MASTER SERVICES AGREEMENT
WATERFORD RESEARCH INSTITUTE

THIS MASTER SERVICES AGREEMENT ("Agreement"), effective as of July 1, 2017 ("Effective Date"), is entered into by and between the North Central Texas Council of Governments ("NCTCOG"), a Texas political subdivision and non-profit corporation, with offices located at 616 Six Flags Drive, Arlington, TX 76011, and Waterford Research Institute ("Contractor"), with offices located at 1590 East 9400 South, Sandy, Utah 84093.

ARTICLE I
RETENTION OF THE CONTRACTOR
1.1 This Agreement defines the terms and conditions upon which the Contractor agrees to provide Early Childhood Curriculum (hereinafter, "Services") to governmental entities participating in the North Texas SHARE program (hereinafter "Participating Entities") through a Master Interlocal Agreement with NCTCOG. The Contractor is being retained to provide services described below to Participating Entities based on the Contractor's demonstrated competence and requisite qualifications to perform the scope of the services described herein and in the Request for Proposal (hereinafter, "RFP"). The Contractor demonstrated they have the resources and qualifications needed to provide curricula Early Childhood Education, which is of interest to Participating Entities and was procured via RFP. NCTCOG agrees to and hereby does retain the Contractor, as an independent contractor, and the Contractor agrees to provide services to Participating Entities, in accordance with the terms and conditions provided in this Agreement and consistent with Contractor's response to NCTCOG RFP # NCT-2017-08.

ARTICLE II
SCOPE OF SERVICES
2.1 The Contractor will provide Services described in any written Request for Services issued by NCTCOG or Participating Entities. Any such Request for Services is hereby incorporated by reference and made a part of this Agreement, and shall be subject to the terms and conditions in this Agreement. In the event of a conflict between any term or provision in this Agreement and any term or provision in a Request for Services, the term or provision in this Agreement shall control unless the conflicting term or provision in this Agreement is referenced, and expressly stated not to apply, in such Request for Services.

2.2 Any agreed-upon changes to a Request for Services shall be set forth in a Services Order. Contractor will not implement any changes or any new Services until a Services Order has been duly executed by Participating Entity. For the avoidance of doubt, the Contractor acknowledges that Participating Entity is under no obligation to execute a Services Order. Participating Entity shall not be liable for any amounts not included in a Request for Services in the absence of a fully executed amendment or Services Order.

2.3 The Contractor shall provide early childhood curricula and training services pertaining to the use of the curricula, as identified on Attachment 1 - Pricing Sheet to the Participating Entities.
2.4 Participating Entity will be responsible for scheduling all dates, times, and locations with the Contractor as it relates to training services associated with the products. Participating Entity will provide publicity for each training session and attendance for each session will be limited to no more than what is listed on the Attachment A - Pricing Sheet.

2.5 Pricing for items found on the Pricing Sheet (Attachment 1) represent the maximum cost for each item offered by the Contractor. Pricing may be further negotiated by the Participating Entity and the Contractor, but is not to exceed the cap established in the Pricing Sheet (Attachment 1).

2.6 NCTCOG Obligations
2.6.1 NCTCOG agrees to serve as a facilitator with respect to the Services.
2.6.2 NCTCOG shall make available a contract page on its NcrthTexasSHARE.org website which will include contact information for the Contractor(s).

2.7 Participating Entity Obligations.
2.7.1 In order to utilize the Services, Participating Entities must have executed a Master Interlocal Agreement for North Texas SHARE with NCTCOG. This agreement with the Participating Entity will define the legal relationship between NCTCOG and the Participating Entity.

2.8 Contractor Obligations.
2.8.1 Contractor must be able to conduct, instruct, and/or implement Services consistent with the requirements and intent of RFP #NCT-2017-08.
2.8.2 Contractor shall provide all necessary resources and personnel required to fulfill services. The scope of services shall include, but not be limited to, items listed in Attachment 1, Pricing Sheet.
2.8.3 Contractor will be required to track and report to the NCTCOG on purchases and activities relating to the Agreement. The Contractor will be required to provide management reports to NCTCOG on a quarterly basis. Examples of management reports include, but are not limited to: New Engagement Reports (new engagements in reporting period), Billing/Invoice Reports (regular overview of billings for the reporting period), and quarterly and annual status reports.
2.8.4 Contractor agrees to enter into a three (3) year initial contract for services irrespective of published edition of product. At the end of the three year period, NCTCOG reserves the right to renew contract and review/modify additional cost for published editions of product.

