



**THE HUNTINGTON NATIONAL BANK
MASTER LEASE AGREEMENT**

No. 74731
(tax exempt)

Dated as of: **June 21, 2010**

THIS MASTER LEASE AGREEMENT (this "Agreement") is made by and between **The Huntington National Bank**, a national banking association organized under the law of the United States of America, and its successors or respectively assigns ("Lessor") and **City of West Lafayette** ("Lessee").

1. ACQUISITION, DELIVERY AND ACCEPTANCE. The terms used in this Section 1 shall have the meanings assigned to them in part (b) herein, or as otherwise defined in this Agreement. (a) Lessee shall advise Lessor of its desire to lease Equipment, the Equipment cost, the Manufacturer (as defined herein), expected delivery date and the desired lease terms for such Equipment. By execution hereof, Lessor has made no commitment to lease any Equipment to Lessee. Nothing herein shall obligate Lessor to lease any Equipment to Lessee until Lessor has executed a Schedule relating thereto. If Lessor, in its sole discretion, determines that the proposed Equipment may be subject to a Lease hereunder, Lessor shall furnish to Lessee a proposed Schedule relating to the Equipment completed insofar as possible. Lessee shall order the Equipment from the appropriate Manufacturer or Manufacturers; however, in no event, shall Lessee enter into any contract or issue a purchase order which references Lessor. Lessor shall have no obligation to make any payment, or reimburse Lessee for any payment, made to any Manufacturer for any Equipment (or if applicable, consent to a disbursement by an escrow agent) until five (5) business days after Lessor has received all of the following in form and substance satisfactory to Lessor: (i) a Schedule executed by Lessor and Lessee; (ii) an Acceptance Certificate (however, if Lessor and Lessee agree to utilize an escrow agent as provided for herein, an Acceptance Certificate is not required until portions of the Equipment which are operationally complete or functionally independent are delivered and accepted, or all of the Equipment is delivered and accepted); (iii) a resolution or evidence of other official action taken by or on behalf of the Lessee to authorize the acquisition of the Equipment on the terms provided in the Schedule; (iv) evidence of insurance with respect to the Equipment in compliance with the terms of this Agreement; (v) Manufacturer invoices and/or bills of sale relating to the Equipment and if such invoices have been paid by Lessee, evidence of payment thereof and, if applicable, evidence of official intent to reimburse such payment as required by the Treasury Regulators promulgated under the Internal Revenue Code of 1986 (respectively, the "Regulations" and the "Code"); (vi) as applicable, financing statements showing Lessee as debtor and/or the original certificate of title or Manufacturer's certificate of origin and title application, if any, of the Equipment is subject to certificate of title laws; (vii) a completed and executed Form 8038-G or -GC or evidence of filing thereof with the Secretary of Treasury; (viii) an Opinion of Counsel; (ix) an Appropriation Certificate; and (x) any other documents or items required by Lessor. Notwithstanding these provisions regarding the acquisition of the Equipment, if, upon agreement by Lessor and Lessee as to any Equipment to be acquired and leased by Lessee under this Agreement, Lessor and Lessee enter into an escrow agreement with an escrow agent establishing an account from which the Equipment cost is to be paid (the "Escrow Account"), (i) Lessor and Lessee shall immediately complete and execute a Schedule relating to the Equipment; (ii) the amount deposited by Lessor into the Escrow Account shall be repaid by the Lease Payments due under the related Lease (as defined herein); and (iii) the Lease Payments relating to the Equipment shall have an aggregate principal component equal to the amount of Lessor's deposit into the Escrow Account and shall be due and payable as provided in the related Schedule commencing upon the deposit of funds by Lessor into the Escrow Account. Lessee acknowledges and agrees that no disbursements shall be made from an Escrow Account except for portions of the Equipment which are operationally complete and functionally independent and which may be utilized by Lessee without regard to whether the balance of the Equipment is delivered and accepted. Following Lessor's receipt of these documents, Lessee or, if Lessee so requests, Lessor will cause the Equipment to be delivered to Lessee at the Equipment Location. Lessee will pay all transportation and other costs, if any incurred in connection with the delivery and acceptance of the Equipment. Lessee will accept the Equipment as soon as it has been delivered and is operational by executing and delivering to Lessor an Acceptance Certificate. Lessor hereby leases to Lessee all Equipment made subject to a Schedule and an Acceptance Certificate (as defined herein), and Lessee hereby leases from Lessor such Equipment, upon the terms set forth in this Agreement and in the related Schedule and a Acceptance Certificate. During the Lease Term (as defined herein), Lessor covenants to provide Lessee with quiet use and enjoyment of the Equipment, and Lessee shall peaceably and quietly have, hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement.



(b) As used in part (a) of this Section 1, or throughout this Agreement, the following terms shall have the meanings listed herein: (i) "Agreement" shall mean this Master Lease Agreement and all Schedules hereto; (ii) "Acceptance Certificate" shall mean an acceptance certificate in the form provided by Lessor and attached hereto as Exhibit D; (iii) "Appropriation Certificate" shall mean an appropriation certificate in the form provided by Lessor and attached hereto as Exhibit E; (iv) "Concluding Payment" shall have the same meaning as set forth in Section 14 herein; (v) "Counsel" shall mean an attorney duly admitted to the practice of law before the highest court of the State; (vi) "Equipment" shall mean all items of personal property described in Schedules and subject to this Agreement, and all replacement parts, additions, and accessions to and made a part thereof, and substitutions and modifications thereto; (vii) "Equipment Location" shall mean the location specified in a Schedule; (viii) "Manufacturer" shall mean each of the manufacturers or vendors from whom Lessee has ordered or with whom Lessee has contracted for the manufacture, delivery and/or installation of the Equipment; (ix) "Opinion of Counsel" shall mean an opinion of Lessee's Counsel in the form attached hereto as Exhibit C; (x) "Lease" shall mean with respect to each piece of Equipment, this Agreement and the Schedule and Acceptance Certificate relating to such Equipment, which shall constitute a separate contract relating to such Equipment, and the general terms and conditions of which shall be contained in this Agreement; (xi) "Schedule" shall mean the form of equipment schedule attached hereto as such, executed by Lessor and Lessee, describing the Equipment and setting forth the Lease Payments and Concluding Payment; and (xii) "State" shall mean the state in which Lessee is located.

2. **TERM.** This Agreement shall be in effect from the Agreement Date set forth in the execution page hereof. The term of each Lease will commence on the date that Lessor's commitment to make funds available to the Lessee under the Lease is exchanged for Lessee's commitment to make payment under the Lease (the "Lease Commencement Date") and, unless earlier terminated as expressly provided for in this Agreement, will continue until the Lease termination date set forth in the related Schedule attached hereto (hereinafter the "Lease Term"); and the Lease Term with respect to any Lease will terminate upon: (a) the termination of a Lease by Lessee in accordance with Section 4 or Section 16; (b) an Event of Default by Lessee and Lessor's or its assigns' election to terminate such Lease pursuant to terms hereunder; or (c) the payment by Lessee of all Lease Payments and all other amounts authorized or required to be paid by Lessee pursuant to such Lease.

