

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

THIS MASTER AGREEMENT is entered into to be effective as of the 1st day of July, 2010, 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.

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 it is in their best interests for the NTTA to provide the Airport Board electronic fee collection services and related clearing house functions, and other related services; and

WHEREAS, by virtue of Section 366.033(f) and 366.181 of the Texas Transportation Code, NTTA has the authority to use its electronic toll collection system, the NTTA AVI System, together with transponders to be referred to as "Toll Tags®", to offer its customers the option to pay parking charges at the Dallas Fort Worth International Airport using TollTags®.

WHEREAS, the Airport Board and the NTTA desire to continue a working relationship first established under Board Resolution No. 2003-09-308 authorizing the Airport Board to enter into an Interlocal Agreement (Board Contract No. 7003533) with the NTTA; and

WHEREAS, the Airport Board at its meeting on June 3, 2010, approved Board Resolution No. 2010-06-133 authorizing the Airport Board to enter into an Interlocal Agreement (Board Contract No. 7005264) (hereinafter "**Master Agreement**") ; and

WHEREAS, the NTTA and the Airport Board establish this Master Agreement in order for the Airport Board to order desired services and equipment operated by and available through the NTTA, as more specifically set forth in Project Agreements (hereinafter defined);

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 Master Agreement, the capitalized terms set forth herein shall have the following meanings:

- 1.1 “Master Agreement” means this Agreement and all Exhibits attached hereto as the same may be amended in writing from time to time pursuant to Section 2.31. For Airport Board purposes, this Agreement also is identified and may be referred to as Airport Board Contract No. 7005264.
- 1.2 “Airport Board” has the meaning provide in the Recitals.
- 1.3 “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 and collecting Airport Charges with the NTTA’s clearinghouse system.
- 1.4 “Equipment” has the meaning provided in each Project Agreement.
- 1.5 “Effective Date” has the meaning provided in the Recitals.
- 1.6 “NTTA” has the meaning provided in the Recitals.
- 1.7 “NTTA Mark” has the meaning provided in Section 2.29(a).
- 1.8 “Project Agreement” means the separate agreement(s) issued hereunder by which a particular scope of work is agreed upon and performed by NTTA and paid for by the Airport Board.
- 1.9 “Services” has the meaning provided in each Project Agreement.
- 1.10 “TollTag” means the transponder now or in the future used by the NTTA.
- 1.11 “TollTag Account” means a credit-card-secured account established with the NTTA for the payment of Airport Board Charges by use of a Transponder associated with that account.
- 1.12 “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 – GENERAL PROVISIONS

- 2.1 **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.

2.2 **Assignment of, and Title to, the equipment.** The Airport Board shall not, without the prior written consent of the NTTA, (i) pledge, or in any other way transfer the Equipment or any part thereof, or any interest therein, or (ii) permit the Equipment or any part thereof to be used by anyone other than the Airport Board or the Airport Board's employees. The Airport Board does not acquire hereby any right, title or interest in or to the Equipment except the right to use the same under the terms hereof.

2.3 **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 Master Agreement or any Project 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 Master Agreement and all Project Agreements, including any modifications or amendments thereto (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 Master Agreement or any Project Agreement.

(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, legal counsel 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 Master Agreement (as the same may be extended) and from the end of the term of any Project

Agreement to which the records relate (as the same may be extended). Records that relate to appeals or litigation or settlement of claims arising out of the performance of this Master Agreement and/or any Project Agreement issued hereunder 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 Master Agreement and/or any Project Agreement, the cost of the audit shall be paid by the party that failed to charge or pay the proper amount, as applicable.

2.4 **Authorization.** Each party to this Master Agreement represents to the other that it is fully authorized to enter into this Master 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 Master 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 Master Agreement.

2.5 **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 not to release the requested Confidential Information, unless enjoined to do so by a court of competent jurisdiction, and shall work with the disclosing party to seek an opinion from the Attorney General regarding disclosure of the Confidential Information. 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.

