Airport Charges at DFW. The parties agree to coordinate with each other and to seek approval of the other party, via the individuals listed in Section 5.12 below or other persons as designated by either party from time to time to handle that party's media and public affairs, prior to media releases, public announcements, advertising, or similar promotional efforts related to the use of TollTag Accounts at DFW.

**5.5. Customer Service.** The NTTA and the Airport Board each shall be responsible for efficiently dealing with disputes relating to charges or service at its respective facilities. In no event shall either party provide a level of customer service to the other's customers or patrons that is less than that received by its own customers.

**5.6. Designated Contact.** The Airport Board and NTTA shall each designate an individual, reasonably acceptable to the other party, to serve as the contact person for any questions or disputes arising under this Agreement. Either party may elect to change the individual designated as its representative by giving the other party notice thereof in accordance with the notice provisions set forth in Section 5.12.

**5.7. Dispute Resolution.** The parties agree that any dispute between them relating to this Agreement will first be submitted to their designated contacts who will meet at the NTTA's or the Airport Board's place of business or other mutually agreeable location, or by teleconference, and confer in an effort to resolve such dispute. In the event these designees are unable to resolve any dispute within ten (10) days after submission to them, or within any other mutually agreed time frame, either party may refer any dispute to mediation in accordance with the provisions of this Section 5.7. The parties agree that they will endeavor to resolve any remaining dispute arising out of or relating to the terms of this Agreement through mediation and that mediation shall be a condition precedent to the institution of legal or equitable proceedings by either party. No lawsuit under this Agreement by one party against the other may be filed until mediation of the issue has ended in accordance with the terms hereof.

**5.8. Proprietary Information.** The NTTA's TollTag patron list and account information shall remain the exclusive property of the NTTA. The Airport Board shall be entitled to review or receive the information described in Sections 4.1(b) and (c) above to assist it in the collection of unpaid Airport Charges or the resolution of disputed charges. In addition,

the Airport Board shall be entitled to receive account information as reasonably required to allow the Airport Board to conduct an audit as described in Section 5.10. The Airport Board hereby expressly acknowledges and agrees that such information may be utilized only for the express purpose for which it is provided, and no such information shall be disclosed to any other party without the prior and express written consent of the NTTA, except in accordance with Section 5.9(b) or as otherwise may be required by law or court order. Upon expiration or termination of this Agreement, the Airport Board will immediately return to the NTTA all TollTag Account information held by the Airport Board, and no portion or copy thereof shall be retained or utilized unless reasonably required to allow the Airport Board to conduct or complete an audit as described in Section 5.10, in which case such information will be returned to NTTA upon completion of the audit(s). Except as otherwise expressly acknowledged by the NTTA, the NTTA's TollTag patron list and account information shall be deemed "Confidential Information" under Section 5.9.

(a) **Patron List.** The NTTA agrees that from time to time it will, at the request of the Airport Board, provide the Airport Board with the NTTA's patron list, in a form deemed suitable by the NTTA in its sole discretion, to allow the Airport Board to distribute promotional or informational material about DFW parking services or facilities or other information approved by the NTTA to NTTA TollTag Account holders. The Airport Board shall not distribute any such information using the NTTA's patron list unless and until the NTTA has approved the materials being distributed. All confidentiality and use restrictions set forth above in this Section 5.8 shall apply to the Airport Board's use of the NTTA's patron list.

**5.9. Confidential Information.**

(a) **Defined.** "Confidential Information" as used herein shall mean the confidential and proprietary data, trade secrets, or information developed or acquired by either the NTTA or the Airport Board or any third-party provider and marked or clearly designated in writing as such. Confidential Information does not include any data or information which (i) was in the lawful possession of the receiving party (defined below) prior to the submission thereof by the disclosing party (defined below), (ii) is later lawfully obtained by the receiving party from a third party under no obligation of

secrecy, (iii) is independently developed by the receiving party, or (iv) is, or later becomes, available to the public through no act or failure to act by the receiving party.

(b) **Non-Disclosure.** The receiving party will keep all Confidential Information in confidence except as may otherwise be required by law or court order and will not disclose any item of Confidential Information to any person other than its employees, agents or contractors who need to know the same in the performance of their duties. The receiving party will protect and maintain the confidentiality of all Confidential Information with the same degree of care as it employs to protect its own Confidential Information. The NTTA and the Airport Board are both public governmental bodies and subject to the terms of the Texas Public Information Act, Texas Government Code Chapter 552 (the "Act"). If a party (the "receiving party") receives a third-party request for Confidential Information that has been provided by the other party (the "disclosing party"), it shall promptly notify the disclosing party of the request. Unless the disclosing party first approves disclosure of the Confidential Information in writing, the receiving party agrees to use reasonable efforts to timely request an opinion from the Texas Attorney General under the Act, on whether all or part of the requested Confidential Information must be disclosed. Pending receipt of an opinion from the Texas Attorney General, the receiving party agrees not to release the requested Confidential Information unless enjoined to do so by a court of competent jurisdiction. Upon receipt of an Attorney General opinion holding that all or some part of the requested Confidential Information shall be disclosed, the receiving party shall disclose such information to the requesting third party unless enjoined from doing so by a court of competent jurisdiction.