3. **RENT.** Lessee agrees to pay to Lessor or its assigns the lease payments (the "Lease Payments"), including the interest portion, equal to the amounts specified in the related Schedule, and from the Lease Commencement Date, a portion of each Lease Payment is paid as and represents the payment of interest as set forth therein. The Lease Payments will be payable, exclusively from moneys legally available therefor, in lawful currency of the United States, without notice or demand at the designated office of the Lessor (or such other place as Lessor or its assign may from time to time designate in writing), and will commence on the first Lease Payment date, which Lessor is authorized to designate, and is set forth in the related Schedule and thereafter on the dates set forth therein. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date (the "Default Interest Rate"); provided, however, that this provision shall not be applicable to the extent that the application thereof would affect the validity of this Agreement. All of Lessee's obligations under this Agreement and each Lease shall constitute a current expense of Lessee for the Fiscal Year (as defined herein) in which the obligation is due and shall not constitute an indebtedness of Lessee within the constitution and laws of the State, nor shall anything contained herein or therein constitute a pledge of any taxes, funds or other moneys (other than moneys lawfully appropriated from time to time by or for the benefit of Lessee for this Agreement and the Net Proceeds (as defined herein) of the Equipment) or the full faith and credit of the Lessee. Except as specifically provided in Section 4 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. "Net Proceeds" shall mean any insurance proceeds or condemnation awards paid with respect to any Equipment remaining after payment therefrom of all expenses incurred in the collection thereof. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the related Lease Term and hereby covenants that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which the Lease Payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funds, using its bona fide best efforts to have such portion of the budget approval. It is Lessee's intent to continue each Lease hereunder for its entire Lease Term and to pay all Lease Payments relating thereto if funds are legally available therefor and in that regard Lessee represents that the use of Equipment is essential to its proper, efficient and economic operation.



4. NON-APPROPRIATION OF FUNDS. Lessee warrants that the necessary funds have been appropriated to make the Lease Payments, and meet its other obligations, with regards to the Equipment for the duration of Lessee's current fiscal period (the "Initial Fiscal Period"), such funds have not been expended for other purposes, and all funds appropriated for this Agreement will be used for no other purpose than to pay Lease Payments and other amounts due hereunder. With regards to appropriation for Lease Payments after the Initial Fiscal Period, parties hereto acknowledge that such appropriation is a governmental function which Lessee cannot contractually commit itself in advance to perform, and this Agreement does not constitute such a commitment. In the event sufficient funds are not appropriated, budgeted or otherwise available by any means whatsoever in any "subsequent to the Initial Fiscal Period" for Lease Payments due under a Lease (a "Non-Appropriation"), then all such Leases, and Lessee's interest in all Equipment subject to the affected Leases, shall terminate, in whole, but not in part, on the last day of the fiscal period for which appropriations were received. Lessee may effect such termination by providing a written notice of termination to the Lessor or the affected assign, and by paying any Lease Payments and other amounts which are due and payable hereunder and which have not been paid at or before the end of the 12-month fiscal period that commences and ends every year on the dates shown on the execution page hereof ("Fiscal Year"). Lessee shall endeavor to give notice of such termination not less than one hundred twenty (120) days prior to the end of the Fiscal Year for which appropriations were made, and shall notify Lessor or the affected assign of any anticipated termination. Failure to provide said written notice shall not constitute an Event of Default hereunder.

In the event of termination following Non-Appropriation, or termination of this Agreement or a Lease prior to the payment of all Lease Payments or the applicable Concluding Payment, (i) Lessor may enter upon Lessee's premise where the Equipment is kept and disable the Equipment to prevent its further use by Lessee and (ii) Lessee shall promptly, but in any event within ten (10) days after such termination, at its own cost and expense: (a) perform any testing and repairs required to place the Equipment in the condition required by Section 10; (b) if deinstallation, disassembly or crating is required, cause such tasks to be performed by an authorized Manufacturer's representative or such other service person as is satisfactory to Lessor; and (c) peaceably surrender possession of the Equipment and execute all documents required to transfer Lessee's interest in the Equipment to Lessor or its assign on the date of such termination, packed for shipment in accordance with Manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor at the expense of Lessee. If Lessee refuses to deliver the Equipment in the manner designated herein, Lessor will have all legal and equitable rights and remedies to take possession of the Equipment, and charge to Lessee the costs of such repossession. With regard to a termination following Non-Appropriation, if Lessee has not complied with such instructions, the termination shall nevertheless be effective, but Lessee shall be responsible for the Lease Payments that would thereafter come due if this Agreement had not been terminated and which are attributable to the number of days after which Lessee fails to comply with Lessor's or the related assign's instructions and for any other loss suffered by Lessor or the related assign as a result of Lessee's failure to act as required.

The Lessee agrees, except for Lessor's breach of the any of its covenants herein, that Lessee will not, during the Lease Term, give priority in the application of funds to any other functionally similar equipment and that payments for the use, lease or acquisition of other functionally similar equipment shall be subordinate to the Lease Payments and other amounts due and payable hereunder.

5. LIMITATION ON WARRANTIES. Lessee acknowledges and agrees that the Equipment is of a size, design and capacity selected by Lessee, that Lessor is neither a Manufacturer nor a vendor of such equipment, that Lessor is not responsible for the selection, ordering or suitability of the Equipment, the acceptance of the order submitted, or any delay or failure to manufacture, deliver, or install the Equipment by the Manufacturer, including its sales representative, that Lessee is solely responsible for the selection, use, maintenance, operation and storage of the Equipment, and that LESSEE SELECTED THE EQUIPMENT WITHOUT ASSISTANCE OF LESSOR, ITS AGENTS OR EMPLOYEES, AND LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, VALUE, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY, OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO AND LESSOR SHALL NOT BE OBLIGATED OR LIABLE FOR ACTUAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OR TO LESSEE OR ANY OTHER PERSON OR ENTITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE EQUIPMENT AND THE



MAINTENANCE THEREOF. During the Lease Term, so long as no Event of Default has occurred hereunder and is continuing, Lessor has no obligation to enforce, and hereby assigns to Lessee, and irrevocably appoints Lessee its agent and attorney-in-fact to assert against Manufacturer whatever claims and rights arising out of, its interest, if any, in all Manufacturer's warranties, guarantees and patent indemnity protections, express or implied, issued on or applicable to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. Lessee's sole remedy for the breach of such warranties shall be against the Manufacturer, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder.

6. **AUTHORITY AND AUTHORIZATION.** Lessee represents, covenants and warrants, and as requested by Lessor, will deliver an Opinion of Counsel dated the date hereof, or in any other form and substance satisfactory to Lessor, confirming that Lessee has authority to enter into this Agreement and each Lease and make such representations, covenants and warranties contained herein and therein. Lessee further represents, covenants, and warrants that: (a) Lessee will do or cause to be done all things necessary to preserve and keep this Agreement and each Lease in full force and effect; (b) Lessee will ensure, by pursuing all legal affirmative actions or by refraining from acting, and causing its officers, employees, and agents to take all legal affirmative actions to ensure, that the interest portion of the Lease Payments is not included in the gross income of the recipient for federal income tax purposes and Lessee will take such other actions as may be necessary so that this Agreement and each Lease will not constitute obligations so that the interest on which is subject to federal income taxation as "arbitrage bonds" under Sections 1103(b)(2) and 148 of the Code and the Regulations; (c) the authorization, approval and execution of this Agreement, each Lease and all other documents executed by Lessee relating to the transactions contemplated have been performed in accordance with all bidding requirements applicable to Lessee; (d) Lessee has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period; (e) Lessee will have the sole use and possession of the Equipment, which Lessee shall use only for the purpose of performing essential governmental uses and public functions consistent with the permissible scope of Lessee's authority, and further, the Equipment shall not be used in any trade or business carried on by any person other than a governmental unit; and (f) the Equipment is essential to the proper, efficient and economic operation of Lessee.

