

MASTER INTERLOCAL AGREEMENT FOR STAKEHOLDER PARTICIPATION IN TECHSHARE

1. Recitals

- 1.1. TechShare is a program whereby Local Governments and state agencies may realize economies of scale by jointly developing, procuring, operating, maintaining, and enhancing information technology projects and resources.
- 1.2. Pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and for the purpose of participation in the TechShare Program, the undersigned Local Governments and state agencies enter into this Interlocal Agreement (hereinafter, "Agreement").
- 1.3. The undersigned Local Governments and state agencies and any and all other Local Governments and agencies of the State of Texas or another state adopting this Agreement may be referred to in this Agreement individually as "Stakeholder" and collectively as "Stakeholders."
- 1.4. TechShare is facilitated by TechShare Local Government Corporation ("TechShare LGC") through this Agreement.
- 1.5. Local Governments and state agencies have the ability to realize substantial savings by jointly planning, developing, procuring, operating or maintaining information technology projects and resources necessary to conduct business for their citizenry.
- 1.6. Local Governments and state agencies approving this Agreement by formal action of their respective governing bodies desire to jointly plan, develop, procure, operate or maintain one or more information technology projects or resources.
- 1.7. This Agreement, including all addenda, exhibits and attachments hereto, set forth the rights and responsibilities of the Stakeholders in their joint endeavor(s).
- 1.8. The Stakeholders each find that the amount paid for the services performed under this Agreement fairly compensates the performing party;
- 1.9. The Stakeholders, acting by and through their respective governing bodies, individually and collectively, do hereby adopt and find the foregoing premises as findings of said governing bodies.
- 1.10. In consideration of the promises, inducements, covenants, agreements, conditions and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Stakeholders and TechShare LGC agree as follows:

2. Definitions

- 2.1. For purposes of this Agreement and all other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit, attachment, or addendum, the following terms shall have the meaning prescribed to them within this section 2 (Definitions), unless the context of their use dictates otherwise. Other terms used in this Agreement that are not defined herein, but defined in any of the other agreements, contracts and documents executed, adopted, or approved pursuant to this Agreement, which shall include any exhibit,

- attachment, addendum or associated document, shall have the same meaning herein as in such other documents
- 2.2. "Board of Directors" means the Board of Directors of TechShare LGC.
 - 2.3. "Capital Costs" means the costs of acquiring, developing, or otherwise establishing a Resource so that it can be shared by Participants, including any costs of financing, such as interest and risk premiums.
 - 2.4. "Evergreening" means the process of refreshing software and hardware with new or updated versions to extend the lifecycle of Resources in a cost-effective manner.
 - 2.5. "Funding Entity" means a Stakeholder that contributes Pre-Paid Costs for the initial development or acquisition of a Resource or for the enhancement of a Resource.
 - 2.6. "Implementation Costs" means costs unique to each Participant for the installation and/or implementation of a Resource.
 - 2.7. "Intellectual Property" means documented or undocumented knowledge, creative ideas, or expressions of human mind that have commercial (monetary) value and are protectable under copyright, patent, service mark, trademark, or trade secret laws from imitation, infringement, and dilution.
 - 2.8. "Local Government" has that meaning assigned to it by Texas Government Code § 791.003.
 - 2.9. "Operation and Maintenance (O&M) Costs" means the costs of operating and maintaining the functionality of a Resource, including modifications necessary to address changes in applicable laws, rules or regulations.
 - 2.10. "Participants" means both Stakeholders and Subscribers.
 - 2.11. "Pre-Paid Costs" means amounts contributed by one or more Funding Entities for costs of the initial development or acquisition of a Resource or for the enhancement of a Resource.
 - 2.12. "Prime Rate of Interest" means the U.S. prime rate of interest published in the Wall Street Journal on December 31, or if not printed on December 31, then the nearest date preceding December 31 on which the prime rate of interest is published. The Prime Rate of Interest will be used as required herein for the preceding January 1 - December 31.
 - 2.13. "Project" means a collaborative effort through TechShare by which Stakeholders seek to achieve a common goal related to their information technology needs, and may include the acquisition, creation, or enhancement of a Resource.
 - 2.14. "Project Addendum" means an addendum to this Agreement entered into by TechShare LGC and one or more Stakeholders to conduct a Project.
 - 2.15. "Resource" means Intellectual Property, personal property, services or knowledge acquired or developed by, or made available to, Participants through TechShare.
 - 2.16. "Resource Sharing Addendum" means an addendum to this Agreement entered into by TechShare LGC and one or more Stakeholders for the Stakeholders' use of a Resource.

- 2.17. “Software as a Service” or “SaaS” means a software delivery model in which the software is obtained on a subscription basis.
- 2.18. “Stakeholder” means an entity participating in a Project, and an entity sharing a Resource that has paid Capital Costs of the Resource. A Stakeholder ceases to be a Stakeholder through a Project upon completion of the Project (but may continue to be a Stakeholder by sharing a Resource through a Resource Sharing Addendum).
- 2.19. “Subscriber” means a Participant sharing a Resource in the form of Software as a Service.

