
LEASE PURCHASE AGREEMENT

Dated as of _____ 1, 2023

Between

CITY OF MOBERLY, MISSOURI

AND

EQUIPMENTSHARE.COM INC.
as Lessee

Relating to:

\$55,000,000
(Aggregate Maximum Principal Amount)
City of Moberly, Missouri
Taxable Industrial Revenue Bonds
(EquipmentShare.com Inc. Manufacturing, Refurbishment and
Distribution Facility Project)
Series 2023

The interest of certain rights of the City of Moberly, Missouri (the “City”), in this Lease Purchase Agreement has been pledged and assigned to BOKF, N.A., as trustee (the “Trustee”) under the Trust Indenture dated as of _____ 1, 2023, between the City and the Trustee (the “Indenture”).

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LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT, is made and dated as of _____ 1, 2023 (this “**Lease**”), by and between the CITY OF MOBERLY, MISSOURI, a city of the third classification and municipal corporation organized and existing under the laws of the State of Missouri and having a principal office at 101 West Reed Street, Moberly, Missouri 65270, as lessor (the “**City**”), and EQUIPMENTSHARE.COM INC., a Delaware corporation duly authorized to do business in Missouri and having a principal office at 5710 Bull Run Drive, Columbia, Missouri 65201, together with Affiliates, successors and permitted assigns, as lessee (the “**Company**”). *Capitalized terms used and not otherwise defined in this Lease shall have the meanings set forth in Section 1.1 of this Lease.*

WITNESSETH:

WHEREAS, the City is authorized under the Acts to issue revenue bonds to provide funds for the carrying out of a "project" (as that term is defined in section 100.010 of the Revised Statutes of Missouri, as amended) and to sell, lease or mortgage to private persons, partnerships or corporations the facilities purchased, constructed or extended by the City which may consist of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities which provide interstate commerce and industrial plants; and

WHEREAS, pursuant to the Acts, the City Council on February 21, 2023 after duly noticed public hearing adopted Ordinance No. _____ (1) approving a plan for the Project, (2) approving the Development Agreement and (3) authorizing, among other things, the issuance by the City of its Taxable Industrial Revenue Bonds (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023 in a maximum aggregate principal amount of not to exceed \$55,000,000 for the purpose of financing the Project on the Property; execution and delivery by the City of this Indenture for the purpose of issuing and securing the Bonds; to entering by the City into the Lease under which the City as lessor will lease the Property and the Project as renovated and completed to the Company as lessee, in consideration of rentals which will be sufficient to pay when and as due the principal of and interest on the then-current Cumulative Outstanding Principal Amount of Bonds, and annually acceptance, but not later than December 31, 2028, by the City of completed portions of the Financed Facilities and the Financed Equipment, all as provided in the Lease and in accordance with the Acts; and

WHEREAS, pursuant to and in consideration of the foregoing, the City desires to lease to the Company the Property and the Project and the Company desires to lease the Property and the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease and the words and terms defined in Section 101 of the Indenture, which definitions are hereby incorporated in this Lease by reference, the following words and terms as used in this Lease shall have the following meanings:

“Additional Rent” shall mean the additional rentals described in Section 5.2 of this Lease.

“Allowable Encumbrances” shall mean, as of any particular time (a) liens for ad valorem taxes and special assessments not then delinquent or which are being contested in accordance with Section 6.2 of this Lease; (b) the Indenture, this Lease, or any Leasehold Mortgage; (c) utility, access and other easements and rights-of-way, mineral rights, restrictions, environmental covenants, or use restrictions that will not materially interfere with or impair the operations being conducted on the Property by the Company or easements granted to or by the City; (d) filed mechanics liens which are discharged or contested in accordance with Section 8.5 of this Lease; (e) such minor defects, irregularities, encumbrances, easements, and rights-of-way as normally exist with respect to properties similar in character to the Property and as do not in the aggregate materially impair the Property or the Project for the purpose for which the Financed Facilities and the Financed Equipment were acquired or are held by the City or the operations of the Company under this Lease; (f) any other liens, encumbrances, leases, easements, restrictions or covenants consented to in writing by the owner of 100% of the principal amount of the Bonds then Outstanding; and (g) any liens or security interests granted pursuant to any financing documents in furtherance of a Leasehold Mortgage.

“Applicable Regulations” shall have the meaning ascribed to this term in the Development Agreement.

“Basic Rent” shall mean the rental payments described in Section 5.1 of this Lease.

“Bond Documents” shall mean, collectively, the forms of the Bonds, the Indenture, this Lease, the Bond Purchase Agreement and such other transactional documents as are necessary or convenient to allow the City from time to time to issue and secure the Bonds for the acquisition and financing of the Project, the Property, the Financed Facilities and the Financed Equipment.

“Completion Date” shall mean the date set forth in the certificate furnished pursuant to Section 4.5 of this Lease which date shall in no event be later than December 31, 2028, unless extended due to force majeure in accordance with the terms of Section 7.16 of the Development Agreement.

“EDC” shall mean the Moberly Area Economic Development Corporation, a Missouri nonprofit corporation having a principal office at 115 North Williams Street, Moberly, Missouri 65270.

“Environmental Laws” shall mean and include the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.

§9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986; the Hazardous Materials Transportation Act (49 U.S.C. §5101 et seq.); the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); the Clean Air Act (42 U.S.C. §7401 et seq.); the Clean Water Act (33 U.S.C. §1251 et seq.); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136 et seq.); the Occupational Safety and Health Act (29 U.S.C. §651 et seq.); any state super-lien and environmental clean-up statutes; and all other applicable federal, state and local environmental laws, including, without limitation, obligations under the common law, ordinances, rules, regulations and publications, and any other legal requirements, now or hereafter existing relating to the pollution and protection of the environment, the preservation or reclamation of natural resources, the management or release of Hazardous Substances, or to human health or safety.

“Event of Default” shall mean, with respect to this Lease, the occurrence and continuing beyond any applicable notice and cure period of any one or more of the events described in Section 12.1 of this Lease.

“Financing Document” shall mean any loan agreement, credit agreement, security agreement, mortgage, participation agreement, lease agreement, sublease, hedging agreement or other document executed by or on behalf of a Financing Party.

“Financing Party” shall mean any Person providing debt, lease, or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension, or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit, or credit support for or in connection with such financing or hedging arrangements, in connection with the acquisition, installation, ownership, lease, operation, or maintenance of the Project or interests or rights in the Lease or any part thereof, including any trustee or agent acting on such Person’s behalf.

“Full Insurable Value” shall mean the reasonable replacement cost of the Financed Facilities and the Financed Equipment, less physical depreciation and exclusive of land, excavations, footings, foundation and parking lots as determined in accordance with Section 7.2(a) of this Lease.

“Hazardous Substances” shall mean: (i) those substances (whether solid, liquid or gas), included within the definitions of or identified as "hazardous substances," "hazardous materials," or "toxic substances," in or pursuant to, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, 100 Stat. 1613); the Resource Conservation and Recovery Act of 1976 (42 U.S.C., § 6901 et seq.); the Clean Water Act (33 U.S.C. § 1251 et seq.); the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.); and the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; or in the regulations promulgated pursuant to the aforesaid laws, all as amended; (ii) those substances listed in the United States Department of Transportation Table (40 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); (iii) any material, waste, substance, pollutant or contamination which is or contains (A) petroleum, its derivatives, by-products and other hydrocarbons, including crude oil or any fraction thereof, natural gas, or synthetic gas usable for fuel or any mixture thereof; (B) asbestos and/or asbestos-containing materials in any form that

is or could become friable; (C) polychlorinated biphenyls; (D) flammable explosives; (E) infectious or medical waste; or (F) radioactive materials; and (iv) such other substances, materials, wastes, pollutants and contaminants which are or become regulated as hazardous, toxic or "special wastes" under applicable local, state or federal law, or the United States government, or which are classified as hazardous, toxic or as "special wastes" under any Environmental Laws.

"Leasehold Mortgage" shall mean any leasehold mortgage, leasehold deed of trust, assignment of rents and leases, security agreement or other financing arrangement or agreement relating to the Property, the Financed Facilities or the Financed Equipment permitted pursuant to the provisions of Section 10.4 of this Lease.

"Lease Term" shall mean the period from the effective date of this Lease until the expiration thereof pursuant to Section 3.2 of this Lease.

"Net Proceeds" shall mean, when used with respect to any insurance or condemnation award with respect to the Property, the Financed Facilities or the Financed Equipment, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys' fees, trustee's fees and any other reasonable out-of-pocket expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

"Person" shall mean an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture, or other entity of whatever nature.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including governmental entities, as well as natural persons.

(c) Wherever this Lease provides that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "articles," "sections" and other subdivisions are, unless otherwise specified, to the designated articles, sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular article, section or other subdivision.

(e) The Table of Contents and the article and section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

Section 1.3. Computation of Time. Wherever this Lease calls for the performance of any act by reference to a day or number of days, to a month or number of months or to a year or number of years, each such computation shall be made based upon calendar days, calendar months, and calendar years, as applicable unless otherwise expressly provided.

ARTICLE II REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on the City's part contained in this Lease:

(a) The City is a city of the third classification duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Acts, the City has lawful power and authority to enter into this Lease and to carry out the City's obligations hereunder. By proper action of the City Council, the City has been duly authorized to execute and deliver this Lease, acting by and through the City's duly authorized officers.

(b) The City will acquire the Property and the Financed Facilities and the Financed Equipment subject to Allowable Encumbrances, all on the terms and conditions set forth in the Development Agreement. The City proposes to lease the Property, the Financed Facilities and the Financed Equipment and the portions thereof from time to time to the Company and to sell the Property, the Financed Facilities and the Financed Equipment to the Company pursuant to the Company's purchase option and obligation set forth in Article XI of this Lease, all for the purpose of furthering the public purposes of the Acts, and the City Council has found and determined that the acquisition of the Property, the Financed Facilities and the Financed Equipment and the leasing of the Property, the Financed Facilities and the Financed Equipment to the Company in accordance with the terms of this Lease will further the public purposes of the Acts.

(c) To finance the acquisition of the Financed Facilities and the Financed Equipment, the City proposes to issue the Bonds which will be scheduled to mature and will be subject to redemption prior to maturity in accordance with the provisions of the Indenture.

(d) The Bonds shall be issued under and secured by the Indenture pursuant to which all rents, revenues and receipts to be derived by the City from the leasing or sale of the Property, the Financed Facilities and the Financed Equipment will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds.

(e) The City will not mortgage, grant any interest in or otherwise encumber the Property, the Financed Facilities or the Financed Equipment or pledge the revenues derived therefrom or hereunder for any bonds or other obligations other than the Bonds except with the written consent of the Authorized Company Representative and the owners of 100% of the principal amount of the Bonds then Outstanding.

(f) The City shall have no authority to operate the Project, the Property, the Financed Facilities or the Financed Equipment or any portion thereof as or for a business or in any other

manner except as the lessor thereof pursuant to the terms of this Lease including, without limitation, during any period subsequent to any termination of this Lease should the City continue to own such assets.