2.9 Invoices. Contractor shall submit an invoice to Participating Entities, or as otherwise stated in a Request for Service, for Services provided. Participating Entities shall pay undisputed amounts in such invoice within thirty (30) days of receipt, pending that all items listed on the invoice have been delivered and/or completed. Invoices for service used by Participating Entities should be submitted to their respective jurisdictions and designees.

ARTICLE III
TERM
3.1 Term. This Agreement will commence on the Effective Date and remain in effect for an initial three (3) year period ending on June 30, 2020 (the “Term”), unless earlier terminated as provided herein. This Agreement may be renewed, at NCTCOG’s sole discretion, for up to two (2) additional one (1) year terms. The total term of this Agreement shall not exceed five (5) years.

NCTCOG reserves the right to periodically procure Early Childhood Curriculum in the future to supplement the pool of Contractor(s), on an as needed basis. Contractor(s) with an existing Master
Services Agreement(s) will not be required to respond to any such procurements which may occur during the term of this Agreement.

3.2 **Termination.** NCTCOG may terminate this Agreement and/or any Request for Service to which it is a signatory at any time, with or without cause, upon thirty (30) days’ prior written notice to Contractor. Upon its receipt of notice of termination of this Agreement or Request for Service, Contractor shall follow any instructions of NCTCOG respecting work stoppage. Contractor shall cooperate with NCTCOG and/or Participating Entities to provide for an orderly conclusion of the Services. Contractor shall use its best efforts to minimize the amount of any non-cancelable obligations and shall assign any contracts related thereto to NCTCOG or Participating Entity at its request. If NCTCOG or Participating Entity elects to continue any activities underlying a terminated Request for Service after termination, Contractor shall cooperate with NCTCOG or Participating Entity to provide for an orderly transfer of Contractor’s responsibilities with respect to such Request(s) for Service to NCTCOG or Participating Entity. Upon the effective date of any such termination, the Contractor shall submit a final invoice for payment in accordance with Article IV, and NCTCOG or Participating Entity shall pay such amounts as are due to Contractor through the effective date of termination. NCTCOG or Participating Entity shall only be liable for payment of services rendered before the effective date of termination. If Agreement is terminated, certain reporting requirements identified in this Agreement shall survive termination of this Agreement.

Upon any material breach of this Agreement by either party, the non-breaching party may terminate this Agreement upon twenty (20) days written notice to the breaching party. The notice shall become effective at the end of the twenty (20) day period unless the breaching party cures such breach within such period.

**ARTICLE IV**
**COMPENSATION**

4.1 **Remuneration.** NCTCOG intends to make this Agreement available to other governmental entities through its shared services program. NCTCOG will utilize a 1% administrative fee, to be based upon the total contracted value that will apply to this Agreement, and any addendums, Request(s) for Service, etc., between the Contractor and NCTCOG or the Contractor and Participating Entity. The administrative fee will be remitted by the Contractor to NCTCOG on a quarterly basis, along with required quarterly reporting. Payments and reporting should be submitted to:

NCTCOG
ATTN: North Texas SHARE
PO Box 5888
Arlington, TX 76005-5888
Email: NorthTexasSHARE@nctcog.org

Costs incurred prior to execution of this Agreement are not eligible for reimbursement. There shall be no obligation whatsoever to pay for performance of this Agreement from the monies of the NCTCOG or Participating Entities, other than from the monies designated for this Agreement and/or executed Request(s) for Services. Contractor expressly agrees that NCTCOG shall not be liable, financial or otherwise, for Services provided to Participating Entities.

**ARTICLE V**
**RELATIONSHIP BETWEEN THE PARTIES**

5.1 **Contractual Relationship.** It is understood and agreed that the relationship described in this Agreement between the Parties is contractual in nature and is not to be construed to create a partnership or joint venture or agency relationship between the parties. Neither party shall have the right to act on behalf of the other except as expressly set forth in this Agreement. Contractor will be solely responsible for and will pay all taxes related to the receipt of payments hereunder and shall give reasonable proof and
supporting documents, if reasonably requested, to verify the payment of such taxes. No Contractor personnel shall obtain the status of or otherwise be considered an employee of NCTCOG or Participating Entity by virtue of their activities under this Agreement.