7. **TITLE.** Upon acceptance of the Equipment by Lessee hereunder, title to the Equipment will vest in Lessee and Lessee shall take all actions necessary to vest such title and ownership in Lessee; provided, however, that, at the election of Lessor and upon Lessor's written notice to Lessee, and (i) in the event of termination of a Lease by Lessee pursuant to Section 4 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Lease termination date, full and unencumbered legal title and ownership of the Equipment subject thereto shall pass to Lessor or its assign, Lessee shall have no further interest therein, and Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title and ownership to Lessor and termination of Lessee's interest in the Equipment.

8. **SECURITY INTEREST.** In order to secure all of its obligations hereunder, and to the extent permitted by the laws of the State, Lessee hereby (i) grants to Lessor a continuing, first prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and in any proceeds therefrom, (ii) agrees that a carbon, photographic or other reproduction of this Agreement may be filed as a financing statement evidencing such security interest, and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest. Each piece of Equipment constitutes security and collateral for Lessor's obligations under all Leases that are owned by the same entity. Lessee shall deliver or cause to be delivered to Lessor the original certificates of title relating to all vehicular Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment with appropriate lettering, labels or tags, and maintain such markings during the Lease Term, so as clearly to disclose Lessor's security interest in the Equipment. Upon termination of a Lease with respect to each Equipment through exercise of Lessee's purchase option pursuant to Section 16 or through payment by Lessee of all Lease Payments and other amounts relating thereto, Lessor's security interests in such Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the termination of Lessor's security interest in such Equipment. Lessee hereby designates Lessor and its assigns as its agents and attorneys-in-fact for the purpose of filing financing statements and amendments thereto, and executing title applications and certificates of title and related documents to perfect the security interest granted by Lessee hereunder.



9. **PERSONAL PROPERTY.** The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's cost and expense, furnish a landlord or mortgagee waiver with respect to the Equipment.

10. **USE AND REPAIRS.** Lessee shall exercise due care in the installation, use, operation and maintenance of the Equipment, and shall not install, use, operate or maintain the Equipment improperly, carelessly or for a purpose or in a manner contrary to that contemplated by this Agreement or the Manufacturer, and shall comply with all laws, ordinances, insurance policies and regulations relating to, any applicable prevailing industry standards and Manufacturer's specifications for, and will pay all cost, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Equipment. At Lessee's cost and expense, Lessee shall maintain the Equipment in good repair and working order, and shall promptly provide all parts, upgrades, modifications, environments and software required or recommended now and hereafter by the Manufacturer. Lessor shall have no responsibility to, and Lessee will, at its expense and expeditiously, keep the Equipment in good repair, and in a condition suitable for certification by the Manufacturer thereof (if certification is available), and furnish all parts, mechanisms and devices required therefor, which must be free and clear of all Liens (as defined herein) and of a value and utility at least equal to the parts being replaced (assuming that such replaced parts and accessories were otherwise in good working order and repair), and which shall be deemed to be incorporated immediately into and to constitute an integral portion of the Equipment and, as such, shall be subject to the terms of this Agreement. If the Equipment is such as is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement with a party satisfactory to Lessor. Lessee shall not use any item of Equipment to haul, convey, store, treat, transport or dispose of any "hazardous substances" or "hazardous waste" as such terms are defined in any federal, state or local law, rule or regulation pertaining to the protection of the environment (together, "Environmental Laws"). Lessee agrees that if Lessee is required to deliver any item of Equipment to Lessor or its agent, the Equipment shall be delivered free of any substances which are regulated by or form a basis for liability under any Environmental Law. Lessee shall comply with all licenses and copyright requirements of any software used in connection with the Equipment.

11. **ALTERATIONS.** Without the prior written consent of Lessor and except for required modifications, Lessee shall not make any other modifications, additions or improvements to the Equipment unless such modifications do not: (i) impair the originally intended function, capabilities, specifications and performance of any unit of Equipment; (ii) impair any maintenance agreement(s), warranties or licenses with respect to any unit of Equipment; (iii) violate any Manufacturer requirements; (iv) adversely affect the Equipment's resale value; or (v) cause any damage to any unit of Equipment upon removal; in each case, as determined by Lessor ("Permitted Modifications"). Lessee also grants Lessor a right of first refusal as to the lease of any Permitted Modifications. Lessee shall remove all Permitted Modifications upon return of the Equipment without damage to the Equipment and so as to cause the Equipment to comply with all safety laws and with all Manufacturer requirements then in effect. All Permitted Modifications and any other accessories attached to the Equipment not so removed upon return of the Equipment shall be deemed the sole property of Lessor.

12. **LOCATION AND INSPECTION.** The Equipment will not be removed from, or if the Equipment consists of rolling stock, its permanent base will not be changed from, the Equipment Location without Lessor's prior written consent, which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere at all reasonable times to inspect the Equipment or observe its use and operation, and Lessor and its agents shall have such rights of access to the Equipment as may be reasonably necessary to cause the proper maintenance of the Equipment in the event of failure by Lessee to perform its obligations hereunder. Notwithstanding its designation as Lessor, the Lessor does not own the Equipment and by this Agreement is merely financing the acquisition thereof for Lessee. Lessor does not operate, control or have possession of the Equipment and has no control over the Lessee or the Lessee's operation, use, storage or maintenance of the Equipment.

13. **LIENS AND TAXES.** At its expense, Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances ("Liens") except those created under this Agreement. Lessee shall reimburse Lessor for any expenses incurred by Lessor to discharge or remove any Lien. The parties hereto contemplate that the Equipment will be exempt from all taxes presently assessed and levied with respect to personal property; however, in the event that the Equipment is found to be subject to taxation in any form, Lessee shall pay when due, all charges and taxes (local, state and federal)



which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, and all special assessments and charges lawfully made by any governmental body that may be secured by a Lien on the Equipment, provided that with respect to special assessments or governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Lease Term as and when the same become due. Notwithstanding this obligation, Lessee shall not be required to pay all taxes on or measured by the income of Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any charge or tax which is an obligation of Lessee under this Section 13. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes, and should Lessor choose to exercise this right, Lessee shall reimburse Lessor in the amount of such taxes or charges paid by Lessor, plus interest at the rate of 18% per annum or the maximum rate permitted by law, whichever is less.

14. **LOSS OF USE AND DAMAGE TO THE EQUIPMENT.** Lessee hereby assumes the entire risk of loss and damage to the Equipment from every cause whatsoever (notwithstanding the existence of any insurance on the Equipment in favor of Lessor). If any unit of Equipment is damaged, Lessee shall place such Equipment in good repair and working order to the satisfaction of Lessor. If any unit of Equipment is determined by Lessor in its sole discretion to be lost, stolen or damaged beyond repair (hereinafter referred to as an "Event of Loss"), Lessee shall (at Lessor's option): (a) at Lessee's expense, replace the same with equipment in good repair, having substantially similar specifications, and of equal or greater value to the Equipment immediately prior to the Event of Loss, such replacement Equipment to be subject to Lessor's approval, whereupon the replacement Equipment shall be substituted in the applicable Lease and the other related documents by appropriate endorsement or amendment; or (b) on the next Lease Payment date, pay Lessor: (i) all amounts then owed by Lessee to Lessor under such Lease, including the Lease Payment due on such date; and (ii) an amount equal to the applicable Concluding Payment set forth in the related Schedule (the "Concluding Payment"). In the event Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and Concluding Payment to be made by Lessee with respect to the Equipment which has suffered the Event of Loss. If, prior to the termination of the Lease Term, permanent or temporary use of any part of the Equipment shall be taken under the exercise of the power of eminent domain, Lessee shall cause the net proceeds of any condemnation award to be applied (at Lessor's option) toward: (i) the replacement, restoration or repair of such Equipment; or (ii) satisfaction of Lessee's obligations hereunder. If the net proceeds are insufficient to pay in full the cost of any repair, restoration, or replacement of such Equipment, Lessee shall complete the work and pay any costs in excess of the amount of the net proceeds, and for such costs, Lessee shall not be entitled to any reimbursements from Lessor nor any diminution of the Lease Payments.