- 2.6 **Counterparts.** This Master 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.
- 2.7 **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.
- 2.8 **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 Master Agreement and any Project 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 2.18.
- 2.9 **Disclaimer of Liability and Indemnity.** To the extent permitted by law, the Airport Board agrees to indemnify and hold the NTTA and its successors and assigns harmless against any loss, claim, action, suit, demand, proceeding, liability, penalty, cost, damage, obligation, lien or expense, including attorneys' fees, court costs and legal expenses, of whatever kind or nature, imposed on, incurred by or asserted against the NTTA and its successors and assigns (whether or not also indemnified against by any other person) on account of personal injury (including death) and property damage, to the extent resulting from the Airport Board's negligence in the possession, use, operation, maintenance, condition, return or storage of any equipment or computer hardware and software as may be provided to the Airport Board under any Project Agreement, or any accident in connection therewith, or arising by operation of law as a consequence of any of the foregoing. The provisions of this Section 2.9 shall survive any termination of this Master Agreement.
- 2.10 **Dispute Resolution.** The parties agree that any dispute between them relating to the Master Agreement or any Project Agreement will first be submitted to their designated contacts who will, within ten (10) business days, 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 thirty (30) calendar 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 2.10. The parties agree that they will endeavor to resolve any remaining dispute arising out of or relating to the terms of this Master Agreement or any Project 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 Master Agreement or any Project Agreement by one party against the other may be filed until mediation of the issue has ended by mutual agreement of the parties or by declaration of an impasse by the mediator.

- 2.11 **Entire Agreement.** This Master Agreement, together with each Project Agreement, constitutes the entire agreement between the parties with respect to the subject matter hereof. There are, and will be, no representations, understandings or agreements relative hereto which are not fully expressed in this Master Agreement and each Project Agreement.
- 2.12 **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 Master Agreement or any Project 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.
- 2.13 **Interpretation.** No provision of this Master Agreement or of any Project 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.
- 2.14 **Limitations.** All covenants and obligations of the Airport Board and the NTTA under this Master Agreement and each Project 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.

2.15 **Marketing, Media Releases, and Publicity.** The NTTA and the Airport Board agree to work cooperatively throughout the duration of this Master Agreement and any Project Agreement to encourage use of TollTag Accounts for payment of Airport Charges at the Airport. The parties agree to coordinate with each other and to seek approval of the other party, via the individuals listed in Section 2.15 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 the Airport.

Handwritten signatures and initials in the right margin, including a signature that appears to be 'JF' and another that appears to be 'AC'.

2.16 **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 pursuant to this Master Agreement and any Project 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 Master Agreement and any Project Agreement or to work performed thereunder for a minimum period of three years after the expiration or earlier termination of same, with full access allowed to authorized representatives of the Board upon request for purposes of evaluating compliance with this Section.

2.17 **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, or to such other persons as either party may hereafter designate in writing to the other:

If to the NTTA:

If delivered by hand or air courier:

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

With copy to:

Clayton Howe, Assistant Executive Director for Operations
Same address

If mailed:

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

With copy to:

Clayton Howe, Assistant Executive Director for Operations
Same address

If by email (to be followed by mail or courier delivery):
aclemson@ntta.org
chowe@ntta.org

If to the Airport Board:

If delivered by hand or air courier:

Dallas/Fort Worth International Airport Board
Attention: Gregory C. Spoon, Vice President (for Contractual Matters)
Procurement and Materials Management Department
Attention: William Flowers, Vice President (for Performance Matters)
Information Technology Services Department
3122 E. 30th Street
DFW Airport, TX 75261

If mailed:

Dallas/Fort Worth International Airport Board
P.O. Box 619428
DFW Airport, TX 75261-9428

If by email (to be followed by mail or courier delivery):
gspoon@dfwairport.com for Gregory C. Spoon
wflowers@dfwairport.com for William Flowers

- 2.18 **Possession, Use and Maintenance of the Equipment.** The Equipment shall be kept by the Airport Board: (1) subject to inspection by the NTTA at reasonable times; (2) at the Airport, and shall not be relocated; and (3) free of all security interests, liens, encumbrances and other claims of any kind whatsoever. The Airport Board shall not permit the Equipment to be installed in, or used, stored or maintained with, any personal property in such manner or under such circumstances that any Equipment might be or

become an accession to or confused with such other personal property. The Airport Board shall not permit the Equipment to be installed in or used, stored or maintained with, any real property in such a manner or under such circumstances that any person might acquire any rights in the Equipment paramount to the rights of the NTTA by reason of the Equipment being deemed to be real property or a fixture thereon.

2.19 **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 required 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 2.3. The Airport Board hereby 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 2.5(b) or as otherwise may be required by law or court order. Upon expiration or termination of this Master Agreement, the Airport Board will immediately return to the NTTA all TollTag Account information held by the Airport Board, and no portion or copy of thereof shall be retained or utilized unless reasonably required to allow the Airport Board to conduct or complete an audit as described in Section 2.3, 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 2.5.

(a) **Patron List.** The NTTA agrees that from time to time it will, at the request of the Airport Board and at the Airport Board's sole cost and expense, distribute promotional or informational material about the Airport parking services or facilities or other information approved by the NTTA to NTTA TollTag Account holders. (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, which shall be discretionary.