(g) No member of the City Council or any other officer or elected official of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

(h) The Property and the Project are located wholly within the City.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on the Company's part contained in this Lease:

(a) The Company is a corporation, validly existing and in good standing under the laws of the State of Delaware and is duly authorized to conduct business in the State of Missouri.

(b) The Company has lawful power and authority to enter into this Lease and to carry out the Company's obligations under this Lease and the Company has been duly authorized to execute and deliver this Lease, acting by and through the Company's duly authorized officers and representatives.

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which the Company or any of the Company's property is bound, or the Company's organizational documents or any order, rule or regulation applicable to the Company or any of the Company's property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party.

(d) The Company and not the City, will be subject to, and remain the party responsible and liable for, all matters related to compliance in all material respects with applicable ordinances, laws, rules and regulations, including, without limitation, Environmental Laws, for the Property, the Project, the Financed Facilities and the Financed Equipment. The Company further covenants, represents and warrants to the City that the Property, the Financed Facilities, the Financed Equipment and the Project are, as of the date of this Lease, and will continue to be at all times during the term of this Lease in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project the Financed Facilities, the Financed Equipment or the Property, including, without limitation, all Environmental Laws.

ARTICLE III GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby rents, leases and lets the Property and, as renovated, installed, and accepted by the City pursuant to the terms and conditions of the Development Agreement and the Indenture, the Financed Facilities and the Financed Equipment to the Company, and the Company hereby rents, leases and hires the Property, subject to Allowable Encumbrances, and as renovated, installed, and accepted by the City pursuant to the terms and conditions of the Development Agreement and the Indenture, the Financed Facilities and the Financed Equipment from the City for the rentals and upon and subject to the terms and conditions of this Lease.

Section 3.2. Lease Term. This Lease shall become effective upon execution and delivery, and subject to earlier termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and expiring on the later of: (i) December 31, 2034 (12 years following the last date for acceptance by the City of any portion of the Financed Facilities or the Financed Equipment;) or (ii) with respect to each portion of the Bonds represented by an annual endorsement of principal, December 1 of that year which is Twelve (12) years from the year of such annual endorsement as set forth on the Table to which an Additional Payment/Principal Amount Advanced (all as provided in Section 208(e) of the Indenture) pertains.

Section 3.3. Possession and Use of the Project; Company Covenants.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in Section 12.2 of this Lease following the occurrence and continuance beyond any applicable notice and cure period of an Event of Default, the Company shall have sole and exclusive possession of the Project (subject to Allowable Encumbrances and the City's and the Trustee's right of access pursuant to Section 10.3 of this Lease) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that the City will not take any action, other than expressly pursuant to Article XII of this Lease, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project and will defend, at the sole expense of the Company and subject to the terms of the Indenture, the Development Agreement and this Lease, the Company's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section 3.3, the Company shall have the right to use the Project for any lawful purpose contemplated by the Acts and consistent with the terms of the Development Agreement. The Company shall comply with all Applicable Laws. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of the Development Agreement and Article VII of this Lease. The Company shall pay all costs, out-of-pocket costs and expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section 3.3 or with the provisions of the Development Agreement applicable to the Company. Notwithstanding any provision contained in this Section 3.3, however, the Company shall have the right, at the Company's own cost and expense, to contest or review by legal or other appropriate procedures the validity or legality of any such governmental

statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

ARTICLE IV ACQUISITION OF THE PROPERTY AND EQUIPPING OF THE PROJECT

Section 4.1. Issuance of Bonds.

(a) To provide for the acquisition by the City of the Property, the Financed Facilities and the Financed Equipment, and the payment of Project Costs, the City shall issue the Bonds as provided in the Indenture. Contemporaneously with the execution and delivery of this Lease, proceeds from the initial sale of the Bonds in the amount of the Closing Price (as that term is used and defined in in the Bond Purchase Agreement) shall be paid over to the Trustee for the account of the City and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and shall hold the Bonds in trust for the Bondowner.

(b) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with Section 4.4 of this Lease but not more frequently than annually on or about but not later than December 1 in any year, each of which requisition certificates shall be deemed an Additional Payment and in each such case (i) the Company shall be deemed to have paid over to the Trustee and the Trustee shall be deemed to have deposited and applied such amounts as provided in Section 208 and in Article V of the Indenture and (ii) the Trustee shall endorse the Bonds on the Table by adding the amount of each such Additional Payment as “Principal Amount Advanced” thereon up to the maximum aggregate principal amount of not to exceed \$55,000,000. The Trustee shall promptly deposit such Additional Payments, when and as received, as provided in the Indenture to be used and applied as provided therein. Alternatively, the Trustee may (pursuant to Section 208(e) of the Indenture) endorse the Bonds from time to time in the amounts of Additional Payments received or deemed to have been received, all as set forth in the requisition certificates submitted pursuant to Section 4.4 of this Lease and, in such event, the Bondowner shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in such requisition certificate.

Section 4.2. Purchase of Property, Financed Facilities, Financed Equipment. The City and the Company further agree that the Company shall, but solely from monies deposited in or credited to the Acquisition Fund pursuant to the Indenture and this Article IV, from time to time, renovate the Property and install the Financed Facilities and the Financed Equipment and the City shall purchase the Property, the Financed Facilities and the Financed Equipment as follows:

(a) The City will acquire the Property contemporaneous with the execution and delivery of this Lease on the terms and conditions specified in the Development Agreement. Following the City’s acquisition of the Property, the City shall acquire the portions of the Financed Facilities and the Financed Equipment, as constructed, furnished, installed, and completed by the Company in accordance with the Development Agreement and not more frequently than once in each calendar year and in each such case in exchange for the making of Additional Payments in amounts equal to the value of the portions of the Financed Facilities and the Financed Equipment

transferred in fee to and accepted by the City, as evidenced by the written approval by the City from time to time of requisitions executed and delivered by the Company to the Trustee, all pursuant to the Development Agreement and applicable Supplemental Leases, each in substantially the form attached as Exhibit D to and incorporated by reference in this Lease.

(b) The Company shall install the Financed Facilities and the Financed Equipment at and on the Property; *provided that* the City and the Company recognize that the Financed Equipment is subject to change during the Lease Term and agree that the definitive lists of Facilities and Financed Equipment shall be the respective lists provided by the Company to the Trustee pursuant to Section 4.7 of this Lease. The Company acknowledges and agrees that the Financed Facilities and the Financed Equipment as so acquired and installed are or will be suitable for use by the Company for the Company's purposes.

(c) So long as no Event of Default shall have occurred and be continuing beyond any applicable notice and cure period, the City will assign to the Company all rights or interests in the warranties and guaranties of all contractors, subcontractors, suppliers, architects and engineers for the furnishing of labor, materials or equipment or supervision or design in connection with the Financed Facilities and the Financed Equipment and any rights or causes of action arising from or against any of the foregoing, and the City will cooperate, at the sole cost of the Company, in the enforcement of such warranties and guaranties in any manner reasonably requested by the Company.

(d) Conveyance of title to the Financed Facilities shall be by special warranty deed. Title to the Financed Equipment shall be evidenced by bills of sale or other instruments of transfer, including purchase orders or other instruments pursuant to which the City acquires title to personal property. On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Company shall furnish to the City and the Trustee a list of items (based on the Company's internal record keeping) comprising the Financed Equipment as of January 1 of such year. The improper inclusion or exclusion of any Financed Equipment pursuant to such list may be rectified by the Company within thirty (30) days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Financed Equipment for the purpose of this Lease, any applicable Supplemental Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the City and the Trustee as may be requested in order to ensure that such list corresponds to the list maintained by the Trustee pursuant to Section 4.7 of this Lease. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable the City and applicable officials of the County of Randolph (including, without limitation, the Randolph County Assessor) to determine which personal property as reported on the annual personal property declaration constitutes Financed Equipment (and therefore is owned by the City) and which personal property does not constitute Financed Equipment (and therefore is owned by the Company). The City and the Company agree that, pursuant to Section 4.8 of this Lease, any property purchased in whole or in part by the Company with the Company's own funds, and not paid or reimbursed from Bond proceeds, shall not constitute part of the Financed Equipment or Financed Facilities and shall remain the property of the Company and therefore subject to taxation.

Section 4.3. Project Costs. The City hereby agrees to pay or cause to be paid, but solely from amounts deposited in or deemed to be deposited in the Acquisition Fund pursuant to Sections

208(d) or (e) of the Indenture, and hereby authorizes and directs the Trustee to pay for, but solely from such amounts deposited in or deemed to be deposited in the Acquisition Fund, any Project Costs upon receipt by the Trustee of a certificate pursuant to Section 4.4 of this Lease; *provided that* all such disbursements shall be made in strict accordance with Section 503 of the Indenture and in no event shall the City or the Trustee be liable for or in respect of any actual deficiencies in the Acquisition Fund.

Section 4.4. Payment for Project Costs. For the purpose of paying Project Costs as specified in Section 4.3 of this Lease, the City hereby authorizes and directs the Trustee to make disbursements from the Acquisition Fund upon receipt by the Trustee of certificates which shall be submitted not more frequently than annually on or about but not later than December 1 in any year in substantially the form attached as Exhibit B to and incorporated by reference in this Lease, signed by an Authorized Company Representative and acknowledged by an Authorized City Representative:

(a) requesting payment of a specified amount of such funds (which amount shall be equal to the value of the property being transferred to and subject to acceptance by the City simultaneously with any request) and directing to whom such amount shall be paid (which may include the Company in the event of a reimbursement);

(b) describing each item of Project Costs for which payment is being requested;

(c) stating that each item for which payment is requested is a proper charge against the Acquisition Fund, that the amount requested is justly due, and has not been the basis of any previous requisition from the Acquisition Fund; and

(d) representing and warranting that, except for the amounts, if any, stated in said certificate, there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services which might become the basis of a vendors', mechanics', laborers', or materialmen's statutory or other similar lien upon the Property or any part thereof or improvement thereto.

The Trustee may rely conclusively on any such certificate and shall not be required to make any independent investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and acknowledgement by an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by an Authorized Company Representative and acknowledged by an Authorized City Representative stating (a) that the purchase, installation, extension and improvement of the Project has been completed, and (b) that all costs and expenses incurred in the purchase, installation, extension and improvement of the Financed Facilities and the Financed Equipment have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist

at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee.

Section 4.6. Surplus or Deficiency in Acquisition Fund.

(a) Upon receipt of the certificate described in Section 4.5 of this Lease, the Trustee shall, as provided in Section 504 of the Indenture, transfer any remaining moneys then in the Acquisition Fund to the Bond Fund to be applied as directed by the City solely to the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture. Any amount so deposited in the Bond Fund may be invested as permitted by Section 702 of the Indenture.