15. **INSURANCE.** Lessee shall maintain at all times on the Equipment, at Lessee's expense, property damage, direct damage, liability insurance and such other insurance coverage as Lessor shall require in such amounts, against such risk and by such insurers as shall be satisfactory to Lessor, or with Lessor's prior written consent, may be self-insured against any or all such risks. Property or physical damage insurance shall be "comprehensive" or "all risk" coverage. In no event will the insurance limits be less than the greater of the Equipment cost or the Fair Market Value (as defined herein) of the Equipment at all times, and valuation of loss must be on a replacement cost basis. If required by State law, Lessee shall carry worker's compensation insurance covering all employees on, in, near or about the Equipment, or demonstrate to the satisfaction of Lessor that adequate self-insurance is provided, and upon request, shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term. Each insurance policy will (a) name Lessee as a named insured and Lessor or its assign as an "additional insured" and "loss payee" without regard to any breach of warranty or other act or omission of Lessee, (b) shall include a lender's loss payable endorsement for the benefit of Lessor, (c) will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof, and (d) shall not be subject to any co-insurance clause. In addition, such insurance shall not have a deductible amount in excess of \$5,000 or other policy limitation unsatisfactory to Lessor without its express written consent, and the insurance shall be primary without a right of contribution from insurance which may be maintained by Lessor. An insurance company qualified to do business in the state in which the leased Equipment is domiciled with no less than a B+ Key Rating from A.M. Best shall provide such insurance. The proceeds of any such policies will be payable to Lessee and Lessor or its assign as their interest may appear. Prior to delivery of the Equipment and each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance, or the renewal or replacement thereof. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to evidence such effort. In the event of



any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto. Lessee hereby irrevocably appoints Lessor as Lessee's attorney in fact to make claim for, receive payment of and execute and endorse all documents, checks or drafts received in payment for loss or damage under any such insurance policy, and to determine the application of any insurance proceeds. Within five (5) days of any damage to, or loss of, the Equipment, or any personal injury caused by the Equipment, Lessee shall give written notice to Lessor, and Lessee shall have the duty to make all proofs of loss and take all other steps necessary to collect any amount under the above mentioned policies. In the event that Lessee fails to procure insurance as required herein, Lessor may obtain insurance at its own expense, with such amount to be reimbursed by Lessee. If Lessee fails to pay any amount when due, such amount shall accrue interest until paid at 18% per annum, or the maximum rate permitted by law (whichever is less). If the Equipment is to be subleased or used by others (subject to Lessor's prior written approval), a special insurance endorsement may be required to permit such use. "Fair Market Value" shall mean the amount of money to be paid for the Equipment by a fully informed and willing buyer/user (including a lessee in possession) from a fully informed and willing seller assuming: (i) an arm's length transaction with neither party under the compulsion to buy or sell; and (ii) the Equipment is valued on a fully assembled and operational basis (including therein all necessary deinstallation, reinstallation and engineering costs) and is in the condition required by this Agreement.

16. PREPAYMENT. (a) Provided that there is no Non-Appropriation, Event of Default, or an event which with notice or lapse of time, or both could become an Event of Default, then existing, Lessee may prepay the principal amount in whole or in part before the Lease termination date, as set forth in the applicable Schedule, only upon (i) written notice to Lessor not less than thirty (30) days prior to the date of prepayment (which notice must specify the date and amount of any prepayment), (ii) the payment of interest on the entire outstanding principal balance (without deduction for the amount prepaid) accrued or accruing through the end of the calendar month in which the prepayment is made, and (iii) payment of any applicable Prepayment Fee (as defined herein). The amount of any Prepayment Fee as computed by Lessor shall be binding and conclusive upon Lessee, and in calculating such amount, Lessor is hereby authorized by Lessee to make such assumptions regarding the source of funding, redeployment of funds and other related matters, as Lessor may deem appropriate; however, Lessee acknowledges that Lessor is under no obligation to purchase and/or match funds for the matched maturity rate of a Lease. If Lessee fails to pay any Prepayment Fee when due, the amount of such Prepayment Fee shall thereafter bear interest until paid at the Default Interest Rate. Any partial prepayment shall be applied to the principal installments in the inverse order of their maturities, and shall not change any due date or the amount of any regularly scheduled installment of principal due under a Lease. In the event of more than one prepayment, a Prepayment Fee shall be due and payable with respect to each such prepayment, and the Prepayment Fee shall be separately computed with respect to each successive prepayment, taking into account any previous partial prepayments of principal. Upon the prepayment in whole of the principal amount by Lessee, including the satisfaction by Lessee of all of the prepayment conditions listed herein, the Lease with respect to the such Equipment shall terminate, and Lessee shall be entitled to such Equipment, "AS-IS," "WHERE-IS," WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE, except that such Equipment shall not be subject to any lien or encumbrance created by or arising through Lessor.

In the event that Lessor exercises its right pursuant to this Agreement to declare the unpaid principal balance of a Lease to be immediately due and payable, then, in addition to all of the other rights and remedies available to Lessor under this Agreement, Lessee shall be immediately obligated to pay to Lessor the Prepayment Fee with respect to the entire unpaid principal balance of such Lease. For purposes of computing the Prepayment Fee which is due following such a declaration, the "Prepayment Date" shall be the date of such declaration or another date selected by Lessor, in its discretion, which is after the date of such declaration and on, or before, the date on which the unpaid principal balance of such Lease, all accrued interest thereon and all other amounts due thereunder have been paid in full.

In the event of any involuntary prepayment, other than an involuntary prepayment governed by the prior paragraph, the Lessee shall be obligated to pay to Lessor, simultaneously with such involuntary prepayment, (i) the interest on the amount so prepaid accrued through and including the date of prepayment and (ii) a Prepayment Fee in the amount determined pursuant to this Agreement. For purposes of computing the Prepayment Fee with respect to prepayments made pursuant to this paragraph, the Prepayment Date shall be the date on which such involuntary prepayment is actually received by Lessor.

(b) "Prepayment Fee" shall mean the sum calculated using the following formula:



Prepayment Fee = Present Value of each prospective payment of principal and interest which, without such full or partial prepayment, could otherwise have been received by the Lessor over the remaining contractual life of the Schedule using a discount rate equal to the Re-deployment Cost of Funds less the Present Value of each prospective payment of principal and interest which, without such full or partial prepayment, could otherwise have been received by the Lessor over the remaining contractual life of the Schedule using a discount rate equal to the Original Cost of Funds.

where:

- (1) Rate Differential means the difference between the Original Cost of Funds and Re-deployment Cost of Funds.
- (2) Original Cost of Funds is the Lessor's original cost of funding the obligation evidenced by this Schedule through the last schedule payment of the principal amount, expressed as a per annum rate of interest, as determined by the Lessor.
- (3) Re-deployment Cost of Funds is the rate at which the Lessor re-deploys (or a rate at which the Lessor could re-deploy) the funds prepaid for the remainder of the term ending with the last scheduled payment of the principal amount, expressed as a per annum rate of interest, as determined by the Lessor.