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

2.20 **Relationship of the Parties.** Nothing in this Master 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 Master Agreement are separate and distinct, and there is no community of pecuniary interest, common purposes and/or equal rights of control among the parties hereto.

2.21 **Risk of Loss.** (a) The Airport Board assumes and shall bear the entire risk of partial or complete loss, theft, damage, destruction, or other interruption or termination of use of the Equipment, except such as result from the acts or omissions of NTTA, whether or not insured against, from the date of delivery of the Equipment until the Equipment is returned to and received by the NTTA.

(b) In the event the Equipment is physically damaged by any occurrence whatsoever, the Airport Board shall immediately notify the NTTA of such damage and, unless the NTTA shall determine that Section 2.22(c) hereof is applicable to such damage, the Airport Board, at the Airport Board's expense, shall promptly cause the Equipment to be repaired to the condition as delivered.

(c) In the event the Equipment shall be lost, stolen, destroyed, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever, the Airport Board shall promptly notify the NTTA and at the option of the NTTA either: (i) obtain replacement equipment of like model and features, having utility and remaining useful life at least equal to that of the Equipment and, in which case, the Airport Board shall immediately convey to the NTTA good and clear title for all such replacement equipment free of all liens, claims or encumbrances; or (ii) pay to the NTTA, the replacement value of the Equipment.

(d) The provisions of this Section 2.21 shall survive any termination of this Master Agreement and any Project Agreement under which Equipment is provided or maintained.

JF
Re
9.20

JF
Re
9.20

2.22 **Severability.** If any provision of this Master Agreement or any Project 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 Master Agreement or the Project Agreement, as the case may be, 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 Master Agreement or the Project Agreement in the event any provision is declared illegal, invalid or unenforceable.

2.23 **Sole Benefit.** This Master Agreement and each Project Agreement is entered into for the sole benefit of the Airport Board, the NTTA and their respective successors, and nothing in this Master Agreement, a Project 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.

2.24 **Successors and Assigns.** This Master Agreement and each Project 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 Master

Agreement or any Project Agreement without the prior written consent of the other party, which may not be unreasonably withheld, unless otherwise provided by law.

2.25 **Term of Master Agreement.** (a) This Master Agreement shall be in effect from the Effective Date of July 1, 2010, until terminated by either party, with or without cause, by giving the other party written notice thereof not less than ninety (90) days prior to the designated termination date; provided that (a) the Airport Board's obligation to pay any fees, charges or costs for any period that predates the expiration or earlier termination of this Master Agreement, and (b) the NTTA's obligation to remit to the Airport Board collected Airport Charges or other Airport revenue not previously remitted to the Airport Board, shall survive the expiration or earlier termination of this Master Agreement. Notwithstanding the foregoing, this Master Agreement cannot be terminated while a Project Agreement is still being performed or until outstanding Project Agreement(s) themselves expire or terminate.

(b) Upon Termination or other expiration of the Master Agreement or Project 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 relating to the Master Agreement or Project Agreement, as the case may be. In addition, each party will assist the other party and/or its contractors or authorized representative(s) in effecting the orderly termination of this Master Agreement or Project Agreements and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each party.

2.26 **Term of Project Agreement.** (a) Any Project Agreement shall be effective upon the date set forth in the Project Agreement. Each Project Agreement will terminate on the date set forth in the Project Agreement. A Project Agreement may be terminated by either party with cause by giving the other party written notice thereof not less than ninety (90) days prior to the designated termination date. A Project Agreement may be terminated without cause by giving the other party written notice thereof not less than one hundred eighty (180) days prior to the designated termination date. In any event, (i) the Airport Board's obligation to pay any fees, charges or costs for any period that predates the expiration or earlier termination of the Project Agreement, and (ii) the NTTA's obligation to remit to the Airport Board collected Airport Charges or other Airport revenue not previously remitted to the Airport Board, shall survive the expiration or earlier termination of the Project Agreement.

(b) The expiration or termination of a Project Agreement shall not terminate this Master Agreement, which is subject to termination pursuant to Section 2.27⁵, and shall not terminate any other Project Agreement.

2.27 **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

Handwritten signature and initials in the right margin.