(b) If the Acquisition Fund shall be insufficient at any time to pay fully all Project Costs when and as due, the Company shall pay or cause to be paid into the Acquisition Fund the full amount of any such deficiency, and the Trustee shall use those Acquisition Fund moneys to pay when and as due all such Project Costs, all in accordance with the provisions for payment of Project Costs set forth in Section 4.4 of this Lease, and the Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

Section 4.7. Project Property. Upon transfer to and acceptance by the City, the Financed Facilities and all additions or enlargements thereto or thereof, together with the Financed Equipment and all substitutions and replacements therefor and anything under this Lease or applicable Supplemental Lease which becomes, is deemed to be, or constitutes a part of the Project, as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided in this Lease, shall immediately upon transfer by the Company to the City be titled in the name of the City, and shall be held by the City solely as lessor subject only to this Lease, the Indenture, and any Leasehold Mortgage; *provided that* the City shall have no right or authority to use, operate or control the Property, the Project, the Financed Facilities or the Financed Equipment or any portion thereof. The Company shall develop, maintain and update from time-to-time, a complete list of all Financed Facilities and Financed Equipment which are titled in the name of the City and subject to the terms of this Lease and shall promptly provide upon request of the City, but not more than annually, copies of the list to the City and to the Trustee; *provided that*, any failure of the Company to provide such list shall not be deemed to be an Event of Default under this Lease. In addition, the Company shall prepare and submit timely to the Randolph County Assessor, personal property tax returns covering the Financed Equipment owned by the City and leased to the Company under this Lease.

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project, shall be the property of the Company and shall not constitute a part of the Project for purposes of Section 6.4 of this Lease.

**ARTICLE V
RENT PROVISIONS**

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during the Lease Term, for deposit in the Bond Fund on or before 11:00 a.m., Trustee’s local time, on the appropriate dates and in the appropriate amounts, the amount of principal of and interest on the Bonds in accordance with the provisions of the Indenture and the Bonds, as Basic Rent for the Project in a total amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such payment date, shall be equal to the amount payable on such payment date as principal of the Bonds then Outstanding and the interest thereon, all as provided in the Indenture; *provided that* amounts of Basic Rent due on such payment dates and deposited in the Bond Fund shall consist of: (A) payments of accrued interest only on amounts listed from time to time as “Cumulative Outstanding Principal Amount” on Schedule 1, Table of Cumulative Outstanding Principal Amount to the Bonds until the earlier of (i) maturity of the Bonds or portions thereof or (ii) redemption of the Bonds in whole, but not in part; and (B) payments of principal on the Bonds or portions thereof upon maturity, or upon redemption of the Bonds, whether in whole or in part, all as provided in the Indenture. Except as offset pursuant to the right of the Company set forth below, all payments of Basic Rent provided for in this Section 5.1 shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture or the Bond Purchase Agreement to the contrary, and *provided that* (i) the Company is the sole holder of all of the Bonds then Outstanding; and (ii) the Company is the lessee under this Lease, the Company may set-off the then-current Basic Rent payment against the City’s obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without obtaining consent of any party prior to exercising such set-off. Absent actual receipt by the Trustee of written notice to the contrary from the Company, it shall be presumed for each Basic Rent payment that such set-off has occurred on and as of the date such payment of Basic Rent is due, and the Trustee may conclusively rely on absence of such notice as evidence that such set-off has occurred. At the Company’s option, the Company may deliver to the Trustee for cancellation portions of the Bonds not previously paid and the Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 5.2. Additional Rent. The Company shall pay directly to the City as Additional Rent the following amounts:

(a) All out-of-pocket fees, charges and expenses, including agent and counsel fees and expenses, of the City, the Trustee and Paying Agent incurred under the Indenture, this Lease, the Development Agreement, or any Leasehold Mortgage as and when the same become due;

(b) All Costs of Issuance and out-of-pocket costs incident to the issuance of any series of Bonds at or before closing on the Bonds and all costs and out-of-pocket expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) All out-of-pocket expenses incurred in connection with the reasonable and necessary enforcement of any rights under this Lease, the Indenture, or the Development Agreement by the City, the Trustee or the Bondowners;

(d) All amounts payable by the Company under the Development Agreement;

(e) All other payments of whatever nature which the Company has agreed in writing to pay or assume under the provisions of this Lease or of the Development Agreement including, without limitation, amounts required under any indemnification obligation of the Company;

(f) All payments made pursuant to Section 11.1 of this Lease, such payments to be made directly to the Trustee for deposit in the Bond Fund pursuant to Section 602 of the Indenture; and

(g) All payments in lieu of taxes required under Sections 3.4 or 3.5 of the Development Agreement.

The Additional Rents set forth in paragraphs (a) through (e), above, shall each be made within thirty (30) days after receiving an invoice therefor. Additional Rents set forth in Section 5.2(f), above shall be made pursuant to Section 11.1 of this Lease. Additional Rents set forth in Section 5.2(g), above, shall be made without further demand or notice as provided in Sections 3.4 and 3.5 of the Development Agreement.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of the Company's other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off (except as set forth in Section 5.1 of this Lease with respect to the set-off by the Company of any Basic Rent payment against the City's obligation to pay the Company as Bondholder such amount), counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, irrespective of whether the City's title to the Project or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of the Financed Facilities or the Financed Equipment or any part or portion thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Financed Facilities or the Financed Equipment, legal curtailment of the Company's use thereof, the lawful eviction or constructive eviction of the Company, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City or the invalidity of any portion of this Lease, the Indenture, or the Development Agreement; *provided, however,* that nothing in this Section 5.3(a) or in Section 5.3(b) of this Lease is intended or shall be deemed to affect or impair in any way the rights of the Company to tender the Bonds for redemption in satisfaction of Basic Rent as provided in Sections 5.1 and 5.4 of this Lease.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on the City's part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon

such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of the Company's obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Bondowners and the City. The Company may, however, at the Company's own cost and expense and in the Company's own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third persons which the Company deems reasonably necessary in order to secure or protect the Company's right of possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

Section 5.4. Prepayment of Basic Rent. The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder without penalty. During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all of the Bonds then Outstanding, the Company shall be entitled to credit against payments of Basic Rent or Additional Rent under the provisions of this Lease.

Section 5.5. Redemption of Bonds. The City and the Trustee, at the written direction of the Company, at any time the aggregate moneys in the Bond Fund are sufficient for such purposes, shall, if the same are then redeemable under the provisions of Article III of the Indenture, use their best efforts to effectuate the redemption of all or such part of the then Outstanding Bonds as may be specified by the Company, on such redemption date as may be specified by the Company. At the Company's option, the Company may deliver to the Trustee for redemption portions of the Bonds not previously paid and the Company shall receive a credit against the Basic Rent or other amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of such Bonds so tendered for redemption plus accrued interest.

ARTICLE VI MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at the Company's own expense, keep the Project, the Financed Facilities, the Financed Equipment and the Property in reasonably safe condition and keep the Property, the Financed Facilities and the Financed Equipment at all times in good repair, reasonable wear, tear, depreciation, condemnation, casualty, and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof the Company determines in the Company's sole discretion to be necessary.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) The Company shall promptly pay and discharge as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Financed Facilities, the Financed Equipment, and the Property, or any part thereof or interest therein or any buildings, improvements, machinery and equipment at any time installed thereon by the Company, or the income therefrom or Basic Rent and other amounts payable under

this Lease, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Property, the Financed Facilities or the Financed Equipment; *provided that* with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company shall have the right, in the Company's own name or in the City's name, at the sole expense of the Company, to contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article VI by appropriate legal proceedings instituted at least Ten (10) days before the tax, assessment or other governmental charge complained of becomes delinquent *if and provided that* (1) the Company, before instituting any such contest, gives the City written notice of the Company's intention so to do, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. Upon written request, the City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge and in such event the Company shall indemnify, defend with counsel of the Company's choosing and reasonably acceptable to the City, which acceptance shall not be unreasonably withheld or delayed, and shall hold the City its officials, officers, agents, employees, Bond Counsel, attorneys, and assigns, each whole and harmless from any loss, costs or expenses the City or any of the foregoing may incur related to any of the above.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Property or the Project shall be paid by the Company and shall be contracted by the Company in the Company's own name, and the Company shall, at the Company's sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Tax Forbearance. The Company anticipates that upon conveyance to and titling in the name of the City from time to time of the portions of the Project, the same will be exempt from property taxes (whether real, personal or otherwise) levied by any applicable taxing jurisdiction for as long as the City continues to own such portions of the Project. The City agrees to take all actions within the City's control to obtain and maintain in effect such exemption from property taxes related to such portions of the Project, including any filings required with any governmental authorities; *provided, however, that* the City is not guaranteeing the exemption from taxation of the City's fee or ownership interest in the Project, the Property, the Financed Facilities or the Financed Equipment or any portion thereof or of the leasehold interest of the Company contemplated by this Lease and the issuing of the Bonds and the parties hereto acknowledge and agree that the City shall not be liable for any failure of the State of Missouri, any agency thereof or any other taxing authority, or of any court of competent jurisdiction to recognize any exemption contemplated in this Section 6.4 or in the Development Agreement or any Bond Document. In the

event of a levy or assessment of property taxes on the Property, the Financed Facilities or the Financed Equipment or any portion thereof should occur, the City shall, at the Company's request and sole expense, fully cooperate with the Company in all reasonable ways to prevent or remove any such levy or assessment; *provided, however, that* the City shall not be liable for any costs or expenses resulting from such cooperation and may withhold cooperation with the Company until accommodations have been provided, to the City's satisfaction, that ensure that the City does not incur such costs. The City and the Company each covenant and agree that the property tax exemption contemplated in this Lease, the Development Agreement and the issuance of the Bonds shall only apply to the City's fee and ownership interests in the portions of the Project held by the City at any time. Any property taxes levied against the interest of the Company in the Property, the Financed Facilities or the Financed Equipment or portions thereof by any taxing jurisdiction shall be and remain solely the responsibility of the Company. In the event such a levy or assessment should occur, the City shall, at the request and sole expense of the Company fully cooperate with the Company in all reasonable ways to prevent and/or challenge such levy or assessment.

ARTICLE VII INSURANCE

Section 7.1. Property Insurance.

(a) The Company shall obtain at the Company's sole cost and expense a policy or policies of property "all risk" insurance including, if appropriate, builders' risk insurance, to keep the Property, the Financed Facilities, and the Financed Equipment constantly insured against loss or damage. The insurance required pursuant to this Section 7.1 shall be maintained throughout the Lease Term with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers with an A.M. Best rating of "A-" or the equivalent thereof as may be selected by the Company. Copies of insurance certificates for the insurance required under this Section 7.1 shall be delivered by the Company to the City and, upon request, to the Trustee. All such policies of insurance pursuant to this Section 7.1, and all renewals thereof, shall name the City and the Trustee as loss payees as their respective interests may appear, and shall contain a provision, to the extent that such provision is commercially available, that such insurance may not be canceled by the issuer thereof or the amount and scope of insurance coverage materially reduced by the issuer or by the Company without at least Thirty (30) days' advance written notice to the City and the Trustee.