The Lessee further agrees that the Prepayment Fee shall be due and payable to the Lessor regardless of whether the prepayment results from the Lessee's voluntary prepayment or from the Lessor's exercise of its rights after an Event of Default by the Lessee, acceleration or otherwise. Unless the Lessor otherwise agrees in writing, partial prepayments of principal shall be credited to installments of the principal amount in the inverse order of maturity and shall not postpone the due dates of the installments required hereunder. The Prepayment Fee shall not be applicable in the event that Lessee elects Non-Appropriate.

17. **ASSIGNMENT.** Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Agreement, any Lease hereunder, the Equipment or any interest herein or therein, or (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessee's interest herein may not be assigned or transferred by operation of law. Lessor may assign, without the consent of Lessee, its rights, title or interest in and to this Agreement or any Lease hereunder, the Equipment and any other documents executed with respect thereto and/or grant or assign a security interest in this Agreement, any Lease hereunder, and the Equipment, in whole or in part, and in the case where there are multiple Leases hereunder, Lessor may assign its rights thereunder to different assigns. Any such assigns shall have all of the rights of Lessor under each Lease it owns, and a Non-Appropriation or Event of Default under a Lease owned by Lessor or an assign does not affect any other Lease under this Agreement (unless there is cross-collateralization, -securitization or -default under the terms of a separate document), whether or not said Lease is owned by Lessor or such assign. No such assignment (except an assignment to an affiliate of Lessor or to an entity whose common stock is directly or indirectly one hundred percent (100%) owned by Lessor's parent or indirect parent provide that Lessor continues to bill and collect Lease Payments) shall be effective unless and until Lessee shall have received a duplicate original counterpart of the document by which the assignment or reassignment is made disclosing the name and address of each such assign; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in this Agreement or any Lease hereunder, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. After the giving of notice of such assignment to Lessee, Lessee shall thereafter make all payments in accordance with the notice to the assign named therein. No further action will be required by Lessor or by Lessee to evidence the assignment; however, Lessee shall, if so requested, acknowledge such assignment in writing, but such acknowledgement shall in no way be deemed necessary to make the assignment effective. **DURING THE LEASE TERM, LESSEE SHALL KEEP A COMPLETE AND ACCURATE RECORD OF ALL SUCH ASSIGNMENTS IN FORM NECESSARY TO COMPLY WITH SECTION 149(a) OF THE CODE, AND THE REGULATIONS, PROPOSED, EXISTING, OR FROM TIME TO TIME PROMULGATED THEREUNDER;** however, in the event Lessor assigns its interest in this Agreement or in a Lease to an affiliate or entity related to Lessor, Lessor shall maintain a record of such assignment for the benefit of Lessee. Subject to the foregoing, this Agreement and any Lease hereunder inure to the benefit of and are binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.



18. **EVENT OF DEFAULT.** The term "Event of Default" as used herein, means the occurrence of any one or more of the following events: (a) Lessee fails to make any Lease Payment (or any other payment, other than by reason of Non-Appropriation) required to be paid when due, and any such failure continues for ten (10) days after the due date thereof; (b) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within ten (10) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Agreement or in any writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading, or erroneous in any material respect; or (d) Lessee becomes insolvent, is unable to pay its debts as they become due, fails to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental functions, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee, or of all or a substantial portion of its assets, the entry by Lessee into an agreement of composition with creditors, the approval by a court of competent jurisdiction of any adjustment of indebtedness of Lessee, or the dissolution or liquidation of Lessee, or a petition for relief is filed by or against Lessee under federal bankruptcy, insolvency or similar laws and is not dismissed within thirty (30) days thereafter.

19. **REMEDIES.** Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its sole option, exercise any one or more of the following remedies: (a) with or without terminating any Lease, and upon written notice to Lessee, declare an amount equal to all amounts then due under any and all Leases owned by it and all remaining Lease Payments due during the Lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable; (b) with or without terminating any Lease, and upon written notice to the Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 4 hereof, and/or enter upon the premises where the Equipment is located, disable the Equipment subject to all Leases owned by it to prevent further use thereof by Lessee, and take immediate possession of and remove the same; (c) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other payments due to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by purchaser, Lessee or sub-lessee pursuant to such sale, lease, or sublease and all the rents and other amounts payable by Lessee hereunder to the end of Lease Term; and (d) exercise any other right, remedy or privilege which may be available to it under applicable laws of the State of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of, recover damages for the breach of, or to rescind, a Lease as to any or all of the Equipment; and in addition, Lessee hereby expressly waives any damages occasioned by Lessor's repossession of the Equipment, and Lessee will remain liable for covenants and indemnities under this Agreement and any Leases hereunder and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor. If Lessor or its assigns terminates any Lease and, in its discretion, takes possession and disposes of the Equipment or any portion thereof, the proceeds of any such disposition shall be applied to pay the following items in the following order: (i) all costs incurred in securing possession of the Equipment; (ii) all expenses incurred in completing the disposition; (iii) any sales or transfer taxes; (iv) the applicable Concluding Payments of the Equipment; and (v) the balance of any Lease Payments owed by Lessee during the Fiscal Year then in effect and any other unpaid charges due to Lessor under the Lease, including unpaid interest, late charges and Prepayment Fee; any disposition proceeds remaining after paying these costs shall be paid to Lessee. No remedy conferred upon or reserved to Lessor by this Section is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor. In addition to the remedies listed herein, whenever any Event of Default shall have happened and be continuing, Lessor shall have the right, at its option and without any further demand or notice, to require a late payment charge accruing from any payments received later than ten (10) days from the due date equal to the lesser of five cents (\$.05) per dollar of the delinquent amount or the lawful maximum, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefor; provided, however, that this provision shall not be applicable to the extent that the application thereof would affect the validity of this Agreement.

20. **REPRESENTATIONS, COVENANTS AND WARRANTIES.** Lessee represents, covenants and warrants as follows, for the benefit of Lessor (all such representations and warranties being continuing in nature and surviving the termination of this Agreement): (a) Lessee is an instrumentality, duly organized and existing under the constitution and laws of the State of the Equipment location, is a state or political subdivision as such terms are used in Section 103 of the Code, as amended; (b) Lessee has the requisite power and authority, including authority under the constitution and