ARTICLE VI
REPRESENTATION AND WARRANTIES
6.1 Representations and Warranties. Contractor represents and warrants that:

6.1.1 As of the Effective Date of this Agreement, it is not a party to any oral or written contract or understanding with any third party that is inconsistent with this Agreement and/or would affect the Contractor’s performance under this Agreement; or that will in any way limit or conflict with its ability to fulfill the terms of this Agreement. The Contractor further represents that it will not enter into any such agreement during the Term of this Agreement;

6.1.2 NCTCOG is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from, or ineligible for, participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. Contractor and its subcontractors shall include a statement of compliance with Federal and State Debarment and suspension regulations in all Third-party contracts.

6.1.3 Contractor shall notify NCTCOG if Contractor or any of the Contractor’s sub-contractors becomes debarred or suspended during the performance of this Agreement. Debarment or suspension of the Contractor or any of Contractor’s sub-contractors may result in immediate termination of this Agreement.

6.1.4 Contractor and its employees and sub-contractors have all of the necessary qualifications, licenses, permits, and/or registrations to perform the Services in accordance with the terms and conditions of this Agreement, and at all times during the Term, all such qualifications, licenses, permits, and/or registrations shall be current and in good standing.

6.1.5 Contractor shall, and shall cause its representatives to, comply with all municipal, state, and federal laws, rules, and regulations applicable to the performance of the Contractor’s obligations under this Agreement.

ARTICLE VII
CONFIDENTIAL INFORMATION AND OWNERSHIP
7.1 Confidential Information. Contractor acknowledges that any information it or its employees, agents, or subcontractors obtain regarding the operation of NCTCOG or Participating Entities, its products, services, policies, customer, personnel, and other aspect of its operation (“Confidential Information”) is proprietary and confidential, and shall not be revealed, sold, exchanged, traded, or disclosed to any person, company, or other entity during the period of the Contractor’s retention hereunder or at any time thereafter without the express written permission of NCTCOG or Participating Entity.

7.2 Ownership. Contractor acknowledges that NCTCOG or Participating Entities, as governmental entities, are subject to the Texas Public Information Act. All final documents, reports, information, or materials are and shall at all times be and remain, upon payment of Contractor’s invoices therefore, the property of NCTCOG or Participating Entity and shall not be subject to any restriction or limitation on their future use by, or on behalf of, NCTCOG or Participating Entity, except otherwise provided herein. Subject to the foregoing exception, if at any time demand be made by NCTCOG or Participating Entity for any documentation, whether after termination of this Agreement of otherwise, the same shall be turned over to NCTCOG without delay, and in no event later than thirty (30) days after such demand is made. Contractor shall have the right to retain copies of documentation and other items for its archives. If
for any reason the foregoing Agreement regarding the ownership of documentation is determined to be unenforceable, either in whole or in part, the Contractor hereby assigns and agrees to assign to NCTCOG all rights, title, and interest that the Contractor may have or at any time acquire in said documentation and other materials, provided that the Contractor has been paid the aforesaid.

ARTICLE VIII
GENERAL PROVISIONS
8.1 Notices. All notices from one Party to another Party regarding this Agreement shall be in writing and delivered to the addresses shown below:

If to NCTCOG:

North Central Texas Council of Governments
P.O. Box 5888
Arlington, TX 76005-5888
Phone: (817) 695-2534
Email: northtexasshare@nctcog.org; kkirkpatrick@nctcog.org
Attn: North Texas SHARE

If to Contractor: Waterford Research Institute
1590 East 9400 South
Sandy, Utah 84093

The above contact information may be modified without requiring an amendment to the Agreement.

8.2 Tax. NCTCOG and several participating entities are exempt from Texas limited sales, federal excise and use tax, and does not pay tax on purchase, rental, or lease of tangible personal property for the organization's use. A tax exemption certificate will be issued upon request.