(b) In the event of loss or damage to the Property, the Financed Facilities, or the Financed Equipment or any portion thereof, the Net Proceeds of insurance carried pursuant to this Section 7.1 shall be paid and applied as provided in Article IX of this Lease, or as may be directed by, or on behalf of, the Bondowners of 100% in principal amount of the Bonds then Outstanding.

Section 7.2. Commercial General Liability Insurance. The Company shall maintain at the Company's sole cost and expense at all times during the Lease Term commercial general liability and commercial auto liability insurance, under which the City and the Trustee shall be named as additional insureds, in an amount not less than \$5,000,000. Copies of certificates of insurance for the coverages required under this Section 7.2, shall be promptly delivered by the Company to the

City and the Trustee. The policies of said insurance shall contain a provision, to the extent that such provision is commercially available, that such insurance may not be canceled by the issuer thereof without at least Thirty (30) days' advance written notice to the City and the Trustee.

Section 7.3. Blanket Insurance Policies. The Company may satisfy any of the insurance requirements set forth in this Article VII by using blanket policies of insurance, including self-insurance arrangements recognized and customary within the construction equipment manufacturing industry; *provided that* each and all of the requirements and specifications of this Article VII respecting insurance are complied with.

Section 7.4. Workers' Compensation. The Company agrees throughout the Lease Term to the full extent required by Missouri law to maintain Workers' Compensation coverage as required by the laws of the State of Missouri.

ARTICLE VIII ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements. The Company shall have and is hereby given the sole right, at the Company's sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project, the Property, the Financed Facilities or the Financed Equipment as the Company from time to time may deem necessary or desirable in the Company's sole discretion for the Company's business purposes. All additions, modifications and improvements made by the Company pursuant to the authority of this Section 8.1 shall (i) be made in a good and workmanlike manner and in compliance with all Applicable Regulations, (ii) when commenced, be prosecuted to completion with due diligence, and (iii) when completed, be deemed a part of the Project; *provided, however*, that additions of machinery, equipment or other improvements installed by the Company (a) not accepted by the City; or (b) not originally purchased or acquired from funds deposited with the Trustee under this Lease shall remain the property of the Company and may be removed by the Company, and are not part of the Project.

Section 8.2. Removal or Substitution of Fixtures or Equipment. The Company shall have the sole right, provided the Company is not in default in the payment of Basic Rent or Additional Rent under this Lease beyond any applicable grace, notice or cure period, to remove from the Property and sell, exchange or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any fixtures or equipment which the Company determines in the Company's sole judgment to be or has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or is otherwise no longer useful to the Company in the Company's operations conducted on the Property. In all cases, the Company shall promptly pay all the costs and expenses of any such removal and shall promptly repair at no cost or expense to the City all damage to the Property or the Financed Facilities caused thereby in a good and workmanlike manner.

Section 8.3. Additional Improvements on the Property. The Company shall have and is hereby given the right, at the Company's sole cost and expense, from time to time during the Lease Term to construct on portions of the Property other than those portions occupied or to be occupied by the Financed Facilities such additional buildings and improvements as the Company from time

to time may deem necessary or desirable for the Company's business purposes. All such additional buildings and improvements constructed on the Property by the Company pursuant to the authority of this Section 8.3 shall, during the Lease Term, remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All such additional buildings and improvements shall be made in compliance with Applicable Regulations. The Company covenants and agrees (a) to make any repairs and restorations required to be made to the Property and the Financed Facilities because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair, replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all applicable ad valorem taxes, payments in lieu of taxes, and assessments payable with respect to such additional buildings and improvements which remain the property of the Company.

Section 8.4. Permits and Authorizations. The Company shall not do or permit others under the Company's control to do any work on the Financed Facilities related to any repair, rebuilding, restoration, replacement, modification or addition to the Financed Facilities, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations; *provided that* nothing in this Lease shall obligate the City to grant any permits, authorizations or approvals other than those which the City would grant in the lawful exercise of the City's police powers and pursuant to the City's normal review procedures and standards for such matters. All such work shall be done in a good and workmanlike manner and in compliance with all Applicable Regulations and in accordance with the requirements all insurance policies required to be carried under the provisions of Article VII of this Lease.

Section 8.5. Mechanics' Liens; Payment Bonds.

(a) The Company shall not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Property (other than Allowable Encumbrances) or the Project and the Company shall promptly, at the Company's sole expense, take such action as may be necessary to fully discharge or release any such lien by payment, bond or otherwise. Whenever and as often as any mechanics' or other similar lien is filed against the Property or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Property, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Property, the Financed Facilities, the Financed Equipment or any part thereof.

(b) Notwithstanding Section 8.5(a) above, the Company shall have the right to contest any such mechanics' or other similar lien if the Company notifies the City and the Trustee in writing of the Company's intention so to do, and provided the Company diligently prosecutes such contest, at all times effectively stays or prevents any official or judicial sale of the Property, the Financed Facilities, or the Financed Equipment or any part thereof or interest therein, under execution or otherwise, and pays or otherwise satisfies any final judgment enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof. The Company shall defend

with counsel of the Company's choosing and reasonably acceptable to the City, which acceptance shall not be unreasonably withheld or delayed, indemnify and hold the City, its officials, officers, agents, employees, the Trustee, Bond Counsel, attorneys, and assigns, each whole and harmless any loss, costs or expenses the City may incur related to any such contest. The City shall cooperate fully with the Company in any such contest.

(c) Not later than the date of this Lease and as a condition precedent to the execution and delivery of this Lease by the City, the Company shall procure or cause to be procured and delivered to the City a dual obligee payment bond in substantially the form of Exhibit C-1 to the Development Agreement naming and in favor of the City and meeting all requirements of section 107.170 of the Revised Statutes of Missouri, as amended, or any successor enactment in the minimum aggregate penal amount of the greater of (i) \$4,500,000, or (ii) the total costs of acquisition and renovation of the Financed Facilities as evidenced by construction contracts therefor. In addition, prior to initiation of any work under any contract (whether written or oral) with any contractor for the construction or installation of or for procurement or supplying of materials to be incorporated, consumed (other than raw materials to be utilized in a manufacturing process) or used in connection with the construction of the Financed Facilities or the Financed Equipment, and as a condition precedent to the future acceptance by the City of the conveyance of any portions of the Financed Facilities or the Financed Equipment so constructed or installed, the Company shall for each such contract procure or cause to be procured a dual obligee payment bond in substantially the form of Exhibit C-1 to the Development Agreement naming and in favor of the City and meeting all requirements of section 107.170 of the Revised Statutes of Missouri, as amended, or any successor enactment in the minimum amount of One Hundred percent (100%) of the total amount of each such contract; and *provided further that* in the event that the amount of any such contract shall be increased at any time or from time to time by more than Twenty-Five percent (25%) in the aggregate of the initial contract amount, the Company shall promptly-cause the amount of the corresponding payment bond to be increased to a total One Hundred-percent (100%) of such increased amount. All such payment bonds required under this Section 8.5(c), section 107.170 of the Revised Statutes of Missouri, as amended, or otherwise, shall provide for and be maintained until the date which is One (1) year from the date the last labor or services were provided by anyone or last materials or equipment were furnished by anyone under or pursuant to the contract to which such payment bond applies. **Prior to the execution of any general contract for labor, services, materials, equipment or other work at the Project, the Financed Facilities or the Financed Equipment the Company shall provide the City a certification from such general contractor in the form of Exhibit C-2 to the Development Agreement acknowledging the payment bond obligations of the Development Agreement and this Section 8.5(c). The Company and the City hereby further agree that delivery of such certification shall be a condition precedent to the enforceability of any such general contract.** Prior to initiation of any work under any such contract, the corresponding dual obligee payment bond fully executed by the surety, the Company and the contractor in the minimum penal amount of One Hundred percent (100%) of the total amount of each such contract shall be submitted to the City. Compliance with the requirements of this Section 8.5(c) shall be a condition precedent to the acceptance by the City of any conveyance or purported conveyance by the Company of the Property, the Financed Facilities, the Financed Equipment or any portion thereof. It is the intent of the Company and the City that the Project comply at all times with the requirements of section 107.170 of the Revised Statutes of Missouri, as amended, and the Company hereby agrees to

indemnify, defend with counsel of the City's choosing, and hold harmless the City and the City Council in their official and individual capacities from and against all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, by or on behalf of any person, firm or corporation arising out of the Company or the Company's contractors failure to comply in all respects with the requirements of Section 4.3.5. of the Development Agreement and this Section 8.5(c) or any failure of the Company to obtain payment bonds as required by section 107.170 of the Revised Statutes of Missouri, as amended. The foregoing indemnification obligations shall survive termination of this Lease for any reason. The parties hereto further agree to promptly take such further actions as may be required-from time to time to assure that the Project complies with any subsequent amendments or successor enactments to such section 107.170 and with any final, non-appealable determinations by any court of competent jurisdiction affecting the procurement of payment bonds by or on behalf of public entities.

ARTICLE IX DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If any portion of the Project shall be damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (i) make the determination described in Section 9.1(f), below, or (ii) repair, restore, replace or rebuild or cause to be repaired, restored, replaced or rebuilt the same so that upon completion of such repairs, restoration, replacement or rebuilding such portion of the Project shall be of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction or, at the Company's option, shall construct upon the Property new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, *provided that* (A) the value thereof shall not be less than the value of such destroyed or damaged portions of the Project immediately prior to the occurrence of such damage or destruction; and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Acts. If the Company shall elect to construct any such new buildings and improvements, for all purposes of this Lease, any reference to the term "Project" shall be deemed to also include any such new buildings and improvements and all additions thereto; *provided that* nothing in this Section 9.1(a) shall be construed to extend the Lease Term. Unless the Company makes the determination described in Section 9.1(f), below, the Net Proceeds required by Article VII of this Lease received with respect to such damage or loss to portions of the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding such portions of the Project. If the Company makes the determination described in Section 9.1(f), below, the Net Proceeds shall be deposited with the Trustee and used to redeem the Bonds then Outstanding as provided in paragraph 9.1(f) of this Lease.

(b) If any of the insurance monies paid by the insurance company as hereinabove provided shall remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease shall not have terminated, the excess shall be deposited in the Bond Fund, subject to the rights pursuant to any Leasehold Mortgage. If the Net Proceeds shall be insufficient to pay the

entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rental and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense, at the expense of the Company, of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt notice to the City and the Trustee with respect to all fires and any other casualties resulting in damages of \$500,000 or more occurring in, on, at or about the Financed Facilities.

(f) If the Company shall determine that rebuilding, repairing, restoring or replacing the Project or the Financed Facilities is not practicable or desirable, any Net Proceeds of casualty insurance required by Article VII of this Lease received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund, subject to the rights pursuant to any Leasehold Mortgage, and shall be used, at the option of the Company, to redeem the Bonds on the earliest practicable redemption date or to pay the principal of Outstanding Bonds as the same becomes due. The Company agrees to be commercially reasonable in exercising the Company's judgment pursuant to this Section 9.1(f).