laws of the State of Indiana, to purchase the Equipment and to execute and deliver this Agreement, each Lease and the transactions contemplated hereby, and to perform its obligations under this Agreement and each Lease; (c) this Agreement, each Lease and other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of the Lessee, such action approving this Agreement and each Lease and authorizing their execution has not been altered or rescinded, the legislative authorization approving the execution of this Agreement and each Lease continues to be in full force and effect at the time of authorization, all requirements have been met and procedures have occurred to ensure the enforceability of this Agreement (including, without limitation, the execution of this Agreement and each Lease by authorized officials) and each Lease against Lessee, and this Agreement and each Lease are valid and binding obligations of Lessee enforceable in accordance with their terms; (d) no portion of the principal or interest payment of this Agreement and each Lease is directly or indirectly (i) secured by any interest in property used or to be used for a private business purpose or by payments in respect of such property, or (ii) derived or to be derived from payments (whether or not to the Lessee) in respect of property or borrowed money used or to be used for a private business purpose; (e) Lessee acknowledges that (i) as of this date, this Agreement is designated as a qualified tax-exempt obligation for purposes of Section 265(b) (3) of the Code, as amended, (ii) including this Agreement and any Leases hereunder, Lessee has not designated more than \$10,000,000 of obligations issued during the calendar year 20____ as qualified tax obligations, and (iii) Lessee reasonably anticipates that the total amount of tax-exempt obligations (other than private activity bonds) to be issued by Lessee and all subordinate entities of Lessee during calendar year 20____ will not exceed \$10,000,000 (f) Lessee will execute all informational filings required under the Code, so as to preserve the tax-exempt qualification of this obligation to Lessor and its assigns, and in the event that Lessee's failure or refusal to execute the required information filings results in or would result in the inability to exclude from gross income for federal tax purposes the interest paid the obligations under this Agreement to the Lessor or its assigns, Lessor may demand that Lessee cure the loss by a subsequent filing, be indemnified by the Lessee for the loss occasioned by the loss of the ability to exclude the interest payable under this Agreement and any Leases hereunder from gross income for Federal income tax purposes, or treat such loss as an Event of Default as defined herein to which Lessee may pursue any and all remedies provided hereunder; (g) Lessor's yield with respect to this Agreement and each Lease is dependent upon the full amount of each interest component of each Lease Payment being excluded from Lessor's income pursuant to the Code, and accordingly, if at any time, as a result of a determination that Lessee has breached a representation or covenant contained herein or a component of any Lease Payment is, in the opinion of counsel for the Lessor, subject to or affected by any income, preference, excess profits, minimum or other federal tax, Lessee shall pay, as additional interest, an amount which is necessary to provide to Lessor the same net income as Lessor would have received but for such event, which amount shall be calculated by Lessor and be binding upon Lessee in the absence of manifest error; (h) to the best of Lessee's knowledge, information and belief: (i) the Equipment has been ordered or is expected to be ordered and is expected to be delivered, and the Manufacturer has been fully paid on the Lease Commencement Date, and the estimated total cost of the Equipment will not be less than the total principal amount of the Lease Payments, (ii) Lessee has not created or established, and does not expect to create or establish, any sinking fund, reserve fund or other similar fund that is reasonably expected to be used to pay the Lease Payments or that may be used solely to prevent a default in the payment of the Lease Payments, (iii) the Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in part, prior to the last maturity of the Lease Payments, (iv) Lessee has not been notified of any listing or proposed listing of itself by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon; (i) neither the Lessee nor any person acting on its behalf has directly or indirectly offered, sold, solicited any offers to buy, or otherwise approached or negotiated with any person regarding the offer, sale or other disposition of any interest in the Equipment, or any indebtedness secured by the Equipment, so as to require registration in accordance with the provisions of Federal or state securities laws, and neither the Lessee nor any person acting on its behalf will take any such action in the future; (j) there is no proceeding pending or threatened in any court or before an governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by this Agreement or any Lease hereunder, the security interest of Lessor or its assigns, as the case may be, in the Equipment, or the exclusion of interest from gross income for federal tax purposes under the Code; (k) upon execution of this Agreement and any Lease hereunder, Lessee will provide to Lessor a copy of the resolution, or other official action, by its governing body authorizing this Agreement and any Lease hereunder; (l) this Agreement and each Lease are in accordance with and do not violate the usury laws of the State of Indiana; (m) no event or condition that constitutes, or with the giving of notice or the lapse of time would constitute, an Event of Default (as such term is defined in this Agreement) exists at this time; (n) all insurance required in accordance with this Agreement is currently maintained by the Lessee; (o) Lessee owns, and will continue to maintain, the real estate and facilities where the Equipment will be located free and clear of any Liens during the Lease Term; and (p) this Agreement and each Lease, are based on facts and circumstances in existence as of the effective date of each.



21. **NOTICES.** All notices, certificates, or other communications to be given under this Agreement shall be made in writing and mailed by certified mail, return receipt requested, and postage fully prepaid, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time, and shall be sufficiently given and shall be deemed given when delivered in the manner designated herein.

22. **SECTION HEADINGS.** All section headings contained herein are for the convenience of reference only and are not intended to define, limit or describe the scope or intent of any provisions of this Agreement.

23. **GOVERNING LAW.** This Agreement and each Lease shall be construed in accordance with, and governed by the laws of Indiana.

24. **DELIVERY OF RELATED DOCUMENTS.** Lessor and Lessee will execute or provide, as requested by either party, such other documents and information as are reasonably necessary with respect to the transactions contemplated by this Agreement. At the request of Lessor, Lessee will furnish Lessor annual financial statements of Lessee within ninety (90) days after the end of Lessee's Fiscal Year.

25. **ENTIRE AGREEMENT, WAIVER AND COUNTERPARTS.** This Agreement and other documents or instruments executed by Lessee and Lessor in connection herewith, constitute the entire agreement between the parties hereto with respect to the lease of the Equipment, supersede all prior and contemporaneous writings, understandings, agreements, solicitation documents and representations, express or implied, and shall be modified, amended, altered, or changed only by written documents duly authorized, executed and delivered by Lessor and Lessee. Any provision of this Agreement or any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating any other provision hereof. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument, provided that only the original of this Agreement and each Schedule and Acceptance Certificate marked "Original - Chattel Paper" on the execution page thereof shall constitute chattel paper under the Uniform Commercial Code.

26. **USURY.** It is the intention of the parties hereto to comply with any applicable usury laws; accordingly, it is agreed that, notwithstanding any provisions to the contrary, in no event shall this Agreement or any Lease hereunder require the payment or permit the collection of any amount in the nature of interest or fees in excess of the maximum amount permitted by applicable law. Any such excess shall first be applied to reduce principal, and when no principal remains, refunded to Lessee. In determining whether the interest paid or payable exceeds the highest lawful rate, the total amount of interest shall be spread through the Lease Term so that the interest is uniform through such term.

27. **LESSEE'S PERFORMANCE.** Time is of the essence, and Lessor's failure at any time to require strict performance by Lessee of any of Lessee's obligations shall not waive or diminish Lessor's rights thereafter to demand strict compliance by Lessee.

28. **THIRD PARTY BENEFICIARIES.** Nothing herein shall be construed or interpreted to give any person other than Lessee and Lessor any legal or equitable right, remedy or claim under or in respect of this Agreement or any Lease, and Lessor and Lessee agree that no Manufacturer is a third party beneficiary of this Agreement, and there are no third party beneficiaries of this Agreement.

29. **WAIVER OF RIGHT TO TRIAL BY JURY.** LESSEE HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF LESSEE OR LESSOR WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND LESSEE HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT LESSEE OR LESSOR



MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF LESSEE TO THE WAIVER OF THE RIGHT OF LESSEE TO TRIAL BY JURY.

30. ADDITIONAL PROVISIONS. This Agreement may be amended or modified only by written documents duly authorized, executed and delivered by Lessor and Lessee.

Agreement Date: _____, 2010

Fiscal Year Commencement Date: (June, 2010)

Fiscal Year End Date: (June, 2013)

IN WITNESS WHEREOF, Lessor has caused this Agreement to be executed in its corporate name by its duly authorized officer, and Lessee has caused this Agreement to be executed in its name by its duly authorized officer.

The Huntington National Bank

Lessor

City of West Lafayette

Lessee

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Mailing Address:

Mailing Address:

The Huntington National Bank

105 East Fourth Street
Cincinnati, Ohio 45202

City of West Lafayette

609 West Navajo Street
West Lafayette, IN 47906



EQUIPMENT SCHEDULE No. **01**,
 BETWEEN **City of West Lafayette** AS LESSEE
 AND THE HUNTINGTON NATIONAL BANK, AS LESSOR

DATED AS OF **June 21, 2010**

(the "Schedule")

Lessor and Lessee hereby acknowledge that the Items of Equipment described in this Schedule have been delivered to, and are now in the possession of, and have been unconditionally accepted by Lessee for all purposes of the Master Lease Agreement and that the following is a description of said items, the cost thereof, deferred interest to, termination date, the expiration date of the lease term with respect thereto, the rent therefor and the location thereof.