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 NTTA Mark and the services for which it is used, as a result of which, the NTTA Mark has become well-known and recognized by the general public and associated in the public mind with the NTTA. In consideration of the mutual promises of the parties made in this Master Agreement, the NTTA grants to the Airport Board a non-exclusive license to use the NTTA Mark in the United States during the term of this Master Agreement or any Project 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 the Airport. The Airport Board recognizes the great value of the goodwill associated with the NTTA Mark, and acknowledges that the NTTA Mark and all rights therein and goodwill pertaining thereto belong exclusively to the NTTA, and that the NTTA 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 NTTA Mark and will assist the NTTA to protect its rights to the NTTA Mark. The NTTA shall have the sole right, but not the obligation, to institute and prosecute infringement or unfair competition proceedings involving the NTTA Mark against third parties. The License granted herein is personal to the Airport Board. Neither this Master Agreement nor any Project Agreement, nor any rights granted thereunder, shall be transferred, assigned, licensed or conveyed by either party in whole or in part without the prior written approval of the other party. 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.

(b) **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 the Airport. In consideration of the mutual promises of the parties made in this Master 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 Master Agreement or any Project 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 the Airport. 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 Airport Board 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.dfwairport.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.. Neither this Master Agreement nor any Project Agreement, nor any rights granted thereunder 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.

- 2.28 **Venue.** The provisions of this Master 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.
- 2.29 **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.
- 2.30 **Written Amendments.** Any change in the Master Agreement or any Project Agreement, or in the terms and/or responsibilities of the parties thereto must be enacted through a written instrument, signed by both parties to be referred to as a contract modification (a.k.a. "Change Order"). No amendment to this Master Agreement or to any Project Agreement shall be of any effect unless in writing and executed by the Airport Board and the NTTA.

ARTICLE 3 – PROJECT AGREEMENT PROVISIONS

- 3.1 **Truth In Negotiations and Non-Allowable Costs.** (a) In connection with negotiation of any Project Agreement proposal, the NTTA shall submit cost or pricing data to the Airport Board. Cost or pricing data includes but is not limited to the following:
- 3.1.1
- (a) Labor utilization and costs
 - (b) Unit cost trends such as those associated with labor efficiency
 - (c) Nonrecurring costs

- (d) Home office overhead costs
- (e) Estimated resources to attain project goals
- (f) Historical data upon which estimates are based
- (g) Bond/Insurance quotations
- (h) Scheduling/Work sequencing issues affecting prices

Notwithstanding the foregoing, data to be provided by the NTTA will be limited to data consistent with the NTTA's cost allocation modeling. NTTA will not be required to develop cost data other than what is derived from its cost allocation modeling.

3.1.2 In no event shall NTTA charge or be entitled to be paid by the Airport Board for: entertainment; first-class airfare; bidding and proposal costs; contributions and donation; personal telephone charges; dues and subscriptions; alcoholic beverages; expenses for transportation for personal pursuits; gifts; gratuities; bad debts including losses due to uncollectible customer's accounts and other claims, related collection costs, and related legal costs, arising from other businesses of the NTTA; dividend provisions or payments and, in the case of sole proprietors and partners, distributions of profit; interest on borrowed capital; bonus payment for early completion of work, costs not properly documented and other charges expressly disallowed under the terms of this Master Agreement or any Project Agreement, as the case may be, and no such costs shall be included in the loaded hourly rates.

3.2 **Project Agreement Process.**

All Work contemplated under this Master Agreement will be performed under individual Project Agreements ("PA"). However, the Airport Board is not obligated to order any work. The number of Project Agreements to be issued is unknown. Project Agreement work may at times be inside the Airport Air Operation Area (AOA) of the Airport.

3.2.1 Work executed under any Project Agreement will be performed by lump sum, fixed rates, or unit prices established in each PA with a Project Agreement not-to-exceed amount, as defined in each Project Agreement as described below. If a lump sum, fixed rates, unit prices or not-to-exceed amount is set forth in a Project Agreement, the lump sum, fixed rates, unit prices or not-to-exceed amount may only be changed by duly authorized and executed written change order between the parties.

3.2.2 For each proposed Project Agreement, the Airport Board shall provide NTTA the scope of the individual requirement. The NTTA shall then prepare and submit to the Airport Board a proposal further defining and restating the scope, and providing a line item proposal of the individual tasks, quantities, and costs in a level of detail consistent with NTTA's cost allocation model. PA proposal preparation work, including all time, labor and expenses, shall be at no cost to the Airport Board.

3.2.3 The lump sum, fixed rates or unit prices will include all costs, to include, but not be limited to: direct cost of the work of the contract, labor burden, overhead, G&A, profit, project office expenses, mobilization and close-out costs, insurance, compliance with

environmental laws, protective clothing and equipment, computer equipment and software, maintenance, and fuel, testing, and all contingencies associated with performing the work.