(g) The Company shall not, by reason of the Company's inability to use all or any part of the Project during any period in which any portion of the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Bondowners or to any abatement or diminution of the Rentals or Additional Rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section 9.1.

Section 9.2. Condemnation.

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project shall be condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than \$5,000,000, the Company shall, within ninety (90) days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee, the mortgagee under any Leasehold Mortgage (if any) in

writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire or construct substitute improvements.

(b) If the Company shall determine that such substitution is practicable or desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition or construction of such substitute improvements, so as to place the Project in substantially the same condition as existed prior to the exercise of the said power of eminent domain, including, without limitation, the acquisition or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project, owned by the City, and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); *provided, that* such improvements will be acquired or constructed, subject to the obtaining of payment bonds as required by Section 8.5(c) of this Lease, by the Company and conveyed to the City subject to no liens, security interests or encumbrances prior to the lien and/or security interest afforded by the Indenture and this Lease other than Allowable Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in Section 9.1 of this Lease (with respect to the receipt of insurance proceeds).

(c) If the Company shall determine that it is not practicable or desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund, subject to the rights under any Leasehold Mortgage, and shall be used at the option of the Company to redeem the Bonds on the earliest practicable redemption date or to pay the principal of any Bonds of any series as the same becomes due and payable.

(d) The Company shall not, by reason of the Company's inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Bondowners or to any abatement or diminution of the Rentals or Additional Rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section. 9.2.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent the City may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In such case, the Company shall defend with counsel of the Company's choosing and reasonably acceptable to the City, which acceptance shall not be unreasonably withheld or delayed, indemnify and hold the City, the Moberly Area Economic Development Corporation (the "EDC") and their respective officials, officers, agents, employees, Bond Counsel, attorneys, and assigns, and the Trustee each whole and harmless from any loss, costs or expenses the City or any of the foregoing may incur related to any such proceeding. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Property, the Financed Facilities or the Financed

Equipment or any part thereof without the prior written consent of the Company which consent may be granted or withheld in the Company's sole discretion.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this Article IX, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) may be applied as directed by the Bondowners of 100% of the principal amount of the Bonds then Outstanding, subject and subordinate to the rights of the City and the Trustee pursuant to the Indenture, this Lease and the Development Agreement.

ARTICLE X SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project, the Property, the Financed Facilities, or the Financed Equipment or that any of the same will be suitable for the Company's purposes or needs. The Company hereby releases the City from, agrees that the City shall not be liable for, and agrees to indemnify, defend with counsel of the City's choosing, and hold the City, the EDC, and their respective officials, officers, agents, employees, Bond Counsel, attorneys, and assigns, each whole and harmless against any loss or damage to property or injury or death of any person that may be occasioned by any cause whatsoever pertaining to the Project, the Property, the Financed Facilities or the Financed Equipment or the use thereof.

Section 10.2. Surrender of Possession. Upon accrual of the City's right of re-entry because of the occurrence and continuation of an Event of Default beyond any applicable notice and cure period or upon the cancellation or termination of this Lease for any reason other than the Company's purchase of the Property and the Project pursuant to Article XI of this Lease, the Company shall peacefully surrender possession of the Project, the Property, the Financed Facilities and the Financed Equipment to the City; *provided that* nothing in this Section 10.2 shall be deemed to release the Company from the obligation to purchase the Project the Property, the Financed Facilities and the Financed Equipment under the terms set forth in this Lease.

Section 10.3. Compliance with Applicable Regulations; Right of Access. At all times during the Lease Term the Company shall use commercially reasonable efforts to use, keep and maintain and operate the Project and every part thereof in compliance with all Applicable Regulations, including, without limitation, all Environmental Laws. The Company agrees that the City and the Trustee and their duly authorized agents shall have the right at reasonable times during normal business hours and, except in the event of emergencies, upon not less than Five (5) Business Day's prior written notice, subject to the Company's usual safety, confidentiality, and security requirements, to enter upon the Property and the Financed Facilities solely to examine and inspect the Property, the Financed Facilities or the Financed Equipment without interference or prejudice to the Company's operations; *provided that* such inspection rights shall be limited to not more frequent than quarterly unless and until the occurrence and continuation of an Event of Default beyond any applicable notice and cure period.

Section 10.4. Granting of Leasehold Mortgages.

(a) Subject to Section 10.4(c) of this Lease, if no Event of Default under this Lease shall have happened and be continuing beyond any applicable notice and cure period, the Company may mortgage or grant a security interest in the leasehold estate created by this Lease, without the City's consent, provided and upon condition that: (i) a duplicate original or certified copy or photostatic copy of each such mortgage or security agreement, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof; and (ii) each such mortgage or security agreement shall contain a covenant to the effect that the net proceeds of all insurance policies and the condemnation award shall be held, used and applied for the purposes and in the manner provided for in this Lease.

(b) The City acknowledges and agrees that the Company may finance and refinance the Company's rights and interests in the Project, this Lease and the leasehold estate created hereby. Notwithstanding anything contained to the contrary in this Lease, the Company shall have the right, at any time and from time to time, to execute one or more Financing Documents with one or more Financing Parties without the consent of the City upon the terms contained in this Section 10.4.

(c) Upon notice by the Company to the City in writing that the Company has executed one or more Financing Documents under which the Company has granted rights in this Lease, then the following provisions shall apply with respect to the Financing Party named therein:

(i) There shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same person or persons;

(ii) The City shall serve upon each such Financing Party (but only at the address, if any, provided by the Company to the City in writing at the time of execution of the applicable Financing Document) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company;

(iii) Each such Financing Party shall have the same period of time which the Company has, after the service of any notice upon such Financing Party, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus Thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(iv) The City may exercise any of the City's rights or remedies with respect to any other Event of Default by the Company;

(v) In case of the occurrence and continuance of an Event of Default by the Company under this Lease beyond any applicable notice and cure period, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party (but only at the address, if any, provided by the Company to the City in writing at the time of execution of the applicable Financing Document or thereafter) and permitting such Financing Party (or designee, nominee, assignee or transferee) a reasonable

time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in the Lease to effect said cure so long as such Financing Party (or designee, nominee, assignee or transferee) is diligently prosecuting such cure); *provided that* such Financing Party (or designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all out-of-pocket expenses, including counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default; and

(vi) Such Financing Parties (and designees, nominees, assignees, or transferees) shall have the right to enter, possess and use the Project at such reasonable times and manner as are necessary to effectuate the remedies and enforce the rights of such Financing Parties under the applicable Financing Documents.

Section 10.5. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, investment tax credit or any other tax benefits with respect to the Project or any part thereof shall be made available to the Company, and the City will fully cooperate, at the sole cost and expense of the Company, with the Company in any effort by the Company to avail itself of any such depreciation, investment tax credit or other tax benefits.

Section 10.6. Company to Maintain Existence. The Company agrees that so long as any Bonds remain Outstanding, until all such Bonds are paid in full or payment in full is provided for in accordance with the terms of the Indenture, the Company will maintain the Company's existence, and will not dissolve or otherwise dispose of all or substantially all of the Company's assets; *provided, however,* that the Company may, without violating the agreement contained in this Section 10.6, consolidate with or merge into another person or entity or permit one or more other persons or entities to consolidate with or merge into the Company, or may sell or otherwise transfer to another person or entity all or substantially all of the Company's assets as an entirety and thereafter dissolve; *provided, however,* the surviving, resulting or transferee entity: (a) expressly assumes in writing all the obligations of the Company contained in this Lease, and (b) such entity is controlled by, under common control with or controls the Company.

Section 10.7. Environmental Warranties, Covenants and Indemnities.

(a) During the Lease Term, the Company shall provide the City with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards which are given by or on behalf of the Company to any federal, state or local or other agencies or authorities or which are received by the Company from any federal, state or local or other agencies or authorities with respect to the Property, the Financed Facilities, the Financed Equipment, or the Project. Such copies shall be sent to the City concurrently with their being mailed or delivered to the governmental agencies or authorities or within Ten (10) Business Days after they are made or received by the Company; *provided that* failure of the Company to comply with the provision of this paragraph shall not constitute an Event of Default under this Lease.

(b) At all times during the Lease Term, the Company shall use commercially reasonable efforts to materially comply with and operate and at all times use, keep and maintain

the Property, the Financed Facilities, the Financed Equipment, and the Project and every part thereof (whether or not such property constitutes a “*facility*,” as defined in 42 U.S.C. § 9601 *et. seq.*) in material conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Company will not use, generate, treat, store, dispose of or otherwise introduce or permit any agent, employee, contractor, subcontractor or other party to contract (whether written or oral) of the Company to use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Property, the Financed Facilities, the Financed Equipment, or the Project or any part thereof nor cause, suffer, allow or permit anyone else to do so except in material compliance with all applicable Environmental Laws.

(c) Except as may be caused by the gross negligence or willful misconduct of the City, its agents or employees, the Company agrees to indemnify, defend with legal counsel selected by the Company and reasonably acceptable to the City, which acceptance shall not be unreasonably withheld or delayed, and hold harmless the City, the EDC, and each of their respective officials, officers, agents, employees, Bond Counsel, attorneys, and assigns, and the Trustee, whole and harmless from and against any and all claims, demands, costs, liabilities, damages or expenses, including attorneys’ fees, arising from (i) any release (as defined in 42 U.S.C. § 9601 (22)) or threat of a release, actual or alleged, of any Hazardous Substances, upon the Project, the Property, the Financed Facilities, or the Financed Equipment or respecting any products or materials introduced or delivered to or arising at the Project, the Property, the Financed Facilities, or the Financed Equipment occurring during the Lease Term regardless of whether such release occurs as a result of any act, omission, negligence or misconduct of the Company, or any third party or otherwise, (ii) (A) any violation hereafter arising (actual or alleged) during the Lease Term of, or any other liability under or in connection with, any applicable Environmental Laws including, without limitation, obligations arising under common law, relating to or affecting the Project, the Property, the Financed Facilities, or the Financed Equipment during the Lease Term, or (B) any violation hereafter arising, actual or alleged during the Lease Term, or any other liability, under or in connection with, any applicable Environmental Laws including, without limitation, obligations arising under common law, relating to any products or materials previously, now or hereafter located upon, delivered to or in transit to or from the Project, the Property, the Financed Facilities, or the Financed Equipment during the Lease Term regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen prior to the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises, as the result of any act, omission, negligence or misconduct of the Company or any third party or otherwise, (iii) any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or allegedly on the Project, the Property, the Financed Facilities, or the Financed Equipment introduced or occurring during the Lease Term, or (iv) any breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section 10.7. Obligations arising under this paragraph 10.7(d) shall survive expiration or termination of this Lease for any reason.