1. Equipment Description: See attached Exhibit A.

2. Rental:		\$54,560.47
a. Equipment Cost		\$315,013.76
b. Deferred Interest to	June 21, 2013	\$31,695.44
c. Total Rental		\$327,362.82

In **6 Bi-Annual** lease payments (the "Lease Payments"), as follows (with the schedule of amortization as set forth in Exhibit B attached hereto):

No.(s).	Amount	Commencing
6	\$52,841.20	June 21, 2010

3. Lease Commencement Date: June 21, 2010

4. Lease Termination Date: June 21, 2013

5. Equipment Location: 609 West Navajo Street
West Lafayette, IN 47906

6. Other Provisions: None.

7. All payments monthly in advance.

ACCEPTED AND APPROVED _____, 20____, as a Schedule to and made a part of the Master Lease Agreement.

The Huntington National Bank
 LESSOR:

City Of West Lafayette
 LESSEE:

By: _____

By: _____

Title: _____

Title: _____



EXHIBIT A
TO EQUIPMENT SCHEDULE No. 01 BETWEEN
City of West Lafayette AS LESSEE
AND THE HUNTINGTON NATIONAL BANK, AS LESSOR

DESCRIPTION OF EQUIPMENT

2011 Ford Ranger Pickup	2WD SuperCab 126" XL	\$12,665.50	VIN: TBD
2011 Ford Escape SUV	FWD 4dr XLS	\$17,550.44	VIN: TBD
2011 Ford Escape SUV	FWD 4dr XLS	\$15,090.44	VIN: TBD
2011 Ford Escape SUV	FWD 4dr XLS	\$14,090.44	VIN: TBD
2010 Ford Escape SUV	4WD 4dr XLS	\$18,402.44	VIN: TBD
2010 Ford F-150 Pickup	2WD Reg Cab 145" XL	\$13,812.50	VIN: TBD
Sanitation/Recycling Truck	2010 Kann 2340 dual side-loader	\$155,000.00	VIN: TBD
HP DesignJet scanner/ plotter w/ extended warranty	T1120 SD-MFP	\$19,370.00	SN: TBD
JWC Environmental Macho Monster D1 grinder	Model 4002-0018	\$49,032.00	SN: TBD



EXHIBIT B
TO EQUIPMENT SCHEDULE No. 01 BETWEEN
City of West Lafayette AS LESSEE
AND THE HUNTINGTON NATIONAL BANK, AS LESSOR

PAYMENT SCHEDULE

Lessee's Fiscal Period: _____ to _____

The following Lease Payments are computed on the basis of interest at the rate of 2.21%:

Lease Payment Dates	Lease Payments	Interest	Principal	Concluding Payment
12/21/2010	\$54,560.47	\$3,496.15	\$51,064.32	\$263,949.44
6/21/2011	\$54,560.47	\$2,929.42	\$51,631.05	\$212,318.39
12/21/2011	\$54,560.47	\$2,356.39	\$52,204.08	\$160,114.31
6/21/2012	\$54,560.47	\$1,777.01	\$52,783.46	\$107,330.85
12/21/2012	\$54,560.47	\$1,191.20	\$53,369.27	\$53,961.58
6/21/2013	\$54,560.47	\$598.89	\$53,961.58	\$0.00
Total:	\$327,362.82	\$12,349.06	\$315,013.76	



ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement") dated as of **June 21, 2010** and entered into among **The Huntington National Bank** a National Bank ("Lessor"), **City of West Lafayette**, a body corporate and politic existing under the laws of Indiana ("Lessee"), and **The Huntington National Association**, a National Bank, as escrow agent (the "Escrow Agent").

WITNESSETH:

1. This Escrow Agreement relates to and is hereby made a part of the Equipment Lease/Purchase Agreement No. **101-0074731-001** (the "Lease") dated as of the date hereof, between Lessor and Lessee.
2. Except as otherwise defined herein, all terms defined in the Lease shall have the same meaning for the purposes of this Escrow Agreement as in the Lease.
3. Lessor, Lessee and Escrow Agent agree that Escrow Agent will act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement.
4. There is hereby established in the custody of Escrow Agent a special trust fund Account Number to be designated by the Escrow Agent (the "Acquisition Fund") to be held and administered by the Escrow Agent in trust in accordance with this Escrow Agreement.
5. Lessor shall deposit **\$315,013.76** in the Acquisition Fund. Monies held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon order of a representation of Lessee in Qualified Investments maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed and in any event not more than 18 months after the date of purchase. Such investments shall be held by the Escrow Agent in the Acquisition Fund and any interest earned on such investments shall be deposited in the Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment.
6. "Qualified Investments", to the extent permitted by law, means: (i) direct general obligations of the United States of America; (ii) obligations the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (iii) general obligations of the agencies and instrumentalities of the United States of America; (iv) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are fully secured by obligations described in (i), (ii), or (iii) above; or (v) repurchase agreements with any state or national bank or trust company, including the Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in (i), (ii) or (iii) above; provided that such collateral is free and clear of claims of third parties, that the Escrow Agent or a third party acting solely as agent for the Escrow Agent has possession of such collateral and a perfected first security interest in such collateral.
7. Monies in the Acquisition Fund shall be used to pay for the cost of acquisition of the equipment, payment shall be made from the Acquisition Fund for the cost of acquisition of part or all Equipment upon presentation to Escrow Agent of one or more properly executed Payment Request Forms executed by Lessee, a copy of which is attached hereto as Exhibit A, together with an invoice for the cost of the acquisition of the equipment for which payment is requested. Upon proper presentation of a Payment Request Form for the invoice, payment shall be made by Escrow Agent from the Acquisition Fund to the payee designated in the Payment Request Form for the cost of the acquisition of the Equipment specified therein.
8. The Acquisition Fund shall terminate upon the presentation of the Acceptance Certificate in the form attached to the Lease as Exhibit E. Upon termination, any amount remaining in the Acquisition Fund shall immediately be paid to Lessee.
9. This Escrow Agreement may not be amended except by a written instrument executed by Lessor, Lessee and Escrow Agent.



10. Escrow Agent may at any time resign by giving at least 30 days written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent and thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of Escrow Trustee under this Escrow Agreement and the predecessor Escrow Trustee shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Trustee.

11. Escrow Agent incurs no liability to make any disbursements pursuant to the Escrow Agreement except from funds held in the Acquisition Fund. Escrow Agent makes no representation or warranties as to the title to any Equipment or as to the performance of any obligations of Lessor or Lessee.

12. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

13. In the event any court of competent jurisdiction shall hold any provisions of this Escrow Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

14. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original.

IN WITNESS WHEREOF, Lessor, Lessee and Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives as of the ____ day of June, 2010.

City of West Lafayette

Lessee

By _____

Title _____

The Huntington National Bank

Lessor

By _____

Title _____

The Huntington National Bank

Escrow Agent

By: _____

Title: _____



ESCROW AGREEMENT
EXHIBIT A
PAYMENT REQUEST FORM

RE: **City of West Lafayette**

Equipment Acquisition Fund Established By The Escrow Agreement
Dated June _____, 2010 among The Huntington National Bank,
City of West Lafayette, and The Huntington National Bank, Escrow Agent

Sir or Madam,

As Escrow Agent for the above-referenced Acquisition Fund, you are hereby requested to pay from that Acquisition Fund to the person or corporation designated below as payee, the sum set forth below in payment of a portion of all of the cost of the acquisition of the equipment described below. The amount shown below is due and payable under the invoice of the Payee with respect to the cost of the acquisition of the equipment and has not formed the basis of any prior request for payment. The equipment described below is part of all of the "Equipment" that is subject to the Equipment Lease/Purchase Agreement described in the above referenced Escrow Agreement.