- 3.2.4 Each Project Agreement shall set forth a unit of work assigned under the Master Agreement, but separated from other units of work and other Project Agreements by scope of service to be performed, physical location, type of cabling, time of performance, funding source, management control, or other identifying criteria that cause it to be a separate scope of work, as agreed by the parties. Project Agreement numbers are assigned sequentially beginning with number "5264-001R00" (R = Revision; if an existing PA is revised).
- 3.2.5 For each PA, the NTTA shall provide management personnel authorized to be in charge of the Project and act as liaison in all aspects of the negotiations, scheduling and bidding of the Project.
- 3.2.6 Each PA will outline the elements agreed to and will include agreement language tailored specifically for the project. Agreement language in a PA may include (but is not limited to) General Provisions, Special Provisions, General Conditions (sometimes referred to a General Requirements), Special Conditions, Technical Specifications, Disadvantaged/Minority/Woman-Owned Business Enterprise (DMWBE) goals and insurance requirements.
- 3.2.7 Each PA will be subject to this Master Agreement. The NTTA will be required to complete all work according to the provisions contained in the PA and this Master Agreement, and within the established PA lump sum, fixed rates, unit prices or not-to-exceed amount. In the event of a conflict in the language of this Master Agreement and the language of any PA, the language of this Master Agreement shall control, unless and to the extent the PA explicitly states otherwise.
- 3.2.8 If a change in scope is necessary after a PA has been executed, a Project Agreement Revision to the PA will be negotiated with the NTTA. After an agreement has been reached, a formal Project Agreement Revision (a.k.a. "Change Order") outlining the specifics agreed to will be executed by both parties incorporating the changes.
- 3.2.9 The D/M/WBE Goal for individual Project Agreements will be set for each PA based on a mutually-acceptable figure to both the Airport Board and the NTTA and will be set forth in each PA. When the NTTA is to provide services to the Airport Board utilizing NTTA personnel, D/M/WBE goals shall not apply. Whenever a D/M/WBE goal is established under this Agreement, it is specifically acknowledged by the parties that the NTTA shall require contractors to make a good faith effort to achieve the goal, but the goal is not a quota or set aside.

3.3 **Monitoring Progress**

3.3.1 Reporting Requirements

With each PA invoice, NTTA shall submit a "Progress Report" of work accomplished during the invoice time period. The Reports shall be in narrative form, brief and informal in content. Reports shall include, at a minimum, a quantitative description detailing work

performed and percentage of completion vis-a-vis any agreed finite scope of services, if applicable.

3.3.2 The NTTA shall deliver to Airport Board all specifications, drawings, reports, and/or other deliverable end products identified in a Project Agreement, within the time, and in the form, set forth in the Project Agreement.

3.4 **Suspension of Work**

3.4.1 The Airport Board may order the NTTA in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as the Airport Board may determine to be appropriate for the convenience of the Airport Board.

3.4.2 If the performance of all or any part of the Work under a PA is, for an unreasonable period of time, suspended, delayed or interrupted by an act or omission of the Airport Board in the administration of the PA, or by the failure of the Airport Board to act within the time specified in the PA (or if no time is specified, within reasonable time), an adjustment shall be made for any increase in the cost of performance of the PA necessarily caused by such unreasonable suspension, delay or interruption and the PA modified in writing accordingly. However, no adjustment shall be made under this Article for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the NTTA; or for which an adjustment is provided or excluded under any other provision of this Master Agreement or the PA. In the event a suspension, delay, or interruption is caused by an act or omission of the Airport Board, and such suspension, delay, or interruption results in out-of-pocket costs incurred by the NTTA, then the Airport Board shall reimburse the NTTA for such costs.

3.4.3 Claims related to Suspension of Work:

3.4.3.1 No claim under this Article shall be allowed for any costs incurred more than fifteen (15) calendar days before the NTTA has notified the Airport Board in writing of the act or failure to act (but this requirement shall not apply to a claim resulting from a suspension order).

3.4.3.2 No claim under this Article shall be allowed unless the claim is asserted in writing within thirty (30) calendar days after the termination of such suspension, delay, or interruption.

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

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

ATTEST:

Donna J. Schnell
Secretary

By: Jeffrey P. Fegan
Jeffrey P. Fegan, Chief Executive Officer

APPROVED AS TO FORM:

Date: 8-27-10

[Signature]
Legal Counsel to the Airport Board

By: _____
Name: Gary Keane

NORTH TEXAS TOLLWAY AUTHORITY

ATTEST:

Ruby Franklin
~~Ruby Franklin~~, Secretary

By: Allen Clemson
Allen Clemson, Executive Director

APPROVED AS TO FORM:

Date: 8-25-2010

By: [Signature]
John B. Dahill, General Counsel