3. Participation in TechShare

- 3.1. Participation in TechShare is open to all units of government, including but not limited to Local Governments and state agencies, that are authorized to enter into this Agreement and approved by TechShare LGC.
- 3.2. Each Stakeholder must approve, by its usual approval process for contracts, this TechShare Master Interlocal Agreement and, for each Project and Resource selected by the Stakeholder, the applicable Project Addendum or Resource Sharing Addendum to this TechShare Master Interlocal Agreement.

4. Agreement Supervision and Administration

- 4.1. In addition to providing services as specified in each Project and Resource Sharing Addenda, TechShare LGC will administer this Agreement and may enter into one or more contracts for administrative services as authorized by Tex. Gov’t Code § 791.013. Administrative services include:
 - 4.1.1. administering all contracts, procedural documents, manuals, and other guidelines pertaining to the management of each Project and Resource;
 - 4.1.2. providing information to Participants and potential participants to increase awareness of TechShare and the opportunities for sharing and collaboration therein;
 - 4.1.3. preparing and presenting detailed and summary financial information necessary for the administration and management of each Project and Resource;
 - 4.1.4. rendering invoices, receiving funds, establishing and maintaining appropriate accounting records, establishing and utilizing an appropriate cost accounting system, and managing accounts receivable;
 - 4.1.5. reviewing and approving travel reimbursement requests for each Project and Resource in accordance with the applicable budget and applicable policies;
 - 4.1.6. serving as the communication and distribution center for information related to TechShare;
 - 4.1.7. reviewing and making recommendations on all contracts;
 - 4.1.8. acting as a liaison with federal and state agencies and responding to their inquiries;

- 4.1.9. computing and providing billings for participation;
 - 4.1.10. filing required forms and reports with state and other governmental agencies;
 - 4.1.11. assisting a Participant's auditor and actuary as necessary;
 - 4.1.12. coordinating banking functions and handling deposits and reconciliations;
 - 4.1.13. providing notices of meetings, supplying resource material for meetings, and keeping minutes of meetings; and
 - 4.1.14. forming or administering committees.
- 4.2. TechShare LGC shall have the authority to conduct procurement functions and enter into contracts with one or more vendors as may be deemed necessary to carry out the purposes of this Agreement and to effectively manage each Project and Resource.
 - 4.2.1. All contracts approved by TechShare LGC with vendors will be exclusively between TechShare LGC and the selected vendors.
 - 4.2.2. TechShare LGC is prohibited from binding any Participant to any obligations arising from contracts between TechShare LGC and third-party vendors regarding goods or services, unless expressly approved by a Participant's governing body.
 - 4.3. All Participants acknowledge and agree that information and data stored or managed within a Resource will remain the property of the Participant supplying the information or data. All participants further acknowledge and agree that such information and data shall not be used by any other Participant other than in connection with the performance of this Agreement; disclosed, sold, assigned, leased or otherwise provided to third parties; or commercially exploited by or on behalf of any other Participant, its employees, officers, agents, subcontractors, invitees, or assigns in any respect.
 - 4.4. TechShare LGC will provide or ensure provision of regular reports on operations or activities of each Project and Resource as determined appropriate by each Stakeholder Committee.
 - 4.5. This Agreement does not grant to any Stakeholder equity rights in any of the assets or property of TechShare LGC unless specifically provided for herein.
 - 4.6. The Stakeholders intend that TechShare LGC shall operate only within the scope herein set out and have not herein created, as between Stakeholders, any relationship of surety, indemnification, or responsibility for the debt of or claims against any other Stakeholder. Nor is such a relationship created between any Stakeholder or group of Stakeholders and TechShare LGC.
 - 4.7. The Stakeholders have not, by entering into this Agreement, assumed, in any manner, any liability for the debts of, or claims against, TechShare LGC.
 - 4.8. TechShare LGC will not be financially liable to Stakeholders for the performance or function of any Resource. In the event of non-performance of a Resource, TechShare LGC will make best efforts within the applicable budget to correct the non-performance.

- 4.9. Budgets for each Project and Resource shall be in accordance with the chart of accounts as established by TechShare LGC.