Section 10.8. Security Interests. At the written request of the Bondowners of all of the Bonds then Outstanding, the City and the Company agree to enter into all instruments (including financing statements and statements of continuation) necessary for perfection of and continuance of the perfection of the security interests of the City and the Trustee in and to the Basic Rent under this Lease. Upon the written instructions of the Bondowners of all of the Bonds then Outstanding,

the Trustee shall file all instruments such Bondowners shall deem reasonably necessary to be filed and shall continue or cause to be continued such instruments for so long as such Bonds shall be Outstanding. The City and the Company shall cooperate with the Trustee by executing such continuation statements and providing such information as the Trustee may reasonably require to renew such statements.

Section 10.9. Release and Indemnification of City, EDC and Trustee.

(a) Except in the case of gross negligence or willful misconduct of the City, its agents or employees, the Company hereby releases the City and the Trustee from, and agrees that neither the City, the EDC or the Trustee shall be liable for, any claim relating to the Project, the Property, the Financed Facilities or the Financed Equipment, or the use thereof, including any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project, the Property, the Financed Facilities or the Financed Equipment or the use of any of them.

(b) Except as may be caused by the gross negligence or willful misconduct of the City, its agents or employees, the Company shall indemnify, defend with legal counsel selected by the Company and reasonably acceptable to the City, which acceptance shall not be unreasonably withheld or delayed, and hold harmless the City, its officials, officers, agents, employees, Bond Counsel, attorneys, and assigns, and the Trustee each whole and harmless from any loss, costs or expenses the City or any of the foregoing from any and all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about the Project, the Property, the Financed Facilities or the Financed Equipment during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project, the Property, the Financed Facilities or the Financed Equipment or any acts or omissions thereon by any person (other than willful misconduct or gross negligence of the City, its agents or employees); (b) any breach or default beyond any applicable notice and cure period on the part of the Company in the performance of any of the Company's obligations under the Development Agreement or this Lease; (c) any contract entered into in connection with the purchase, construction, extension or improvement of the Project, the Property, the Financed Facilities or the Financed Equipment; (d) any act of negligence of the Company or of any assignee of the Company or of any of their agents, contractors, servants, employees or licensees; or (e) the obtaining of any applicable exemptions from state or local sales or use taxes for materials or goods which become part of the Project, the Property, the Financed Facilities or the Financed Equipment. The foregoing indemnification obligations of the Company shall survive expiration or termination of this Lease for any reason.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Options and Obligation to Purchase; Survival of Obligation.

(a) Provided that no Event of Default has occurred and is continuing beyond any applicable notice and cure period, the Company shall have the option to purchase the Project, the

Property, the Financed Facilities, and the Financed Equipment at any time following initial issuance of the Bonds and prior to the expiration of the Lease Term at a purchase price equal to the sum of the following:

- (i) An amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then Outstanding Bonds on the earliest redemption date as determined in accordance with Article III of the Indenture next succeeding the closing date of the purchase, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus
- (ii) An amount of money equal to the Trustee's agreed to fees and expenses under the Indenture accrued and to accrue until redemption of such Bonds then Outstanding; plus
- (iii) the sum of \$5,000.00.

At the Company's election, to be exercised at least Five (5) Business Days prior to the exercise of the foregoing option to purchase, the Company may deliver to the Trustee for cancellation any portion of the Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus accrued interest thereon. The Company shall make arrangements satisfactory to the Trustee for giving of all required notices of redemption.

(b) Upon the earliest of: (i) the occurrence of an uncured material breach of or Event of Default under this Lease by the Company continuing beyond any applicable notice and cure period; (ii) the redemption of all of the Bonds then Outstanding pursuant Article III of the Indenture; (iii) the maturity from time to time of any portion of the Bonds in accordance with their terms; and (iv) expiration of the Lease Term, (each, a "**Purchase Date**"), the Company shall have the obligation to purchase and the City shall have the obligation to sell the Project, the Property, the Financed Facilities and the Financed Equipment or applicable portion(s) thereof for a purchase price equal to the Cumulative Outstanding Principal Amount of the Bonds as of the Purchase Date; *provided that* if the Company tenders all or any applicable portion of Outstanding Bonds to the Trustee for cancellation with instructions that such tender is in lieu of payment under this Section 11.1, such tender shall be deemed to satisfy the amount of funds required under this Section 11.1(b); and *provided, further*, that if an Event of Default has occurred and is continuing beyond any applicable notice and cure period and such default is curable by payment of Additional Rent, then the Company must cure such default by the payment of such Additional Rent prior to the conveyance of the Project, the Property, the Financed Facilities and the Financed Equipment by the City to the Company under this Section 11.1; and *provided further*, that the Company's obligation to purchase those portions of the Project financed through the Bonds shall be effective upon expiration of the Lease Term with respect to the corresponding portions of the Project; *provided that the* Company's obligation to purchase the Project, the Property, the Financed Facilities and the Financed Equipment under this Section 11.1 and the City's obligation to sell the same shall each survive expiration or termination of this Lease for any reason.

Section 11.2. Conveyance of the Project. At the closing(s) of the purchase of the portions of the Project in accordance with Section 11.1 of this Lease, the City will, in each case, upon receipt of the applicable purchase price, deliver or cause to be delivered to the Company the following:

(a) A release from the Trustee of the applicable portion of the Project from the lien and/or security interest of the Indenture and this Lease; and

(b) Documents conveying to the Company legal title to the applicable portion of the Project, as then existing, subject to the following: (i) those liens and encumbrances, if any, to which title to Property, the Project, the Financed Facilities, and the Financed Equipment were subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements of the Company contained in this Lease; (iv) Allowable Encumbrances other than the Indenture and this Lease; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Release of Portions of the Property.

(a) In the event that the Company, in the Company's reasonable discretion, determines that any portion of the Project has become unsuitable, undesirable or unnecessary for continued use, the Company shall have the option to release such portion of the Project from the requirements of this Lease and of the Indenture. Upon removal of: (i) any portion of the Property or the Financed Facilities, the Company shall provide written notice so stating to the City, to the Trustee, and to the office of the County of Randolph Assessor, and, upon delivery of such notices, such portion of the Property or the Financed Facilities shall be deemed removed from the Project; or (ii) any Financed Equipment, the Company shall promptly update the list of Financed Equipment maintained in accordance with Section 4.7 of this Lease and shall provide a copy of such list to the City and to the Trustee and, upon delivery of such updated list any items of Financed Equipment not set forth on such updated list shall be deemed to have been removed from the Project and shall be reflected on the Company's annual personal property filing with the office of the County of Randolph Assessor; *provided that* removal of any such portion of the Project pursuant to the provisions of this Section 11.3 shall not entitle the Company to any postponement of or diminution in the Basic Rent or Additional Rent required to be made by the Company under this Lease or in any payment obligation under the Development Agreement. The Company and the City mutually agree, upon the request of any party, to promptly execute and deliver, or cause or direct the Trustee to execute and deliver, appropriate documents, conveying to the Company title to any property comprising the portion of the Property, the Financed Facilities or the Financed Equipment being removed from the Project pursuant to this Section 11.3 and releasing the same from this Lease and from any lien of the Indenture or any other Bond Document.

(b) The Company acknowledges and agrees that in the event the Company effectuates at any time a release of any portion of the Property, the Project, the Financed Facilities, or the Financed Equipment under this Section 11.3: (i) such portion shall no longer be entitled to any tax relief or tax forbearance under the Development Agreement or otherwise; and (ii) no release by the Company of any portion of the Property, the Project, the Financed Facilities, or the Financed Equipment shall excuse or diminish in any way (a) the Company's obligations for payments,

indemnification, provision of payment bonds, or for Full Time Equivalent (FTE) Job (as that term is defined in the Development Agreement) creation and maintenance under the Development Agreement; or (b) the City's rights to indemnification and to be protected by insurance coverages and payment bonds or similar security required under this Lease, whether with respect to the portion of the Project so released, the remaining portions of the Project, or otherwise.

ARTICLE XII DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an "Event of Default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent, and such default shall continue for Ten (10) days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as shall be reasonably required to cure such default; *provided that* (i) the Company has commenced such cure within said 10-day period, and (ii) the Company diligently prosecutes such cure to completion); or

(b) Default in the due observance or performance of any other material covenant, agreement, obligation or provision of this Lease on the Company's part to be observed or performed, which would significantly impair the Company's ability to make timely payments of Basic Rent or Additional Rent and such default shall continue for Sixty (60) days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as shall be reasonably required to cure such default; *provided that* (i) the Company has commenced such cure within said 60-day period, and (ii) the Company diligently prosecutes such cure to completion); or

(c) The Company shall: (i) admit in writing the Company's inability to pay the Company's debts as they become due; or (ii) file a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the United States Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or file a pleading asking for such relief; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a trustee, receiver or liquidator for all or a major portion of the Company's property or shall fail to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (v) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) be subject to any proceeding, or suffer the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of the Company's property or ordering the winding-up or liquidation of the Company's affairs, or approving a petition filed against the Company under the United States Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by the Company, shall not be dismissed, vacated, denied, set aside or stayed within Ninety (90) days after the day of entry or commencement; or (vii) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of the Company's property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within Sixty (60) days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) Any default by the Company in the performance of the Company's obligations under the Development Agreement which arises out of: (i) the City's right to receive any payment for the City's own account required by the Development Agreement; or (ii) the City's rights to indemnification (including, without limitation, such rights of its officials, officers, agents, employees, Bond Counsel, attorneys, and assigns of its acting in any capacity) or to be protected from liabilities by insurance coverages and payment bonds or similar security as required by the Development Agreement; or (iii) the Company's failure to obtain or maintain or cause to be obtained and maintained insurance coverages and payment bonds or similar security required by the Development Agreement, and such default shall continue for sixty (60) days after the City has given the Company written notice specifying such default (or such longer period as shall be reasonably required to cure such default; *provided that* (A) the Company has commenced such cure within such 60-day period, and (B) the Company diligently prosecutes such cure to completion.

Section 12.2. Remedies on Default. If any Event of Default referred to in Section 12.1 of this Lease shall have occurred and be continuing beyond any applicable grace, notice or cure period, then the City may at the City's sole election then or at any time thereafter, and while such default shall continue, take any one or more of the following actions:

(a) Cause all amounts payable with respect to the Bonds for the remainder of the Lease Term to become due and payable, as provided in the Indenture; or

(b) Give the Company written notice of the City's intention to terminate this Lease on a date specified therein, which date shall not be earlier than Sixty (60) days after such notice is given, and if all defaults have not then been cured, or if such defaults are not curable within such notice period, the Company is diligently and expeditiously pursuing such cure, on the date so specified, the Company's rights to possession of the Project, the Property, the Financed Facilities and the Financed Equipment shall cease and this Lease shall thereupon be terminated, and the City may re-enter and take possession of the Project, the Property, the Financed Facilities and the Financed Equipment; *provided that* the Company shall remain obligated to purchase the Project, the Property, the Financed Facilities and the Financed Equipment and the City shall be obligated to sell the same under the terms set forth in this Lease.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City, the Trustee and the Bondowner that the Company's obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; *provided, however*, that upon the payment of all Basic Rent and Additional Rent required under Article V of this Lease, and upon the satisfaction and discharge of the Indenture under Section 1301 thereof, the Company's obligation under this Lease shall thereupon cease and terminate and the City shall convey to the Company, the Project, the Property, the Financed Facilities, and the Financed Equipment in accordance with this Article XII.