8.3 Indemnification. Contractor shall defend, indemnify, and hold harmless NCTCOG and Participating Entities, NCTCOG’s affiliates, and any of their respective directors, officers, employees, agents, subcontractors, successors, and assigns from any and all suits, actions, claims, demands, judgments, liabilities, losses, damages, costs, and expenses (including reasonable attorneys’ fees and court costs) (collectively, “Losses”) arising out of or relating to: (i) Services performed and carried out pursuant to this Agreement; (ii) breach of any obligation, warranty, or representation in this Agreement, (iii) the negligence or willful misconduct of Contractor and/or its employees or subcontractors; or (iv) any infringement, misappropriation, or violation by Contractor and/or its employees or subcontractors of any right of a third party; provided, however, that Contractor shall have no obligation to defend, indemnify, or hold harmless to the extent any Losses are the result of NCTCOG’s or Participating Entities’ gross negligence or willful misconduct.

8.4 Limitation of Liability. In no event shall either party be liable for special, consequential, incidental, indirect or punitive loss, damages or expenses arising out of or relating to this Agreement, whether arising from a breach of contract or warranty, or arising in tort, strict liability, by statute or otherwise, even if it has been advised of their possible existence or if such loss, damages or expenses were reasonably foreseeable.

Notwithstanding any provision hereof to the contrary, neither party’s liability shall be limited by this Article with respect to claims arising from breach of any confidentiality obligation, arising from such party’s infringement of the other party’s intellectual property rights, covered by any express indemnity
obligation of such party hereunder, arising from or with respect to injuries to persons or damages to tangible property, or arising out of the gross negligence or willful misconduct of the party or its employees.

8.5 Conflict of Interest. During the term of this Agreement, and all extensions hereto and for a period of one (1) year thereafter, neither party, shall, without the prior written consent of the other, directly or indirectly, whether for its own account or with any other persons or entity whatsoever, employ, solicit to employ or endeavor to entice away any person who is employed by the other party.

8.6 Force Majeure. It is expressly understood and agreed by both parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within a reasonable time of the existence of such force majeure.

8.7 Ability to Perform. Contractor agrees promptly to inform NCTCOG of any event or change in circumstances which may reasonably be expected to negatively affect the Contractor’s ability to perform its obligations under this Agreement in the manner contemplated by the parties.

8.8 Availability of Funding. This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited by the receipt and availability of funds which are received from the funding agencies by NCTCOG dedicated for the purposes of this Agreement.

8.9 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Texas, United States of America. The mandatory and exclusive venue for the adjudication or resolution of any dispute arising out of this Agreement shall be in Tarrant County, Texas.

8.10 Waiver. Failure by either party to insist on strict adherence to any one or more of the terms or conditions of this Agreement, or on one or more occasions, will not be construed as a waiver, nor deprive that party of the right to require strict compliance with the same thereafter.

8.11 Entire Agreement. This Agreement and any attachments/addendums, as provided herein, constitutes the entire agreement of the parties and supersedes all other agreements, discussions, representations or understandings between the parties with respect to the subject matter hereof. No amendments hereto, or waivers or releases of obligations hereunder, shall be effective unless agreed to in writing by the parties hereto.

8.12 Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

8.13 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intents of the Parties.
8.14 **Amendments.** This Agreement may be amended only by a written amendment executed by both Parties, except that any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in Federal and State law or regulations or required by the funding source, are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

8.15 **Dispute Resolution.** The parties to this Agreement agree to the extent possible and not in contravention of any applicable State or Federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this Agreement informally through voluntary mediation, arbitration or any other local dispute mediation process, including but not limited to dispute resolution policies of NCTCOG, before resorting to litigation.

8.18 **Publicity.** Contractor shall not issue any press release or make any statement to the media with respect to this Agreement or the services provided hereunder without the prior written consent of NCTCOG.

8.19 **Survival.** Rights and obligations under this Agreement which by their nature should survive will remain in effect after termination or expiration hereof.

IT WITNESSES WHEREOF, the parties have executed this Agreement as of the Effective Date.