5. Oversight

- 5.1. Board of Directors: The Board of Directors is responsible for oversight of TechShare LGC's activities under this Agreement. The Board of Directors will approve, or confer TechShare LGC staff with authority to approve in accordance with Board policy and practice, addenda to this Agreement and all contracts necessary or desirable for a Project or Resource, within the adopted budget
- 5.2. Stakeholder Representatives: Each Stakeholder participating in a Project or sharing a Resource shall designate a Representative to the Project or Resource by providing written notice to TechShare LGC. A Stakeholder may change its Representative at any time by notifying TechShare LGC in writing. Each Stakeholder Representative shall serve as the Stakeholder's primary point of contact for matters pertaining to the Project or Resource.
- 5.3. TechShare LGC: Subject to section 8.2.6.1, Project Stakeholders that pay Pre-Paid Costs and Resource Stakeholders may join TechShare LGC and designate one individual to serve on the Board of Directors with weighted voting rights as specified in the TechShare LGC Bylaws.
- 5.4. Project Stakeholder Committees: Each Project shall have a Stakeholder Committee.
- 5.4.1. Each Project Stakeholder Committee will consist of the Representatives from all Stakeholders participating in the Project.
- 5.4.2. The Chairman of each Project Stakeholder Committee will be selected by a vote of the Project Stakeholder Committee.
- 5.4.3. Each Project Stakeholder Committee will:
- 5.4.3.1. manage functionality and scope of the Project, as applicable, within budget; and
- 5.4.3.2. implement technical standards as may be necessary or desirable.
- 5.4.4. The voting strength for Project Stakeholder Committee members shall be determined using the funding formula in the applicable Project Addendum. As additional Stakeholders join a Project, the voting strength of each Stakeholder Committee member will be adjusted in accordance with that formula. If the Project does not require funding by Project Stakeholders, then each Project Stakeholder will have one vote of equal weight.
- 5.5. Resource Stakeholder Committees: Each Resource shall have a Stakeholder Committee.
- 5.5.1. Each Resource Stakeholder Committee will consist of the Representatives from all Stakeholders sharing the Resource.
- 5.5.2. The Chairman of each Resource Stakeholder Committee will be selected by a vote of the Resource Stakeholder Committee.
- 5.5.3. Each Resource Stakeholder Committee will:

- 5.5.3.1. Approve annual work plans for maintenance (including Evergreening) of the Resource after receiving the list of requested priorities resulting from periodic user conferences and the associated costs for those priorities;
 - 5.5.3.2. Approve annual budgets corresponding to work plans;
 - 5.5.3.3. Periodically review progress on annual work plans and budget compliance; and
 - 5.5.3.4. Approve any additions to Capital Costs for the Resource.
- 5.5.4. The voting strength for Resource Stakeholder Committee members shall be determined using the Capital Cost allocation formula in the applicable Resource Sharing Addendum. As additional Stakeholders join in sharing a Resource, the voting strength of each Resource Stakeholder Committee member will be adjusted in accordance with that formula.
- 5.6. Technical Committees – Projects: Each Project Stakeholder Committee may appoint, in its discretion, one or more advisory committees for the applicable Project to provide technical advice or to aid in the development, acquisition, management, or oversight of the Project.
- 5.7. Technical Committees – Resources: Each Stakeholder sharing a Resource may designate one or more individuals to serve on an advisory committee to provide technical advice and to assist in the planning and prioritizing of corrections, enhancements, and other changes to the Resource.
- 5.8. Project and Resource Sponsors. Each Stakeholder must designate a member of its governing body to serve as its Sponsor for each Project and Resource in which the Stakeholder participates.
- 5.8.1. The Sponsor may also serve as the Stakeholder’s Stakeholder Committee member.
 - 5.8.2. The Sponsor is to serve as a point of contact in the event of disputes or disagreements.
 - 5.8.3. Each Sponsor will be provided by TechShare LGC periodic updates on the status of respective Projects and Resources.
- 5.9. Stakeholder Committee members, Technical Committee members, and members of other committees shall serve without compensation. Travel expenses may be paid or reimbursed by TechShare LGC if included within the applicable Project or Resource budget.

6. Budget and Funding

- 6.1. Projects: The budget for each Project will be set forth in the Project Addendum. Each Stakeholder’s portion of the budget shall be set forth in the Project Addendum or determined as set forth in the formula in the Project Addendum.
- 6.1.1. The Stakeholder Committee for the Project may adjust the budget or funding formula.
 - 6.1.2. A change in the budget or the funding formula that does not require a Stakeholder to pay more than the total dollar amount as previously approved

by the Stakeholder shall not require additional approval of the Stakeholder. *In no event will a Stakeholder be obligated to pay more than the amount set forth in the original Project Addendum without written approval of the Stakeholder.*

- 6.1.3. Each Stakeholder must pay its share of Project costs before the start of the Project; except, however, if a Project extends beyond 12 months, then each Stakeholder's Project costs may be paid in multiple payments during the Project as stated in the Project Addendum.
- 6.1.4. In the case of multiple payments, payment due dates and amounts shall correspond to anticipated expenditures so that, to the greatest extent practical, expenditures do not exceed amounts actually paid by Stakeholders. It is the intent that all Stakeholder payments must be made in advance of services being rendered and costs being incurred.
- 6.1.5. A Stakeholder that disputes an invoice must do so in writing to TechShare LGC within thirty (30) days of receipt of the invoice. A Stakeholder that does not timely make a payment automatically withdraws from the Project thirty (30) days after the missed payment due date if payment of undisputed amounts has not been made by that time.
- 6.2. Resources: Each Resource will have a periodic budget approved by the Resource Stakeholder Committee which will include:
 - 6.2.1. costs associated with work plans approved by the Resource Stakeholder Committee;
 - 6.2.2. O&M Costs;
 - 6.2.3. Evergreening costs;
 - 6.2.4. an appropriate allocation of TechShare LGC's indirect costs;
 - 6.2.5. costs associated with administrative services; and
 - 6.2.6. amounts required under section 6.3.
- 6.3. If a Resource requires use of moneys in a reserve fund of TechShare LGC to cover expenses during any budget period, the budget for the Resource for the next budget period must include an amount to reimburse the reserve fund in full.
- 6.4. The Resource Stakeholder Committee shall set the fees for Stakeholders to share a Resource in accordance with section 8. The method of allocating costs among Stakeholders sharing a Resource shall be set forth in the Resource Sharing Addendum.
 - 6.4.1. Resource sharing fees will be charged, and must be paid, in advance of the initial use of a Resource and in advance of subsequent periods of use.
 - 6.4.2. Fees set in accordance with the provisions of this Agreement and the terms on an applicable Addendum shall not require approval by the governing body of any Stakeholder. Each Stakeholder will continue sharing a Resource by payment of allocated fees, but withdraws from sharing a Resource if allocated fees are not paid when due. Access to a Resource may be discontinued for