Section 12.4. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more

occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The City further agrees that neither the City nor the Trustee shall enforce any right or obligation hereunder (except for the City's or the Trustee's respective right to receive any payment for its own account under the Indenture, the Lease, the Development Agreement or any other agreement related to the Bonds or for their rights of indemnification under this Lease or the Development Agreement or to be protected from liabilities by insurance coverages and payment bonds or similar security required by this Lease or the Development Agreement) if so directed in writing by the Bondowners of 100% of the Outstanding Bonds.

Section 12.5. Waiver of Breach. No waiver of any breach of any covenant or agreement contained in this Lease shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of the City's rights and remedies provided for in this Lease with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

Section 12.6. Opportunity of Company to Cure Defaults. With regard to any alleged default concerning which notice is given to the Company under the provisions of this Article XII, the City hereby grants the Company full authority for account of the City to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute a default, in the name and stead of the City, with full power to do any and all things and acts to the same extent that the City could do and perform any such things and acts in order to remedy such default.

Section 12.7. Trustee's Exercise of the City's Remedies. Whenever any Event of Default shall have occurred and be continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article XII, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to the Trustee all of the remedies prescribed by the Indenture.

ARTICLE XIII ASSIGNMENT

Section 13.1. Limited Assignment. The Company shall have the limited right to assign, transfer, and encumber this Lease as set forth in Section 10.4 of this Lease. The Company shall have the further right to assign or sublease any interests in this Lease without the prior consent of the City to a successor entity Controlled by or under common Control with or Controlling the Company and which becomes the owner of all of the Bonds upon the effectiveness of such assignment. With respect to any such assignment, the Company shall comply with the following conditions:

- (i) Such assignment shall be in writing, duly executed and acknowledged by the assignor and by the assignee and in proper form for recording;

(ii) Such assignment shall include the entire then unexpired Lease Term; and

(iii) A duplicate original of such assignment shall be delivered to the City and the Trustee within Ten (10) Business Days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease, the Development Agreement, the Bond Purchase Agreement, and any other documents related to the issuance of the Bonds on the part of the Company to be performed and observed.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment.

Section 13.3. Prohibition Against Fee Mortgage and/or Security Agreement. The City shall not mortgage or grant a security interest in the City's fee interest in the Project or any portion thereof but may assign the City's interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

Section 13.4. Restrictions on Sale or Encumbrance by City. During the Lease Term, the City agrees that, except to secure the Bonds issued pursuant to the Indenture, the City will not sell, assign, encumber, mortgage, transfer or convey the Project, the Property, the Financed Facilities or the Financed Equipment or any portion thereof or any interest therein. The Company consents to the assignment of the City's interests in this Lease solely to the Trustee pursuant to the Indenture to secure the Bonds.

ARTICLE XIV AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the initial issuance of the Bonds and prior to the payment in full of all of the Bonds Outstanding (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, or altered without the prior written consent of the Trustee, given in accordance with the provisions of the Indenture, which consent shall not be unreasonably withheld, conditioned, or delayed.

ARTICLE XV MISCELLANEOUS PROVISIONS

Section 15.1. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when (a) mailed by

registered or certified mail, postage prepaid, or (b) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

- (a) To the City: City of Moberly, Missouri
101 West Reed Street - City Hall
Moberly, Missouri 65270
ATTN: City Manager

- with a copy to: Gilmore & Bell, P.C.
211 N. Broadway, Suite 2000
St. Louis, Missouri 63102
ATTN: Shannon Creighton, Esq.

- (b) To the Trustee: BOKF, N.A.
200 North Broadway, Suite 1710
St. Louis, Missouri 63102
ATTN: Corporate Trust Department

- (c) If to the Company: EquipmentShare.com Inc.
5710 Bull Run Drive
Columbia, Missouri 65201
Attention: _____

with a copy to:

Attention: _____

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Company to the other shall also be given to the Trustee. The City, the Company, and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 15.2. Net Lease. The parties hereto agree: (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and the Company does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, after payment therefrom of all sums

then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.3. No Pecuniary Liability. No provision, covenant or agreement contained in this Lease, the Development Agreement, the Indenture or any Bond of any series, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or of the County of Randolph or of the State of Missouri or any political subdivision thereof.

Section 15.4. Governing Law. This Lease and its performance shall be governed by and construed under the laws of the State of Missouri, without regard to choice or conflict of laws provisions. The parties hereto agree that any action at law, suit in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Randolph County, Missouri or in the Federal District Court for the Eastern District of Missouri and waive any objections based upon venue or *forum non conveniens* or otherwise. and waive any and all objections to the application of Missouri law and/or to the foregoing selection of fora.

Section 15.5. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 15.6. Captions; Recitals and Exhibits; Lease Preparation. The headings and captions of this Lease are for convenience and reference only, and in no way define, limit, or describe the scope or intent of this Lease of any provision thereof and shall in no way be deemed to explain, modify, amplify or aid in the interpretation or construction of the provisions of this Lease. The Recitals found at the beginning of this Lease are incorporated herein by reference and are important and material parts of this Lease. Each party to this Lease and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Lease and all documents attached as exhibits and schedules. This Lease shall be construed without regard to any presumption or other rule of construction whereby ambiguities within this Lease or such other document would be construed or interpreted against the party causing the document to be drafted. The parties each further represent that the terms of this Lease and the documents attached to this Lease as exhibits and schedules have been completely read by them and that those terms are fully understood and voluntarily accepted by them. In any interpretation, construction or determination of the meaning of any provision of this Lease, no presumption whatsoever shall arise from the fact that the Lease was prepared by or on behalf of any party.

Section 15.7. No Waiver of Sovereign Immunity. Nothing in this Lease shall be construed or deemed to constitute a waiver of the City's sovereign immunity.

Section 15.8. Relationship of the Parties; Third Party Beneficiaries. Nothing contained in this Lease nor any act of the City or of the Company shall be deemed or construed to create a partnership or agency relationship between or among any party. Other than as expressly provided in this Lease, no party shall be the agent of, or have any rights to create any obligations or liabilities binding on, another party. The parties do not intend to and do not confer any benefit

under this Lease on any other person or entity other than the Trustee and the EDC, as expressly provided herein and parties hereto.

Section 15.9. Severability. If any term, covenant, condition or provision of this Lease or the application of this Lease to any person or circumstance shall, at any time or to any extent, be finally declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by the partial invalidity, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law unless such partial invalidity prevents a party from realizing the full benefit of the bargain represented by the entire Lease.

Section 15.10. Execution in Counterparts. Each person executing this Lease in a representative capacity warrants and represents that he or she has authority to do so and upon request by another party proof of such authority in customary form will be furnished to the requesting party. This Lease may be executed at different times and in two or more counterparts and all counterparts so executed shall for all purposes constitute one and the same instrument, binding on the parties hereto, notwithstanding that both parties may not have executed the same counterpart. In proving this Lease it shall not be necessary to produce or account for more than one such counterpart executed by the party against whom enforcement is sought.

Section 15.11. Recordation. This Lease shall not be recorded; *provided that* the parties to this Lease agree to execute concurrently with the execution of this Lease and promptly cause to be recorded in the Office of the Randolph County Recorder a Memorandum of Lease Purchase Agreement in substantially the form of Exhibit C, attached to and incorporated by reference in this Lease.

Section 15.12. Reference Date. This Lease is dated for reference purposes only as of the first day of _____, 2023 and will not be effective and binding on the parties hereto unless and until the closing on the initial issuance of the Bonds and the conveyance of the Property to the City occur.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK--SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF MOBERLY, MISSOURI
as "Lessor"

By: _____
Jerry Jeffrey, Mayor

(Seal)

ATTEST:

Shannon Hance, City Clerk

EQUIPMENTSHARE.COM INC.
as "Lessee"

By: _____

Name:

Title:

EXHIBIT A

THE PROPERTY

Parcel No. 07-7.0-26.0-0.0-000-014.000 in the records of the Randolph County, known and numbered as 1855 Robertson Road, Moberly Missouri and partially described as:

Sec: 26.0 Twp: 54 Range: 14 - PT OF SE1/4: BEG 792.75' S & 34.77' W OF NE COR OF SE1/4, TH S 751.68', W 82', SWLY 146.57', SLY 268.12' TO N LINE OF HUNTHAUSEN RD, TH W 479.96', N 1110.26' TO S LINE OF FOWLER RD, TH E 700.10'>

Sec: 26.0 Twp: 54 Range: 14 - PT OF SE1/4: BEG 792.75' S & 34.77' W OF NE COR OF SE1/4, TH S 751.68', W 82', SWLY 146.57', SLY 268.12' TO N LINE OF HUNTHAUSEN RD, TH W 479.96', N 1110.26' TO S LINE OF FOWLER RD, TH E 700.10'>

A total of 16.0 +/- acres.

EXHIBIT B

FORM OF REQUISITION CERTIFICATE

Requisition No. ____
Date: _____, 202__

**REQUISITION CERTIFICATE
PROJECT COSTS**

TO: BOKF, N.A., AS TRUSTEE (THE “TRUSTEE”) UNDER THAT CERTAIN TRUST INDENTURE DATED AS OF _____ 1, 2023 (THE “INDENTURE”), BETWEEN THE CITY OF MOBERLY, MISSOURI (THE “CITY”) AND THE TRUSTEE, AND THAT CERTAIN LEASE PURCHASE AGREEMENT OF EVEN DATE THEREWITH (THE “LEASE”), BY AND BETWEEN THE CITY, AS LESSOR, AND EQUIPMENTSHARE.COM INC., AS LESSEE (THE “COMPANY”).

The undersigned hereby acknowledges that a total of \$_____ has been deemed paid for Project Costs (as defined in said Trust Indenture) in such amounts and for such purposes as set forth on **Schedule 1** and **Schedule 2** attached hereto. Such payment has been deemed satisfied through the delivery to the Company of or an endorsement to the Bonds in accordance with the terms of the Lease and of the Indenture. Accordingly, no funds have been deposited or withdrawn from the Acquisition Fund. In accordance with the terms of the Lease and the Indenture the Company hereby certifies as follows:

1. The Company has conveyed to the City and the City has accepted all of the Company’s rights, title and interest in and to the property described in **Schedule 1** and **Schedule 2** hereto pursuant to a Special Warranty Deed or bill of sale dated the date hereof.

2. Each item for which payment is requested under this Certificate is a proper charge against the applicable account within the Acquisition Fund, that the amount requested is justly due, and has not been the basis of any previous requisition from the Acquisition Fund.

3. The Company hereby represents and warrants to the City that there are no outstanding disputed statements (other than those which constitute Allowable Encumbrances under the Lease) for which payment is requested hereunder for labor, wages, materials, supplies or services which could become the basis of a vendors’, mechanics’, laborers’, or materialmen’s statutory or other similar lien upon the Property or any part thereof or improvement thereto.