Equipment Description: _____

Amount: _____

Payee: _____

Address: _____

City, State, Zip: _____

Funds should be sent via: (check and complete one)

Wire Transfer : Bank Name: _____
 ABA #: _____
 Beneficiary: _____
 Account #: _____
 Reference Info#: _____

Check: Payee: _____
 Address: _____
 City, State, Zip: _____
 Regular mail _____ Overnight Mail _____

Credit Account: Account Name: _____
 Account No.: _____

City of West Lafayette
Lessee

By: _____

Title: _____

Date: _____



**SECURITY AGREEMENT
FOR TITLING
LEASE # 74731.001**

**Grantor: City of West Lafayette
609 West Navajo Street
West Lafayette, IN, 47906**

**Lender: The Huntington National Bank
Equipment Finance Division
105 East Fourth Street
Cincinnati, OH 45202**

THIS SECURITY AGREEMENT dated _____, 2010, is made and executed between City of West Lafayette ("Grantor") and The Huntington National Bank ("Lender").

GRANT OF SECURITY INTEREST. Grantor grants to Lender a security interest in the Collateral to secure Indebtedness and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

COLLATERAL DESCRIPTION. The word "Collateral" as used in this Agreement means the following described property in which Grantor is giving to Lender a security interest:

Qty	Serial No.	Equipment Description
1	TBD	2011 Ford Ranger
1	TBD	2011 Ford Escape
1	TBD	2011 Ford Escape
1	TBD	2011 Ford Escape
1	TBD	2011 Ford Ranger
1	TBD	2011 Ford F-150
1	TBD	Recycling Truck Recycling/ Sanitation

GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COLLATERAL. With respect to the Collateral, Grantor represents and promises to Lender that:

No Violation. The execution and delivery of this Agreement will not violate any law or agreement governing Grantor or to which Grantor is a party, and its certificate or articles of incorporation and bylaws or code of regulations do not prohibit any term or condition of this Agreement.

Title. Grantor represents and warrants to Lender that Grantor holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement.

GRANTOR'S RIGHT TO POSSESSION. Until default, Grantor may have possession of the tangible personal property and beneficial use of all the Collateral and may use it in any lawful manner not inconsistent with this Agreement or the Related Documents. Lender shall not be required to take any steps necessary to preserve any rights in the Collateral against prior parties, nor to protect, preserve or maintain any security interest given to secure the Indebtedness.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. This Agreement will be governed by, construed and enforced in accordance with federal law and the laws of the State of Indiana.

Power of Attorney. Grantor hereby appoints Lender as Grantor's irrevocable attorney-in-fact for the purpose of executing any documents necessary to perfect, amend or to continue the security interest granted in this Agreement.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code:

Agreement. The word "Agreement" means this Security Agreement.

Indebtedness. The word "Indebtedness" means the Lease executed by Grantor, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

GRANTOR HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS COMMERCIAL SECURITY AGREEMENT AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED _____, 2010.

GRANTOR:

City of West Lafayette

By: _____

Title: _____



The Huntington National Bank
 Equipment Finance Division
 105 East Fourth Street, CN01
 Cincinnati, OH 45202

===== **INVOICE** =====

Date **June 18, 2010**

**City of West Lafayette
 609 West Navajo Street
 West Lafayette, IN 47906**

CONTRACT NO.	DESCRIPTION	PAYMENT AMOUNT	SALES / USE TAX	PROCESSING FEE	TOTAL
74731.001	Documentation Fee	\$0.00	\$0.00	\$350.00	\$350.00
	Escrow Fee	\$0.00	\$0.00	\$350.00	\$350.00
				TOTAL DUE	\$700.00

Please select one of the options below

- Use this form for all payments
- Use this form for the invoiced amount only, checks will be issued for all future payments
- Enclosed is our check for the invoiced amount, please use this form for all future payments
- Attached is our check for the invoiced amount. All future payments will also be paid by our check or transfer of funds.

PRE AUTHORIZED PAYMENTS

AUTOMATIC PAYMENTS. Lessee hereby authorizes Lessor to start transfer of funds from Account Number _____ from _____ (Bank Name) (Routing Transit Number _____), for rental payments and other amounts due at the time(s) and in the manner(s) provided for in Lease Number: **74731.001**.

If payment due date shall fall on a non-business day, the transfer will take place on the next business day. Transfers will be made until the Lease is paid in full unless a revocation of this authorization is made by notifying the Lessor in writing.

CONDITIONS: Lessee certifies that he/she is authorized to sign on the account to be charged and agrees that each transfer is subject to sufficient collected funds in the account to be charged; provided, however, if the account to be charged is a checking account for which "Reserves" privileges have been or are established, such transfer may be made as long as such transfer funds pursuant to this authorization and/or program pursuant to which this authorization is give may be terminated at any time by the Lessee without notice; and, in any event, Lessee agrees to hold harmless Lessor if any check or withdrawal is dishonored or refused as a result of transfer pursuant to this authorization.

All transfer of funds pursuant to this authorization shall be evidenced on the statements normally issued by Lessor for the type of accounts affected by each transfer, it being understood and agreed that Lessor is under no obligation to issue any other receipt or advices to Borrower, or any others, to reflect such transfer or transfers.

FINANCIAL CONDITION. BY SIGNING THIS AUTHORIZATION, LESSEE REPRESENTS AND WARRANTS TO LESSOR THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT AND THAT THERE HAS BEEN NO MATERIAL ADVERSE CHANGE IN LESSEE FINANCIAL CONDITION AS DISCLOSED IN LESSEE MOST RECENT FINANCIAL STATEMENT TO LESSOR. THIS AUTHORIZATION IS DATED JUNE 21, 2010.

LESSEE: **City of West Lafayette**

By: X
 Authorized Signature

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name	2 Issuer's employer identification number		
3 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	4 Report number	3
5 City, town, or post office, state, and ZIP code		6 Date of issue	
7 Name of issue		8 CUSIP number	
9 Name and title of officer or legal representative whom the IRS may call for more information		10 Telephone number of officer or legal representative ()	

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input type="checkbox"/> Environment (including sewage bonds)	15
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input type="checkbox"/> Other. Describe	18
19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>	

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	\$	\$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22
23 Issue price of entire issue (enter amount from line 21, column (b))	23
24 Proceeds used for bond issuance costs (including underwriters' discount)	24
25 Proceeds used for credit enhancement	25
26 Proceeds allocated to reasonably required reserve or replacement fund	26
27 Proceeds used to currently refund prior issues	27
28 Proceeds used to advance refund prior issues	28
29 Total (add lines 24 through 28)	29
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31 Enter the remaining weighted average maturity of the bonds to be currently refunded years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded years

33 Enter the last date on which the refunded bonds will be called

34 Enter the date(s) the refunded bonds were issued

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) 35

36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions) 36a

b Enter the final maturity date of the guaranteed investment contract

37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units 37a

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer and the date of the issue

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box

40 If the issuer has identified a hedge, check box

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature of issuer's authorized representative _____ Date _____ Type or print name and title _____