any Stakeholder that does not pay allocated fees by thirty (30) days after the due date.

- 6.5. If a Stakeholder uses grant or other funds subject to compliance with specific terms or conditions to pay any portion of its costs, that Stakeholder is solely responsible for compliance with the applicable terms and conditions. To the extent permitted by law without establishing a sinking fund, the Stakeholder shall hold harmless the other Stakeholders from the use of such funds. Payments made using such funds will not be refunded in the event such payments are found to violate applicable terms or conditions. State and federal grant funds may not be used for Capital Costs.

7. Funding of Projects for Development or Acquisition of a TechShare Resource

- 7.1. TechShare LGC may obtain funding for a Project in any manner permitted by law, including, for example, using its own reserves, borrowing from a financial institution, or collecting Capital Costs from Stakeholders in advance of the development, acquisition or enhancement of a Resource (i.e., Pre-Paid Costs).
- 7.2. One or more Stakeholders may become a Funding Entity by funding the initial development, acquisition, or enhancement of a Resource through the payment of Pre-Paid Costs.
 - 7.2.1. Capital Costs of the Resource funded with Pre-Paid Costs will include, but may not be limited to:
 - 7.2.1.1. Pre-Paid Costs;
 - 7.2.1.2. interest on Pre-Paid Costs at the rate of $\frac{1}{2}$ of the Prime Rate of Interest; and
 - 7.2.1.3. a risk premium of 10% of Pre-Paid Costs and interest.
 - 7.2.2. Interest will be applied to cash contributions to a Project from the date of the contribution.
 - 7.2.3. Interest will be applied to direct expenditures made by a Stakeholder as part of a Project if provided for in the Project Addendum, with interest accruing as specified in the Project Addendum.
 - 7.2.4. A risk premium will be applied to:
 - 7.2.4.1. cash contributions to a Project and direct expenditures made by a Stakeholder as part of a Project, plus any interest as provided in section 8.2.2 or section 8.2.3;
 - 7.2.4.2. in-kind contributions, with value established at the start of a Project; and
 - 7.2.4.3. assets developed outside of a TechShare Project and licensed to TechShare LGC or otherwise made available for use in TechShare, with value established at the start of a Project.
 - 7.2.5. Interest will be compounded annually on the average daily positive balance of Pre-Paid Costs.
 - 7.2.6. Funding Entities will receive credit for interest and risk premium accrued on their respective Pre-Paid Costs and included in the Capital Costs of the

Resource in the same proportion as Capital Costs are allocated to Funding Entities.

- 7.2.7. Interest on a Funding Entity's balance of Pre-Paid Costs will accrue until the balance of Pre-Paid Costs is retired either by (1) credits granted for Capital Costs associated with the use of the Resource and otherwise owed by the Funding Entity; (2) credits granted for Capital Costs paid by other Stakeholders; or (3) revenue received from non-Stakeholders to access the Resource.
- 7.3. If TechShare LGC funds a Project using its own reserves or through borrowing, the Capital Costs of the Resource will include, but may not be limited to:
 - 7.3.1. cash contributions;
 - 7.3.2. interest (1) at the rate and in the amount paid by TechShare LGC on borrowed funds; or (2) at the rate of $\frac{1}{2}$ of the Prime Rate of Interest from the date of expenditure/contribution to the date all funds expended by TechShare LGC have been repaid by Participants for non-borrowed funds; and
 - 7.3.3. risk premium of 10% of cash contributions and interest.