**EQUIPMENTSHARE.COM INC.
the “Company”**

By: _____
Authorized Company Representative

Acknowledged: _____, 202__

CITY OF MOBERLY, MISSOURI
the “City”

By: _____
Authorized City Representative

SCHEDULE 1
TO REQUISITION CERTIFICATE NO. ____

THE PROPERTY AND FINANCED FACILITIES

<u>Payee and Address</u>	<u>Description</u>	<u>Deemed Amount</u>
.	(For Financed Equipment, \$ See Schedule 2 attached)	_____

SCHEDULE 2
TO REQUISITION CERTIFICATE NO. ____

FINANCED EQUIPMENT

Item (<u>Description</u>)	<u>Serial or Identification Number</u>
--------------------------------	--

MEMORANDUM OF LEASE PURCHASE AGREEMENT

THIS MEMORANDUM OF LEASE PURCHASE AGREEMENT (this “**Memorandum**”) is made as of _____1, 2023, by and between the CITY OF MOBERLY, a Missouri municipal corporation and city of the third classification and having an office at 101 West Reed Street, Moberly, Missouri, as Lessor (the “**City**”) and EQUIPMENTSHARE.COM INC. a Delaware corporation duly authorized to do business in Missouri and having a principal office at 5710 Bull Run Drive, Columbia, Missouri 65201 (the “**Company**”). *Capitalized terms used and not defined in this Memorandum shall have the meanings ascribed to them in the Lease (as hereinafter defined).*

RECITALS

A. In furtherance of providing certain economic incentives to the Company in connection with a “project” under the Acts, the City has acquired and is the fee owner of a parcel of real property comprising the Property located with the City and legally described on Exhibit A attached hereto, as of the date of the Lease (the “**Property**”);

B. The City and the Company have made and entered into that certain Lease Purchase Agreement dated as of _____1, 2023 (the “**Lease**”) pursuant to which, among other things, the City, as lessor, did agree to demise and lease to the Company and the Company, as lessee, did agree to lease and take from the City, the Property, subject to the provisions set forth therein;

C. Pursuant to the terms of the Indenture, the City, among other things, has pledged to the Trustee in trust for the benefit of the holders of the Bonds, the rents received under the Lease, and the City and the Company are desirous of entering into this Memorandum;

NOW, THEREFORE, intending to be legally bound hereby, the City and the Company, hereby set forth the following information with respect to the Lease:

1. The recitals noted above are incorporated herein by reference.
2. The name and identity of the Lessor is the CITY OF MOBERLY, MISSOURI, a Missouri municipal corporation and city of the third classification.
3. The name and identity of the Lessee is EQUIPMENTSHARE.COM INC. a Delaware corporation duly authorized to do business in Missouri.

4. The addresses set forth in the Lease Agreement as addresses of the parties are:

<u>the Company</u>	EquipmentShare.com Inc. 5710 Bull Run Drive Columbia, Missouri 65201
--------------------	--

<u>the City</u>	City of Moberly, Missouri 101 West Reed Street - City Hall Moberly, Missouri 65270
-----------------	--

5. The Lease is dated as of _____ 1, 2023.

6. Under the Indenture, the City, among other things, has pledged and assigned to the Trustee in trust for the benefit of the holders of the Bonds (which, as of the date hereof, is the Company), all right, title and interest in the Property and, as and when acquired by the City, the Project, the Property, the Financed Facilities, and the Financed Equipment, and the rents, revenues and receipts derived by the City under the Lease.

7. The Company has an option and an obligation to purchase the Project, the Property, the Financed Facilities and the Financed Equipment under Article XI of the Lease.

8. The term of the lease contained in the Lease commenced on _____ 1, 2023, and expires on the later of: (i) December 31, 2034 (12 years following the last date for acceptance by the City of any portion of the Financed Facilities or the Financed Equipment;) or (ii) with respect to each portion of the Bonds represented by an annual endorsement of principal, December 1 of that year which is Twelve (12) years from the year of such annual endorsement as set forth on the Table to which an Additional Payment/Principal Amount Advanced (all as provided in Section 208(e) of the Indenture) pertains.

WITNESS the due execution hereof as of the date first written above.

CITY OF MOBERLY, MISSOURI
as "Lessor"

By: _____
Jerry Jeffrey, Mayor

(Seal)
ATTEST:

Shannon Hance, City Clerk

CITY ACKNOWLEDGMENT

STATE OF MISSOURI)
) **SS.**
COUNTY OF RANDOLPH)

On this ____ day of _____, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry Jeffrey and Shannon Hance, who acknowledged themselves to be, respectively, the Mayor and City Clerk of **CITY OF MOBERLY, MISSOURI**, a city of the third classification organized and existing under the laws of the State of Missouri, and that they, as such Mayor and such City Clerk are authorized by the City Council of

EXHIBIT A (to Memorandum of Lease Purchase Agreement)

THE PROPERTY (legal description)

Parcel No. 07-7.0-26.0-0.0-000-014.000 in the records of the Randolph County, known and numbered as 1855 Robertson Road, Moberly Missouri and partially described as:

Sec: 26.0 Twp: 54 Range: 14 - PT OF SE1/4: BEG 792.75' S & 34.77' W OF NE COR OF SE1/4, TH S 751.68', W 82', SWLY 146.57', SLY 268.12' TO N LINE OF HUNTHAUSEN RD, TH W 479.96', N 1110.26' TO S LINE OF FOWLER RD, TH E 700.10'>

Sec: 26.0 Twp: 54 Range: 14 - PT OF SE1/4: BEG 792.75' S & 34.77' W OF NE COR OF SE1/4, TH S 751.68', W 82', SWLY 146.57', SLY 268.12' TO N LINE OF HUNTHAUSEN RD, TH W 479.96', N 1110.26' TO S LINE OF FOWLER RD, TH E 700.10'>

A total of 16.0 +/- acres.

EXHIBIT D

FORM OF SUPPLEMENTAL LEASE

SUPPLEMENTAL LEASE AGREEMENT

Dated as of _____, 20__

By and between

**CITY OF MOBERLY, MISSOURI,
as Lessor,**

and

**EQUIPMENTSHARE.COM INC., INC.,
as Lessee**

Relating to:

\$55,000,000.00

(Aggregate Maximum Principal Amount)

City of Moberly, Missouri

Taxable Industrial Revenue Bonds

**(EquipmentShare.com Inc. Manufacturing, Refurbishment and
Distribution Facility Project)**

Series 2023

The interest of certain rights of the City of Moberly, Missouri (the “City”), in this _____ Supplemental Lease Purchase Agreement has been pledged and assigned to BOKF, N.A., as Trustee (the “Trustee”) under that certain Trust Indenture dated as of _____1, 2023, between the City and the Trustee (the “Indenture”).

_____ **SUPPLEMENTAL LEASE PURCHASE AGREEMENT**

THIS _____ SUPPLEMENTAL LEASE PURCHASE AGREEMENT (this “**Supplement**”) is made as of _____, 20____ to a certain Lease (as hereinafter defined) by and between the CITY OF MOBERLY, MISSOURI, a city of the third classification organized and existing under the laws of the State of Missouri (the “**City**”), as lessor, and EQUIPMENTSHARE.COM INC., a Delaware corporation duly authorized to transact business in Missouri (the “**Company**”), as lessee. *Capitalized terms used and not defined herein shall have the meanings ascribed to them in that certain Indenture of Trust dated as of _____ 1, 2023 (the “**Indenture**”) by and between the City and BOKF, N.A., as trustee.*

WITNESSETH:

WHEREAS, the City is authorized under the Acts to issue revenue bonds to provide funds for the carrying out of a “project” (as that term is defined in section 100.010 of the Revised Statutes of Missouri, as amended) and to sell, lease or mortgage to private persons, partnerships or corporations the facilities purchased, constructed or extended by the City which may consist of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, service facilities which provide interstate commerce and industrial plants; and

WHEREAS, pursuant to the Acts, the City Council on February 21, 2023 after duly noticed public hearing adopted Ordinance No. _____ (1) approving a plan for the Project, (2) approving the Development Agreement and (3) authorizing, among other things, the issuance by the City of its Taxable Industrial Revenue Bonds (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023 in a maximum aggregate principal amount of not to exceed \$55,000,000 for the purpose of financing the Project on the Property; execution and delivery by the City of this Indenture for the purpose of issuing and securing the Bonds; to entering by the City into the Lease under which the City as lessor will lease the Property and the Project as constructed and completed to the Company as lessee, in consideration of rentals which will be sufficient to pay when and as due the principal of and interest on the then-current Cumulative Outstanding Principal Amount of Bonds, and annual acceptance, but not later than December 31, 2028, by the City of completed portions of the Financed Facilities and the Financed Equipment, all as provided in the Lease and in accordance with the Acts; and

WHEREAS, pursuant to the Bond Ordinance, the City and the Company have entered into the Lease [and applicable Supplemental Leases] pursuant to which the City has acquired and obtained title to the entire the Property [and to certain portions of the Project] and has leased same to the Company in consideration of rental payments by the Company which will be sufficient to pay the principal of and interest on the Bonds and which Lease additionally contemplates the further acquisition, installation and leasing from time to time by or on behalf of the City to the Company of certain other portions of the Project as and when constructed and installed; and

WHEREAS, pursuant to the foregoing, the City and the Company desire to enter into this _____ Supplement to provide for the acquisition by or on behalf of the City of the portions of the Project described in Exhibit A attached to and incorporated by reference in this _____ Supplement,

the leasing from the City, for the rentals and upon the terms and conditions hereinafter set forth to the Company of the aforesaid portions of the Project, all as provided in the Lease and the Indenture;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company do hereby represent, covenant and agree as follows:

Section 1. Exhibit A Amended and Supplemented. The Lease is hereby amended and supplemented by deleting therefrom Exhibit A thereto and by substituting therefor a new Exhibit A as set forth on Appendix A hereto.

Section 2. No Other Amendment. Portions of the Lease not expressly amended and supplemented in Section 1 hereof, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Supplement to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF MOBERLY, MISSOURI
“Lessor”

By: _____
Mayor

(SEAL)
ATTEST:

By: _____
City Clerk

CITY ACKNOWLEDGMENT

STATE OF MISSOURI)
) **SS.**
COUNTY OF RANDOLPH)

On this ____ day of _____, 202__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ and _____, who acknowledged themselves to be, respectively, the Mayor and City Clerk of **CITY OF MOBERLY, MISSOURI**, a city of the third class organized and existing under the laws of the State of Missouri, and that they, as such Mayor and such City Clerk are authorized by the City Council of such City, to execute the foregoing instrument for the purposes therein contained by signing the name of the City by themselves as Mayor and City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

EXHIBIT A (to _____ Supplement)

**LEGAL DESCRIPTION OF PROPERTY AND PROJECT [AND SCHEDULE OF
FINANCED EQUIPMENT]**