North Central Texas Council of Governments  
Signature: [Signature]

Name: Mike Eastland  
Title: Executive Director  
Date: 7/10/17

Waterford Research Institute  
Signature: [Signature]

Name: Tom ness  
Title: CFO  
Date: 7/27/2017
## Licensing Subscriptions

<table>
<thead>
<tr>
<th>Description</th>
<th>Age Group</th>
<th>Number of Students</th>
<th>Price Per Student</th>
</tr>
</thead>
<tbody>
<tr>
<td>SmartStart Annual Single Student Subscription License</td>
<td>4-year-olds</td>
<td>1 to 199</td>
<td>$80.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>200 to 2,000</td>
<td>$60.00</td>
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<td></td>
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<td>2,001 to 5,000</td>
<td>$50.00</td>
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<td></td>
<td></td>
<td>5,001 to 10,000</td>
<td>$40.00</td>
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<td></td>
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<td>10,001+</td>
<td>$30.00</td>
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<tr>
<td>SmartStart Annual Campus Subscription License</td>
<td>4-year-olds</td>
<td>Small Campus License *up to 120 licenses for a center with less than 120 four-year-old learners</td>
<td>$6,000.00</td>
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<tr>
<td>SmartStart Annual Campus Subscription License</td>
<td>4-year-olds</td>
<td>Large Campus License *up to 500 licenses for a center with 121-500 four-year-old learners</td>
<td>$12,000.00</td>
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</tbody>
</table>

Multi-year and district-wide discounts are available.

### Licensing Summary

Annual Subscription Licenses include the following:

- Access to Waterford Manager/Unlimited teacher access
- Digital Teacher Guide
- Reports and data to inform instruction and progress
- Online Waterford Help and Resources (how-to guides)
- Family Engagement Resources
- Texas Community Teacher's Blog (shared ideas, resources, and successes)
- Upgrades, releases, and enhancements
- Customer and technical support

### Classroom Advantage

<table>
<thead>
<tr>
<th>Description</th>
<th>Price Per Teacher</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single License Annual Subscription(with purchase of SmartStart licenses)</td>
<td>$250.00 (per teacher)</td>
</tr>
<tr>
<td>Small Campus License Annual Subscription *up to 120 licenses for a center with less than 120 four-year-old learners</td>
<td>$1,000</td>
</tr>
<tr>
<td>Large Campus License Annual Subscription</td>
<td>$2,000</td>
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<tr>
<td>Description</td>
<td>Total Cost</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>*up to 500 licenses for a center with 121 to 500 four-year-old learners</td>
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<tr>
<td>Multi-Year Discounts</td>
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<tr>
<td>2 years</td>
<td>5%</td>
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<tr>
<td>3 years</td>
<td>10%</td>
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<tr>
<td>4 years</td>
<td>15%</td>
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<tr>
<td>5 years</td>
<td>20%</td>
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<tr>
<td>*District Wide Discounts are also available.</td>
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<tr>
<td>Classroom Advantage gives teachers easy access to thousands of Waterford’s evidence-based digital learning activities, including games, songs, and interactive books for use with whiteboards and projectors.</td>
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</tbody>
</table>

### SmartStart Classroom Tool Box

**Description**
- Getting Started with SmartStart (digital)
- Teacher Guide (digital)
- Activity Library (digital)
- Classroom DVD Set (digital)
- Classroom Book Series (digital)

**Total Cost**
SmartStart Classroom ToolBox is online and included in the license purchase.

### Professional Development

<table>
<thead>
<tr>
<th>Description</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Onsite Training Day</td>
<td>$1,995.00</td>
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<tr>
<td>Virtual Training Session</td>
<td>$500.00</td>
</tr>
<tr>
<td>Family Engagement Workshop (onsite)</td>
<td>$1,995.00</td>
</tr>
<tr>
<td>• Workshops available in English and Spanish</td>
<td></td>
</tr>
<tr>
<td>Getting Started Package:</td>
<td>$2,800.00</td>
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<tr>
<td>• 1 onsite training day</td>
<td></td>
</tr>
<tr>
<td>• 1 virtual session</td>
<td></td>
</tr>
<tr>
<td>• 20 On Demand Training HUB licenses</td>
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</tr>
<tr>
<td>Premier 5: 5 onsite training days:</td>
<td>$9,500.00</td>
</tr>
<tr>
<td>• Getting Started</td>
<td></td>
</tr>
<tr>
<td>• Using Data to Inform Instruction</td>
<td></td>
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<tr>
<td>• Using Classroom Advantage</td>
<td></td>
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<tr>
<td>• Coaching and Modeling</td>
<td></td>
</tr>
</tbody>
</table>

*Additional training packages are available. Cost is based on type and quantity.