8. Sharing of Costs of a Resource

- 8.1. Resource sharing fees, however labeled, must cover all O&M costs, costs associated with work plans approved by Stakeholders, costs of Evergreening, and with the objective of (1) providing substantial long-term opportunity to share ongoing O&M Costs; and (2) maintaining a reserve to cover unexpected costs and to fund future Projects and Resources.
- 8.2. Resource sharing fees for Stakeholders will be calculated as follows:
 - 8.2.1. The Capital Costs of each Resource shall be the costs incurred by TechShare LGC to acquire, develop, or otherwise establish the Resource so that it can be shared by Participants.
 - 8.2.2. Each Stakeholder's proportionate share of the Capital Costs of the Resource shall be determined using population, number of end users, or some other metric as established for the Resource and set forth in the applicable Resource Sharing Addendum.
 - 8.2.3. Allocation of Capital Costs will be done using the appropriate metric (e.g., population, number of users, etc.) as of the start date of the development Project or the date the Resource is first placed in use, as set forth in the Resource Sharing Addendum.
 - 8.2.4. Once established, the allocation of Capital Costs will not change except as may be adjusted to account for additional Stakeholders.
 - 8.2.5. Funding Entities may agree to allocate their total allocated Capital Costs among themselves differently, and that allocation will be contained in the Resource Sharing Addendum.
 - 8.2.6. Stakeholders, excluding Funding Entities, may pay their respective Capital Costs for a Resource in equal annual installments, not to exceed 5 years, as determined by each Stakeholder at the time of initial approval of the Resource

Sharing Addendum. Interest at the rate of ½ of the Prime Rate of Interest, compounded annually on the average daily positive balance of unpaid Capital Costs, will accrue.

- 8.2.7. When paid, interest that accrues on unpaid Capital Costs will be distributed proportionality to those Stakeholders who received a portion of the paying Stakeholder's first payment of Capital Costs.
- 8.2.8. O&M Costs, indirect costs, and other costs shall be allocated to each Stakeholder using population, number of end users, or some other metric as established for the Resource and set forth in the applicable Resource Sharing Addendum.
- 8.2.9. If population is used to allocate costs, decennial census figures or annual census estimates as published by the Texas State Data Center, whichever are most recent, will be used.
- 8.2.10. Allocation of costs, other than Capital Costs, will be done using the applicable metric (e.g., population, number of users, etc.) as of the first day of the applicable budget period. Once established for a term, unless additional Stakeholders join in sharing the Resource, the allocation of costs will not change, but may change in subsequent terms if there are changes in the applicable metric.
- 8.2.11. In addition to Resource sharing fees, Stakeholders may be required to pay Implementation Costs for a Resource. Implementation Costs will be unique to each Stakeholder and will not be shared by other Stakeholders. Notwithstanding the foregoing sentence, Stakeholders may recognize Implementation Costs as Capital Costs.
- 8.2.12. When a Resource developed through a Project is first being implemented, Resource Sharing Fees will apply to Funding Entities for the Resource upon approval of implementation agreements by each respective Funding Entity.

9. Refunds with Additional Participants

9.1. Additional Stakeholders

- 9.1.1. As additional Stakeholders join to share a Resource, a Stakeholder then sharing the Resource may be eligible to receive a partial refund of its Capital Costs. The amount of any such refund shall be determined by calculating the effect of each additional Stakeholder joining to share the Resource in accordance with the formulas for allocation of Capital Costs.
- 9.1.2. A Stakeholder that has not paid all of its Capital Costs is not eligible to receive a refund under this section 9 and under section 11. Instead, the outstanding Capital Cost balance will be credited in proportion to the refund that would otherwise be given until such time as the balance is satisfied by payments or by credits. The amount credited to the Stakeholder's Capital Cost balance will be distributed proportionally to other Stakeholders.

- 9.1.3. At the direction of a Stakeholder, its applicable refunds of Capital Costs may be made in the form of credits against future Operations and Maintenance Costs.
 - 9.1.4. A Stakeholder that withdraws from sharing a Resource is not eligible to receive subsequent refunds of Capital Costs, and any refund of Capital Costs that would be distributed to the former Stakeholder if it were a Stakeholder will be distributed proportionately among remaining Stakeholders.
 - 9.1.4.1. Because the former Stakeholder is not receiving refunds of its Capital Costs during the period the former Stakeholder does not share the Resource, the former Stakeholder's balance of Capital Costs will not be reduced during that period.
 - 9.1.4.2. The former Stakeholder becomes eligible for prospective refunds if it returns to sharing the Resource and pays all then-applicable Resource sharing fees (i.e., no assessment of past sharing fees will be made).
- 9.2. Subscribers
- 9.2.1. The Board of Directors will approve a metric for the allocation of SaaS fees to Subscribers. Examples include population, number of users, and number of courts. The metric may, but is not required to, be the same metric used to allocate costs among Stakeholders. (Example: Costs may be allocated among Stakeholders using population, but SaaS fees may be allocated among Subscribers using number of users.) Once established, the metric will not change unless notice of no less than 12 months is given to all Subscribers; except, however, this notice requirement may be waived in writing by all Subscribers.
 - 9.2.2. Using the approved metric, the Board will periodically set SaaS fees for Resources. In setting SaaS fees, the Board shall:
 - 9.2.2.1. Ensure that marginal costs attributable to a Subscriber are recovered;
 - 9.2.2.2. Consider relevant market information; and
 - 9.2.2.3. Recognize the importance of lowering total costs for Stakeholders.
 - 9.2.3. All net SaaS revenue (SaaS fees exceeding marginal costs of serving Subscribers, including funding reserves as determined by the Board) will be recognized as recovery of Capital Costs until such time as all current Stakeholders have been reimbursed all of their respective Capital Costs using the distribution methodology set forth in section 9.1. et. seq.
 - 9.2.3.1. SaaS fees received from Texas Subscribers that exceed marginal costs, excluding amounts under section 9.2.3., will be recognized and applied to Stakeholders' costs in the next budget period.
 - 9.2.3.2. SaaS fees received from non-Texas Subscribers that exceed marginal costs, excluding amounts under section 9.2.3., will be handled in accordance with section 11.

