TXShare
Your Public Sector Solutions Center

FOR NCTCOG Use Only

ILA No: _____

MASTER INTERLOCAL PURCHASING AGREEMENT

THIS MASTER INTERLOCAL AGREEMENT ("ILA"). made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the North Central Texas Council of Governments, hereinafter referred to as "NCTCOG," having its principal place of business at 616 Six Flags Drive, Arlington, TX 76011, and _____, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "Participating Entity," having its principal place of business at _____.

WHEREAS, NCTCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, NCTCOG is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, NCTCOG has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, Participating Entity has represented that it is an eligible entity under the Act, that is authorized to enter into this Agreement on _____(Date), and that it desires to contract with NCTCOG on the terms set forth below;

NOW, THEREFORE, NCTCOG and the Participating Entity do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Participating Entity represents and warrants to NCTCOG that (1) it is eligible to contract with NCTCOG under the Act for the purposes recited herein because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency that the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: SCOPE OF SERVICES

NCTCOG will administer the TXShare Program and make competitively procured contracts for certain products and services ("Products" or "Services") available for the Participating Entity's voluntary use. Participating Entities will access the Program through www.TXShare.org. The Participating Entity retains sole authority and responsibility for determining whether and how to use a TXShare contract and for complying with all applicable federal, state, and local laws, regulations, policies, and procedures governing its purchases. Nothing in this Agreement authorizes NCTCOG as the Participating Entity's purchasing agent or authorizes NCTCOG to bind the Participating Entity, issue an ordering document (statement of work, purchase order, etc.), enter into a transaction, or exercise authority reserved by law to

the Participating Entity's governing body, purchasing agent, or other authorized official. All purchases must be separately authorized and made by the Participating Entity through its duly authorized officials and in accordance with the applicable TXShare contract terms and pricing. Nothing in this Agreement precludes the Participating Entity from purchasing Products or Services offered through the TXShare Program directly from the applicable vendor or supplier. NCTCOG may serve as a coordinating agent to administer the use of eligible Participating Entity contracts by other TXShare Participating Entities only when the Participating Entity has expressly authorized such cooperative use in its solicitation and resulting contract documents. Title to Products purchased through the TXShare Program will be held by the Participating Entity unless otherwise agreed in the applicable ordering documents.

Each purchase will be governed by the applicable TXShare contract, and any participating entity ordering document properly executed or accepted by the Participating Entity and the contracted provider. An ordering document may supplement the applicable TXShare contract but may not materially alter its competitively awarded scope, pricing structure, or other material terms unless the alteration is authorized under the TXShare contract and applicable law.

The Participating Entity is responsible for ordering, delivery instructions, inspection, acceptance, payment, and enforcement of transaction-specific warranty and performance obligations.

NCTCOG does not charge the Participating Entity a membership fee for participation in the TXShare Program. Except as expressly provided in a separate written agreement, payments for Products or Services purchased through TXShare will be made directly by Participating Entity to the applicable contracted provider.

ARTICLE 3: PAYMENTS

The Participating Entity is solely responsible for payment for Products or Services it orders through the TXShare Program. The Participating Entity will review and pay each properly submitted invoice in accordance with the applicable ordering document and any applicable prompt payment or public payment requirements governing the Participating Entity. Nothing in this Agreement requires the Participating Entity to pay a disputed amount or otherwise limits any right or remedy available under applicable law. All payments will be made from current revenues legally available to the Participating Entity. Payment, inspection, acceptance, and resolution of invoice or performance disputes are obligations between the Participating Entity and the contracted provider. NCTCOG has no financial liability for Products or Services purchased by the Participating Entity through the TXShare Program.

ARTICLE 4: PERFORMANCE PERIOD

This Agreement shall be effective when signed by the last party whose signing makes the Agreement fully executed and will remain in full force and effect for one (1) year. This Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with Article 6 below. Any modifications of this Agreement must comply with the requirements of Article 5 below.

ARTICLE 5: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by both parties. This Agreement will be interpreted and administered in accordance with applicable law, as amended. If a change in law requires amendment of a material term, the parties will execute an appropriate written amendment. Until then, any affected provision will be applied only to the extent permitted or required by law.

NCTCOG may add, modify, or discontinue contracts, suppliers, product categories, or services made available through the TXShare Program without amending this Agreement. Such program changes will not amend this Agreement, obligate the Participating Entity to make a purchase, or modify an existing ordering document without the Participating Entity's written agreement.

ARTICLE 6: TERMINATION PROCEDURES

NCTCOG or the Participating Entity may terminate this Agreement for any reason upon thirty (30) days' written notice to the other party. Termination of this Agreement will not relieve either party of obligations arising before the effective date of termination. The Participating Entity remains responsible for amounts properly due for Products or Services ordered before termination under an applicable ordering document, subject to the Participating Entity's rights under applicable law and the applicable transaction documents.

ARTICLE 7: APPLICABLE LAWS

NCTCOG and the Participating Entity agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 8: DISPUTE RESOLUTION

To the extent possible and not in contravention of any applicable state or federal law or procedure established for dispute resolution, the parties agree to make a good-faith effort to resolve disputes informally through voluntary mediation or similar recognized dispute resolution process before initiating litigation.

ARTICLE 9: MISCELLANEOUS

a. This Agreement will be governed by the laws of the State of Texas. To the extent permitted by law, venue for a suit or cause of action arising under or in connection with this Agreement will lie in Tarrant County, Texas. Nothing in this Agreement waives or is intended to waive any immunity, defense, limitation of liability, or other protection available to either party or its officers, employees, or agents under applicable law.

b. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entities.

c. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party to this Agreement.

d. All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

e. A party's time for performance of a nonmonetary obligation will be suspended to the extent the party is prevented from performing by an event beyond its reasonable control and not attributable to its neglect or nonfeasance, including a strike, labor stoppage, riot, fire, flood, act of war, insurrection, accident, court order, or act of God. Force majeure will not excuse an obligation to pay funds that are properly due.

f. This Agreement and its properly executed attachments and addenda constitute the complete agreement between the parties concerning its subject matter and supersede prior oral and written agreements concerning that subject matter.

g. This Agreement may be executed in counterparts and by electronic or facsimile signature, each of which will be considered an original and all of which together constitute one instrument.

THIS INSTRUMENT HAS BEEN EXECUTED -BY THE PARTIES HERETO AS FOLLOWS:

North Central Texas Council of Governments
TXShare
616 Six Flags Drive, Arlington, TX 76011

NCTCOG Executive Director or Designee

Signature of Executive Director or Designee

Date

Name of Participating Agency

Mailing Address

City State Zip

Name and Title of Authorized Official or Designee

Signature

Date