(c) **Use of Names.** A party shall not use the other party's name or the name of any employee of the other party in any advertising or endorsement without the express written permission of the other party.

(d) **Applicable to Employees.** Each party hereby acknowledges and agrees that each of its employees, agents, or subcontractors performing work or services under this Agreement shall agree to be bound by the terms of these confidentiality provisions.

**5.10. Audits and Records.** The NTTA and the Airport Board (and their respective suppliers, vendors, subcontractors, insurance agents and other agents that provide goods or

perform services in connection this Agreement) each shall maintain, and the other shall have the right to examine, records, documents, books, accounting procedures and practices and any other supporting evidence reasonably deemed necessary to substantiate compliance with the terms of this Agreement including any modifications or amendments hereto (such documents and other materials being referred to collectively as “**Records**”). Such right of examination shall include reasonable access to Records and the cooperation by all personnel who have worked on or have knowledge related to the performance of this Agreement. All such Records shall be deemed to be “Confidential Information” under Section 5.9.

(a) **Inspection.** Records shall be subject to inspection and/or reproduction by the NTTA and the Airport Board, as applicable, and their respective Authorized Representatives. For purposes of this section, “Authorized Representative(s)” means, with respect to the Airport Board, its internal audit staff, contract administrative staff, and any other individuals designated in writing by the Airport Board’s Chief Executive Officer or his designee who have reasonable need to review the NTTA’s Records, and, with respect to the NTTA, its Executive Director, Director of Information Technology, Director of Toll Programs & Services, Director of Finance, legal counsel, and any other individuals designated in writing by the NTTA’s Executive Director or his designee who have reasonable need to review the Airport Board’s Records.

(b) **Retention.** Records shall be made available as described above until the expiration of three (3) years from the end of the term of this Agreement (as the same may be extended). Records that relate to appeals or litigation or settlement of claims arising out of the performance of this Agreement shall be made available for a period of three (3) years from the date of the final disposition of such appeals, litigation, or claims. Each party shall provide adequate and appropriate workspace to the other to conduct all inspections, audits and reviews. Each party shall provide the other with a reasonable advance notice of intended audit, inspections, and reviews.

(c) **Results.** If an audit or review in accordance with this section discloses overcharges or underpayments (of any nature) in excess of five percent (5%) of the proper amount to be charged or paid under the terms of this Agreement, the cost of the audit shall be paid by the party that failed to charge or pay the proper amount, as applicable.

**5.11. Relationship of the Parties.** Nothing in this Agreement is intended to create, nor shall be deemed or construed by the parties or by any third party as creating, (1) the relationship of principal and agent, partnership or joint venture between the Airport Board and the NTTA or (2) a joint enterprise between the Airport Board, the NTTA and/or any other party. Without limiting the foregoing, the purposes for which the Airport Board and Authority have entered into this Agreement are separate and distinct, and there are no pecuniary interests, common purposes and/or equal rights of control among the parties hereto.

**5.12. Notices.** Any notice, request, demand, or other communication to be given by either party shall be in writing, and shall be hand delivered, sent by United States certified mail, postage prepaid, or sent by Federal Express or other national courier service, fees prepaid, and shall be addressed as follows:

If to the Authority:

If delivered by hand or air courier:

North Texas Tollway Authority  
Attn: Jerry Hiebert, Executive Director  
5900 West Plano Parkway, Suite 100  
Plano, Texas 75093

If mailed:

North Texas Tollway Authority  
Attn: Jerry Hiebert, Executive Director  
P.O. Box 260729  
Plano, Texas 75026

If to the Airport Board:

If delivered by hand or air courier:

Dallas/Fort Worth International Airport Board  
Attention: Byford Treanor, Vice President  
Customer Service Department  
2150 North Service Road  
North Tower, Floor No. 2  
DFW International Airport, TX 75261

If mailed:

Dallas/Fort Worth International Airport Board  
Attention: Byford Treanor, Vice President  
P.O. Box 619428  
DFW International Airport, TX 75261-9428

**5.13. Successors and Assigns.** This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective parties and their legal successors. Other than as provided in the preceding sentence, neither the Airport Board nor the NTTA shall assign or transfer its respective interests in this Agreement without the prior written consent of the other party to this Agreement, unless otherwise provided by law.

**5.14. Severability.** If any provision of this Agreement, or the application thereof to any entity or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other entities or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law. The parties agree to negotiate in good faith for a proper amendment to this Agreement in the event any provision hereof is declared illegal, invalid or unenforceable.

**5.15. Written Amendments.** Any change in the agreement, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by the Airport Board and the NTTA.

**5.16. Limitations.** All covenants and obligations of the Airport Board and the NTTA under this Agreement shall be deemed valid covenants and obligations of said entities, and no officer, director, or employee of the Airport Board or its owner cities (the City of Dallas and the City of Fort Worth), or the NTTA shall have any personal obligations or liability hereunder.

**5.17. Sole Benefit.** This Agreement is entered into for the sole benefit of the Airport Board, the NTTA and their respective successors, and nothing in this Agreement or in any approval subsequently provided by either party hereto shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the public in general.

**5.18. Authorization.** Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that



no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery or performance of this Agreement. Each signatory on behalf of the Airport Board and the NTTA, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.

**5.19. The Airport Board's Code of Business Ethics; Conflicts of Interest.** All Airport Board employees must adhere to the Airport Board's Code of Business Ethics. NTTA employees or representatives are therefore prohibited from offering or providing Airport Board employees, directly or indirectly, any gifts or other items that the Airport Board's Code of Business Ethics does not allow the employee to accept. Any questions related to the interpretation of this section shall be directed to the Airport Board's general counsel. Further, the NTTA understands that Section 11 of the Contract and Agreement between The City of Dallas and The City of Fort Worth, dated April 15, 1968, prohibits any officer or employee of the Board from having any financial interest, direct or indirect, in any Contract with the Airport Board, or from being financially interested, directly or indirectly, in the sale to the Airport Board of any land, materials, supplies, equipment or services, except on behalf of the Airport Board as an officer or employee thereof. Any violation of this prohibition shall constitute malfeasance in office, and any officer or employee adjudged guilty thereof shall thereby be subject to removal from his/her office or position by the Airport Board or the Chief Executive Officer. Any violation of this provision by a member of the Airport Board shall be grounds for removal by a vote of two-thirds (2/3rds) of the City Council appointing such member.

**5.20. Non-Discrimination.** NTTA hereby covenants that it will take all necessary action to insure that, in connection with any services it provides to the Airport Board related to this Agreement, it will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, NTTA shall keep, retain and safeguard all records relating to this Agreement or work performed hereunder for a minimum period of three years with full access allowed to authorized representatives of the Board upon request for purposes of evaluating compliance with this section.

**5.21. Force Majeure; Delays.** Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of

this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence or willful misconduct of the parties. Such events, occurrences, or causes ("Force Majeure Events") will include but not be limited to, acts of God or public enemy, strikes, lockouts, riots or civil commotion, acts of war or terrorism, earthquake, tornado, flood, fire and explosions, epidemic, hurricane, or other catastrophes, or events or conditions due to governmental law, regulations, ordinances, order of a court of competent jurisdiction, executive decree or order but the inability to meet financial obligations is expressly excluded. However, in the event of such delay(s) or nonperformance, the party so delayed shall furnish prompt written notice to the other party (including the date of inception of the force majeure event(s) and the extent to which it will affect performance) and shall undertake all efforts reasonably possible to cure the delay or nonperformance.

**5.22. Venue.** The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas, and exclusive venue for any legal actions arising hereunder shall be in Dallas County, Texas.

**5.23. Interpretation.** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbitrator by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.

**5.24. Waiver.** No delay or omission by either party hereto to exercise any right or power hereunder shall impair such right or power or be construed as a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.

**5.25. Entire Agreement.** This Agreement, including Exhibits A and B hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no representations, understandings or agreements relative hereto which are not fully expressed in this Agreement.


**5.26. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one single agreement between the parties.

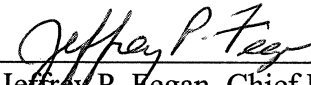
**5.27. Headings.** The article and section headings used in this Agreement are for reference and convenience only, and shall not enter into the interpretation hereof.

**IN WITNESS WHEREOF**, the Airport Board and the NTTA have executed this Agreement on the dates shown below, to be effective on the date listed above.

**ATTEST:**

**DALLAS/FORT WORTH INTERNATIONAL  
AIRPORT BOARD**, a public governmental agency  
of the Cities of Dallas and Fort Worth

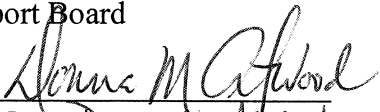
  
Secretary

By:   
Jeffrey P. Fegan, Chief Executive Officer

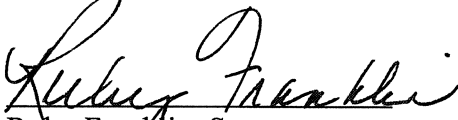
**APPROVED AS TO FORM:**

Legal Counsel to the  
Airport Board

Date: 12/18/03

By:   
Name: Donna M. Atwood

**ATTEST:**

  
Ruby Franklin, Secretary

**NORTH TEXAS TOLLWAY AUTHORITY**

  
Jerry Hiebert, Executive Director

**APPROVED AS TO FORM:**

Locke Liddell & Sapp LLP,  
General Counsel to the NTTA

Date: 12/05/2003


By:   
James T. Rain

EXHIBIT A

The NTTA Mark

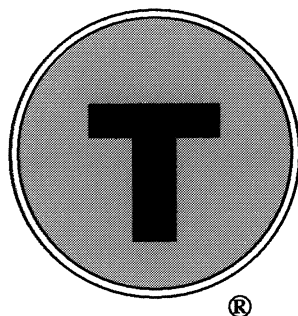


EXHIBIT B

The DFW Airport Board Mark