10. Capital Improvements to Resources

- 10.1. Events may require upgrades in Resource functionality that may be recognized as development to be included in the Capital Cost of the Resource.
- 10.2. Additional Capital will be derived in one of the following manners:
 - 10.2.1. Through an implementation Project;
 - 10.2.2. Through an O&M budget; or
 - 10.2.3. Through a Capital call upon all Stakeholders sharing the Resource (not preferred).
- 10.3. The appropriate Resource Stakeholders must approve all increases to Capital Costs.
- 10.4. If there is a capital call, total Capital Costs of the Resource will be increased, as will Capital Costs for all Stakeholders, both current and future.

11. Refunds from Outside Revenue

If all current Stakeholders sharing a Resource have been reimbursed all of their respective Capital Costs, net revenue (revenue above the marginal cost of providing the Resource, after contribution to reserves as determined appropriate by the Board) derived from the Resource from other than Texas Local Governments and Texas state agencies will be allocated as follows:

- 11.1. If there are Funding Entities, one-third (1/3) to all Stakeholders (including Funding Entities) sharing the Resource in the subsequent budget period; one-third (1/3) to the Funding Entities in proportion to their respective total Capital Costs for the Resource; and one-third (1/3) to be retained by TechShare LGC.
- 11.2. If there are no Funding Entities, 75% will be allocated to all Stakeholders sharing the Resource in the subsequent budget period and 25% of the net revenue will be retained by TechShare LGC.

12. Use of Resources by Entities Outside of Texas

- 12.1. TechShare LGC has the authority to contract with entities outside of Texas for use of Resources, subject to the fees for use of such Resources as set in accordance with Section 8.

13. Installation and Implementation of a Resource

- 13.1. Installation or implementation of a Resource will only be done by TechShare staff or TechShare contractors.

14. Reporting Requirements of TechShare LGC

- 14.1. For each Project and Resource TechShare LGC will establish a secure website accessible by Stakeholders in the Project or Resource and containing current information regarding Pre-Paid Costs, Capital Cost balances of each Participant, budget and expenditures, Participants, Stakeholder Committee and other committee members, Project status, copies of vendor contracts, and such other information in the possession of TechShare LGC as the Stakeholder Committee shall deem appropriate.

- 14.2. Each Participant shall have a right of access to information regarding a Project or Resource in which the Participant participates as specified in the respective Project Addendum or Resource Sharing Addendum. TechShare LGC shall have no obligation to produce or make available information that is not specified in the respective Project Addendum or Resource Sharing Addendum.
- 14.3. Financial information will be provided by TechShare LGC to Participants in accordance with the chart of accounts used by TechShare LGC. If a Participant desires financial information in a form other than the established chart of accounts, the Participant will be provided a comprehensive report of all transactions so that the Participant may categorize and analyze the transactions in any way the Participant desires.
- 14.4. In performing its duties, the TechShare LGC is entitled to obtain from a Participant information necessary and appropriate to prepare a report under this section.

15. Ownership of Work Product and Resources, and Rights to Use

- 15.1. Projects. Each Project Stakeholder that has paid all sums due from the Participant under the Project Addendum has a non-exclusive ownership interest in the Project work product as it exists on any given date. Notwithstanding the foregoing, a Project Participant that withdraws participation mid-Project as described in section 6.1.5. does not have any interest in work product developed subsequent to the Participant's withdrawal.
- 15.2. Resources. Each Stakeholder that (1) paid its appropriate portion of the Capital Costs of a Resource (without application of discounts); and (2) for a Stakeholder that did not participate in a Project creating the Resource, if any, has shared the Resource for at least 60 consecutive months, shall have a non-exclusive ownership interest in the Intellectual Property comprising the Resource.
 - 15.2.1. If a Resource is no longer offered for sharing through TechShare, then each Stakeholder that (1) paid its appropriate portion of the Capital Costs of the Resource (without application of discounts); and (2) (a) has never stopped sharing the Resource through TechShare since first sharing the Resource **or** (b) has shared the Resource for at least 60 consecutive months, shall have a non-exclusive ownership interest in the Intellectual Property comprising the Resource.
- 15.3. License Grant to TechShare LGC
 - 15.3.1. Each Stakeholder with an ownership interest in Intellectual Property comprising a Resource hereby grants to TechShare LGC the exclusive right to make the Resource available for use by additional Participants and other entities, but only in accordance with this Agreement. TechShare LGC shall have all rights necessary or beneficial to access, maintain, improve, implement, modify, host, and operate the Resource in accordance with this Agreement and the respective Resource Sharing Addenda for each Resource.
- 15.4. Rights of Stakeholders

- 15.4.1. Stakeholders acquiring ownership interests in work product and Resources through collaboration in TechShare acknowledge that their ownership interests are subject to the following limitations:
- 15.4.1.1. While participating in TechShare through this Agreement, and Stakeholders will not exercise rights of ownership except as set forth in this Agreement and any applicable Addendum;
- 15.4.1.2. **A Stakeholder may use the Project work product and Resource, as applicable, solely for its own purposes, whether participating in TechShare or not, and a Stakeholder may not permit another person or entity to use the work product or Resource except as set forth in this Agreement.**
- 15.4.2. All Participants agree to prohibit further distribution or sharing of a Resource to/with non-participants unless further distribution or sharing is approved in writing by TechShare LGC.
- 15.5. When a Resource is No Longer Offered through TechShare
- 15.5.1. When a Resource is no longer offered for sharing through TechShare, each Stakeholder sharing in the ownership of the former Resource will be free to use and manipulate the source materials for the former Resource for the Stakeholder's sole use.
- 15.5.2. Any sale, licensure, or other purported conveyance of Project work product or a former Resource requires the approval of, as applicable, Project Participants or Resource Stakeholders that have paid in sum at least 50.1% of the costs of the Project or of the Capital Costs of the Resource. The intent of this provision is to require a level of consent before any subset of Project Participants or Stakeholders with ownership interests realize financial gain from a transaction not involving all Project Participants or Stakeholders, and to require a level of consent before any subset of Project Participants or Stakeholders realizes any advantage for being the first or only entity to seek any gain from making the work product or former Resource available to others outside of this Agreement.
- 15.5.3. **Any** conveyance of Project work product or of a Resource or the Intellectual Property comprising a Resource is subject to, as applicable, each non-conveying Project Participant's or each non-conveying Stakeholder's ownership interest in the work product, Resource, or Intellectual Property.
- 15.6. When a Stakeholder Withdraws from Sharing a Resource
- 15.6.1. Except as set forth in section 16.6.3., if a Stakeholder withdraws from sharing a Resource that is still offered through TechShare and the Stakeholder has shared the Resource for less than 60 consecutive months, the Stakeholder will have no rights to future use of the Resource.
- 15.6.2. If a Stakeholder withdraws from sharing a Resource and (a) has paid 100% of its Capital Cost allocation, and (b) has shared the Resource for at

least 60 consecutive months, the Stakeholder may use and manipulate the source materials for the Resource for the Stakeholder's sole use.

- 15.6.3. If a Funding Entity withdraws from sharing a Resource and the Funding Entity has shared the Resource for less than 60 consecutive months, the Funding Entity may use and manipulate the source materials for the Resource for the Funding Entity's sole use; except, however, the Funding Entity shall not have any further right to use the Resource if, prior to withdrawing from sharing, the Funding Entity has received refunds of Capital Costs under Section 11 in an amount equal to or greater than the Funding Entity's then-current allocation of Capital Costs among all Texas Participants.

15.7. When a Participant Licenses a Resource to TechShare

If a Participant owns an existing software product and licenses that product to TechShare LGC for sharing through TechShare, such license cannot be revocable without the consent of TechShare LGC and must contain rights for other Stakeholders that contribute Capital Costs for the Resource, and restrictions on the contributing Stakeholders's rights, that are consistent with the rights and restrictions in this Section 16 concerning Resources developed through TechShare.

15.8. Liability for Use of Former Resource

- 15.8.1. TechShare LGC and Stakeholders will not be liable to a Participant or former Participant, any user, or any party claiming through a Participant or former Participant or any user, for any claims arising from the use of a former Resource or the use of a Resource outside of a Resource Sharing Addendum or other TechShare agreement.
- 15.8.2. No implementation assistance or end user training will be provided by TechShare LGC or through TechShare for a former Resource or for the use of a Resource outside of a Resource Sharing Addendum or other TechShare agreement unless a separate agreement is entered into for those services.

16. Ownership of Data

- 16.1. When a Project or Resource involves the shared storage of data or the shared access to data of the Participants and other entities, the data remains the property of the Participant or entity that created or submitted the data, unless otherwise provided in the applicable Project Addendum or Resource Sharing Addendum.
- 16.2. Information or other data of a Participant shall not be used by the other Participants other than in connection with the performance of this Agreement or as contemplated by the applicable Project Addendum or Resource Sharing Addendum.
- 16.3. Information or other data of a Participant shall not be disclosed, sold, assigned, leased or otherwise provided to third parties, or commercially exploited by or on behalf of the other Participants, their employees, officers, agents, subcontractors, invitees, or assigns in any respect.
- 16.4. In the event a Participant receives a request for information or other data belonging to another Participant or entity, the Participant receiving the request must promptly

notify the requestor that the Participant receiving the request is not the custodian of the requested information or data.

16.4.1. A copy of the request must be forwarded to the TechShare LGC within 24 hours of receipt.

16.5. Each Participant shall contractually bind other entities with access to information or data through the Participant to observe the same restrictions on the use and disclosure of information and data belonging to other Participants or entities, and the requirement to send requests for information and data belonging to other Participants or entities to the TechShare LGC.

16.6. It is the intention of the Participants that the custodian(s) of data in the event such custodian(s) did not participate in a Project or Resource will remain the custodian(s) of such information and data, unless an applicable Project or Resource Addendum provides otherwise.

17. Warranties

17.1. **NO PARTY TO THIS AGREEMENT WARRANTS THE AVAILABILITY, ACCURACY, QUALITY, RELIABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY PROJECT, RESOURCE OR DATA AVAILABLE THROUGH A RESOURCE.**

17.2. **THIRD PARTY WARRANTIES OR GUARANTEES MAY INURE TO THE BENEFIT OF THE PARTICIPANTS TO A PARTICULAR PROJECT OR RESOURCE IF SUCH ARE CONTRACTUALLY SECURED AS PART OF SUCH PROJECT OR RESOURCE, AS SET FORTH IN THE APPROPRIATE ADDENDUM. NO PARTY TO THIS AGREEMENT SHALL BE HELD LIABLE FOR A WARRANTY OR GUARANTEE OFFERED BY A THIRD PARTY.**

17.3. **ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED BY ALL PARTIES TO THIS AGREEMENT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

18. Notice

18.1. Any and all notices to be given under this Agreement by a Participant or TechShare LGC shall be deemed to have been given if reduced to writing and delivered in person or mailed by overnight or certified mail, return receipt requested, postage pre-paid, to the address set forth on the signature page of the intended recipient.

18.2. A Participant may change its address for receiving notification under this Agreement by providing written notice of the change of address to TechShare LGC. TechShare LGC shall update the Participant's address on the secure website for the applicable Project or Resource.

18.3. TechShare LGC may change its address for receiving notification under this Agreement by providing written notice of the change of address to all Participants.

18.4. Any notice required hereunder shall be deemed to have been given three (3) days subsequent to the date it was placed in the United States mail, postage pre-paid.

19. Amendment

- 19.1. This Agreement may be amended by TechShare LGC with at least 180 days' written notice to Stakeholders of the amendment and the effective date of the amendment. Unless written objection to the amendment is received by TechShare LGC from a Stakeholder at least sixty (60) days prior to the effective date, the amendment is effective on the effective date. Use of a TechShare Resource by a Stakeholder after the effective date of the amendment is conclusive proof of the Stakeholder's acceptance of the amendment...
- 19.2. Any modification, alteration, addition or deletion to the terms of this Agreement which are required by changes in federal or state law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

20. Binding Agreement, Authority, Parties Bound

- 20.1. This Agreement has been duly executed and delivered to all parties and constitutes a legal, valid and binding obligation of the Parties.
- 20.2. This Agreement may be executed in multiple counterparts. Each person executing this Agreement on behalf of each Party represents and warrants that they have full right and authority to enter into this Agreement.

21. Applicable Law

- 21.1. This Agreement shall be expressly subject to the Participants' sovereign immunity and other governmental immunity and all applicable federal and state law.
- 21.2. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

22. Severability

In the event that one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of the Agreement shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in force and effect.

23. Assignment

No Participant may assign its rights and duties under this Agreement without the prior written consent of TechShare LGC. Any assignment attempted without such prior consent shall be null and void.

24. Full Agreement

- 24.1. This Agreement, standing alone, does not grant any rights, or bind any Party, to any obligations.
- 24.2. Only upon execution of a Project Addendum or Resource Sharing Addendum will a Participant have any rights or obligations pursuant to this Agreement.
- 24.3. This Agreement and any Project Addenda or Resource Sharing Addenda executed by a Participant shall contain the entire understanding of the Parties with respect to that Participant regarding participation in TechShare.

24.4. Each Participant acknowledges that the other Participants, or anyone acting on behalf of the other Participants, have made no representations, inducements, promises or agreements, orally or otherwise, unless such representations, inducements, promises or agreements are embodied in this Agreement, expressly or by incorporation.

25. Effect of this Agreement on Existing Agreements and Addenda

- 25.1 This Agreement succeeds and replaces prior Interlocal Agreement for Participation in the Urban Counties TechShare Program (the "Prior ILAs").
- 25.2 Payment of Capital Costs, including Pre-Paid Costs, under the Prior ILAs are recognized as if paid under this Agreement.
- 25.3 Participation under the Prior ILAs is recognized as participation under this Agreement for purposes of Section 16 (Ownership of Work Product and Resources, and Rights of Use).

26. Multiple Counterparts

- 26.1 This Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall be construed as an original, and all of which shall constitute and be construed as a single agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

_____ COUNTY

ATTEST:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Name and Address for Purposes of Notice:

Acknowledgement of _____ County's Participation in TechShare:

TECHSHARE LGC

BY: _____

Title: Executive Director

Date: _____



TECHSHARE LGC

BY: _____

Title: Executive Director

Date: _____

Name and Address for Purposes of Notice: