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**TRUST INDENTURE**

Dated as of \_\_\_\_\_ 1, 2023

**Between**

**CITY OF MOBERLY, MISSOURI**

**AND**

**BOKF, N.A.,  
as Trustee**

**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**

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## TRUST INDENTURE

**THIS TRUST INDENTURE** (this “**Indenture**”) dated as of \_\_\_\_\_ 1, 2023, 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 (the “**City**”), and BOKF, N.A., St. Louis, Missouri, a national banking association duly organized and existing and authorized to accept and execute trusts of the character set forth in this Indenture, as trustee (the “**Trustee**”). *Capitalized terms used and not otherwise defined in this Indenture shall have the meanings respectively ascribed to them in Article I of this Indenture.*

### **WITNESSETH:**

**WHEREAS**, the City is authorized by 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**, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the trust estate herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:**

### **GRANTING CLAUSES**

That the City, in consideration of the above premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Bondowners thereof, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,

and to secure the payment of the principal of and interest on the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions in this Indenture and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns forever, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the “**Trust Estate**”), to-wit:

(a) All right, title and interest in and to the Project, the Financed Facilities and the Financed Equipment, together with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining;

(b) All right, title and interest of the City in, to and under the Lease and any Supplemental Lease (excluding the City’s right to receive moneys for the City’s own account and the City’s rights to indemnification under the Development Agreement and the Lease or to be protected from liabilities by insurance policies, payment bonds or other similar security required by the Lease or the Development Agreement, as provided therein or herein), and all rents, revenues and receipts derived by the City from the Property, the Financed Facilities and the Financed Equipment including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

**TO HAVE AND TO HOLD**, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Bondowners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

**PROVIDED, HOWEVER**, that if the City shall well and truly pay, or cause to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or shall provide for the payment thereof (as provided in Article XIII of this Indenture), and shall pay or cause to be paid to the Trustee all other sums of money due or to become due to the City in accordance with the terms and provisions hereof, then upon such final payments, this Indenture and the rights thereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

**THIS INDENTURE FURTHER WITNESSETH**, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Bondowners from time to time of the Bonds, as follows:

## **ARTICLE I DEFINITIONS**

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined in Section 1.1 of the Lease, which definitions shall be deemed to be incorporated in this Article I and this Indenture, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

**“Acquisition Fund”** shall mean the “City of Moberly, Missouri, Acquisition Fund - EquipmentShare Manufacturing, Refurbishment and Distribution Facility Project,” together with any accounts and subaccounts therein created in Section 501 of this Indenture.

**“Acts”** shall mean, collectively, article VI, section 27(b) of the Missouri Constitution and sections 70.210 through 70.220, inclusive, and sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, all as from time to time amended.

**“Additional Payments”** shall mean, collectively, all additional payments made (or deemed made) by the Company to the Trustee with respect to the Bonds from time to time after the initial issuance of the Bonds in accordance with Section 208 of this Indenture, the Bond Purchase Agreement, and the Lease.

**“Affiliate”** shall mean an individual, corporation, association, partnership, limited liability company, joint venture, trust, estate, or other entity or organization, or any other such person or entity which, (i) directly or indirectly, Controls, is in common Control of, or is Controlled by the Company or a parent of the Company or (ii) a majority of the members of the Directing Body of which are members of the Directing Body of the Company.

**“Authorized City Representative”** shall mean the City Manager or such other person at the time designated to act on behalf of the City as evidenced by a written certificate furnished to the Company and the Trustee containing the specimen signature of such person and signed on behalf of the City by the Mayor. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized City Representative.

**“Authorized Company Representative”** shall mean the person designated as of the date of this Indenture to act on behalf of the Company as evidenced by a written certificate furnished to the City and the Trustee containing the specimen signature of such person and signed on behalf of the Company by authorized officers or employees. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized Company Representative.



“**Bonds**” shall mean, collectively, the City’s Taxable Industrial Revenue Bonds (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023 of any series issued from time to time pursuant to the Indenture, and subject to the terms of this Agreement, in a maximum total aggregate principal amount of not to exceed \$55,000,000.

“**Bond Counsel**” shall mean Gilmore & Bell, P.C. or other firm of attorneys nationally recognized on the subject of municipal bonds and selected by the City.

“**Bond Fund**” shall mean the “City of Moberly, Missouri, Taxable Industrial Revenue Bond Fund - EquipmentShare.Com, Inc Manufacturing Facility Project,” together with the accounts and subaccounts therein created in Section 601 of this Indenture.

“**Bond Ordinance**” shall mean Ordinance No. \_\_\_\_\_ of the City adopted and approved by the City Council on February 21, 2023 authorizing the issuance by the City of the Bonds for the purpose of financing the Project on the Property; authorizing the City to execute and deliver this Indenture for the purpose of issuing and securing the Bonds; authorizing the City to enter 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 authorizing the City to annually accept, but not later than December 31, 2028, completed portions of the Financed Facilities and the Financed Equipment, all as provided in the Lease and in accordance with the Acts.

“**Bondowner**” shall mean the registered owner of any Bond as recorded on the Register maintained by the Trustee on behalf of the City.

“**Bond Purchase Agreement**” shall mean the agreement dated as of the date of closing on the Bonds, by and through which the City agrees to issue and the Company agrees to purchase the Bonds.

“**Business Day**” shall mean a day that is not a Saturday, Sunday or legal holiday in the State of Missouri. All other references to “days” shall mean calendar days. If the date for performance of any covenant or obligation under this Agreement shall fall on a Saturday, Sunday or legal holiday in the State of Missouri, then the date for performance thereof shall be extended to the next Business Day.

“**City**” shall mean 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, its successors and assigns.

“**City Clerk**” shall mean the duly appointed and serving Clerk of the City or designee.

“**City Council**” shall mean the duly elected and serving governing body of the City.

“**City Manager**” shall mean the duly appointed and serving City Manager of the City or designee.

“**Closing**” shall mean the closing on the conveyance by the Company to the City of the Property and the contemporaneous issuance by the City of the Bonds.

“**Closing Date**” shall have the meaning and use attributed to this term in the Bond Purchase Agreement.

“**Closing Price**” shall mean shall have the meaning and use attributed to this term in the Bond Purchase Agreement.

“**Company**” shall mean 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 its Affiliates, successors and assigns.

“**Control**” shall mean, with respect to any Affiliate, with respect to: (a) a corporation having stock, the ownership, directly or indirectly, of more than 50% of the securities (as defined in Section 2(1) of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the Directing Body of such corporation; (b) a not for profit corporation not having stock, having the power to elect or appoint, directly or indirectly, at least a majority of the members of the Directing Body of such corporation; or (c) any other entity, the power to direct the management of such entity through the ownership of at least a majority of its voting securities or the right to designate or elect at least a majority of the members of its Directing Body, by contract or otherwise.

“**Costs of Issuance**” shall mean, collectively, all reasonable and customary costs of issuance of the Bonds, including, but not limited to Bond Counsel and attorneys’ fees, fees of financial consultants, Trustee and fiscal agent fees, and bond registration fees, if any.

“**Cumulative Outstanding Principal Amount**” shall mean the aggregate principal amount of all Bonds issued in accordance with the provisions of this Indenture and Outstanding, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

“**Development Agreement**” shall mean the Development Agreement dated as of \_\_\_\_\_ 1, 2023 by and among the City, the Moberly Area Economic Development Corporation, and the Company respecting, among other things, the implementation of the Project.

“**Directing Body**” shall mean with respect to: (a) a corporation having stock, such corporation’s board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section 2(1) of the Securities Act of 1933, as amended) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation’s directors (both of which groups shall be considered a Directing Body); (b) a not for profit corporation not having stock, such corporation’s members if the members have complete discretion to elect the corporation’s directors, or the corporation’s

directors if the corporation's members do not have such discretion or if such corporation has no members; and (c) any other entity, its governing board or body.

**“Event of Default”** shall mean, with respect to this Indenture, any Event of Default as defined in Section 901 of this Indenture and, with respect to the Lease, means any Event of Default as defined in the Lease.

**“Financed Equipment”** shall mean collectively, the machinery, equipment, furnishings, information systems, hardware, special tools and other personal property acquired or installed or acquired for installation in the Project pursuant to the Lease and paid for in whole or in part from the Acquisition Fund, all as listed on Exhibit B, attached to and incorporated by reference in this Indenture and as amended and supplemented from time to time as provided in this Indenture, together with all replacements thereof and substitutions therefor.

**“Financed Facilities”** shall mean collectively, the real property improvements at the Property in connection with the Project made or to be made subsequent to the Effective Date of the Development Agreement and the Lease and paid for in whole or in part from the Acquisition Fund, all as further identified and described from time to time on Exhibit A, attached to and incorporated by reference in this Indenture.

**“Government Securities”** shall mean direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

**“Indenture”** shall mean this Trust Indenture, as from time to time amended in accordance with the provisions of Article XI of this Indenture.

**“Investment Securities”** shall mean any of the following securities:

- (a) Government Securities;
- (b) obligations of Fannie Mae, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;
- (c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;
- (d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any banking association or corporation (including the Trustee), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as

are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking.

(e) Shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, and which shares, at the time of purchase, are rated by Standard & Poor's and Moody's in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature.

(f) Any other investment approved in writing by all of the Bondowners of all of the Bonds then Outstanding.

(g) A cash escrow product offered by the Trustee, which may consist of trust funds, trust accounts, or interest-bearing demand or time deposits, including certificates of deposit, which are held by any commercial bank having a short term deposit rating at the time of purchase of at least A-2 or the equivalent thereof by Standard and Poor's or at least P-2 or the equivalent thereof by Moody's.

“**Lease**” shall mean the Lease Purchase Agreement dated of even date with this Indenture by and between the City, as lessor, and the Company, as lessee, related to the acquisition and financing of the Project, the Property, the Financed Facilities and the Financed Equipment, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof, of Article XII of this Indenture, and of the Development Agreement.

“**Mayor**” shall mean the duly elected and serving Mayor of the City.

“**Moody's**” shall mean Moody's Investors Services, a bond and credit rating agency and subsidiary of Moody's Corporation, having a principal office at 7 World Trade Center 250 Greenwich Street New York, NY 10007.

“**Outstanding**” when used with reference to Bonds, shall mean any Bond theretofore authenticated and delivered, except:

(a) any Bond theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) any Bond deemed to be paid in accordance with the provisions of Section 1302 of this Indenture; and

(c) any Bond in exchange for or in lieu of which another Bond has been authenticated and delivered pursuant to this Indenture.

“**Paying Agent**” shall mean the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

“**Project**” shall mean, collectively, the acquisition and renovation of the Property as a construction equipment refurbishment, rental, sales, service and tracking facility including, without limitation, the construction and equipping of the Financed Facilities and the installation of the Financed Equipment as and when annually accepted by the City in accordance with the Lease and this Indenture, all as necessary to facilitate the implementation of the Project which is anticipated to result in significant job creation and capital investment within the City and the region; *provided that* during the term of the Bonds, the Project shall be deemed at any time and from time to time to include only those portions of the Property, the Financed Facilities and the Financed Equipment actually conveyed to, accepted by, and then currently held by the City for a maximum period in each case of Twelve (12) years.

“**Project Costs**” shall mean all costs of acquisition, renovation, improvement, and installation of the Project, the Financed Facilities and the Financed Equipment, including the following:

(a) all costs and expenses necessary or incident to the acquisition by the City of the Property for which the Company is responsible under the Development Agreement;

(b) the cost of title insurance policies required by the Development Agreement and the cost of any other insurance coverages required by the Lease;

(c) all costs and expenses necessary or incident to the construction of the portions of the Financed Facilities which the Company conveys to the City including the actual cost of labor, materials, machinery, furnishings, and equipment as payable to contractors, builders, and materialmen in connection therewith;

(d) all costs and expenses necessary or incident to the purchasing and installing of the Financed Equipment which the Company conveys to the City;

(e) interest accruing on the Bonds during the construction period of the Project;

(f) reasonable expenses of administration, supervision and inspection properly allocable to the Bonds, the Financed Equipment, or the Financed Facilities and the extending and improving thereof pursuant to the Development Agreement; Costs of Issuance, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the purchasing,

titling, monitoring, construction, extending and improving of the Financed Equipment or the Financed Facilities and

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds; (2) the construction and improvement of the Financed Facilities; (3) the purchase and installation of the Financed Equipment; and (4) the financing of the foregoing in accordance with this Indenture.

**“Property”** shall mean the real property and improvements existing as of the date of the Development Agreement comprising a total of approximately Sixteen (16) acres within the corporate limits of the City and known and numbered as 1855 Robertson Road, all as more particularly described in Exhibit C, attached to and incorporated by reference in this Indenture.

**“Register”** shall mean the registration books kept by the Trustee to evidence, among other things, the ownership of the Bonds and the transfer and exchange thereof.

**“Registrar”** shall mean the Trustee when acting as such under this Indenture.

**“Supplemental Indenture”** shall mean any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to Article XI of this Indenture.

**“Supplemental Lease”** shall mean any supplement or amendment to the Lease entered into pursuant to Article XII of this Indenture.

**“Table”** shall mean the Table of Cumulative Outstanding Principal Amount on the Bonds, as reflected in the records maintained by the Trustee as provided in the Bonds and this Indenture.

**“Trust Estate”** shall mean the Trust Estate described in the Granting Clauses of this Indenture.

**“Trustee”** shall mean BOKF, N.A., St. Louis, Missouri, a national banking association duly organized and existing under the laws of the United States, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

## **Section 102. Rules of Interpretation.**

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

(b) Wherever in this Indenture it is provided 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.

(c) 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 Indenture as a whole and not to any particular article, section or subdivision.

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

**Section 103. Computation of Time.** Wherever this Indenture 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 THE BONDS**

**Section 201. Title and Aggregate Principal Amount of Bonds.** No Bonds may be issued under this Indenture except in accordance with the provisions of this Article II. The Bonds authorized to be issued under this Indenture shall be designated as “City of Moberly, Missouri Taxable Industrial Revenue Bond (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023” of applicable series. The maximum total aggregate principal amount of the Bonds that may be issued hereunder is hereby expressly limited to \$55,000,000.

**Section 202. Nature of Obligations.** The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Property and the Project under the Lease, and not from any other fund or source of the City and are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Bondowners, all as provided in this Indenture. The Bonds and the interest thereon shall not constitute a general obligation of the City, the County of Randolph, or the State of Missouri or any political subdivision thereof, and neither the City, said County, nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

### **Section 203. Denomination, Number and Dating of Bonds.**

(a) The Bonds shall be issuable in the form of one fully registered Bond without coupons in denominations of \$100,000 or integral multiples of \$1.00 in excess thereof. The Bonds shall be substantially in the form hereinafter set forth in Article IV of this Indenture.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided in this Indenture. If the Bonds are at any time thereafter transferred, any Bonds replacing such Bonds shall be dated as of the date of authentication thereof.

#### **Section 204. Method and Place of Payment of Bonds.**

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts or as otherwise provided in this Indenture.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent and the Trustee is authorized to make payments of principal on such Bonds (i) by check or draft mailed by the Trustee to the Bondowner at such Bondowner's address as such address appears on the Register; or (ii) by internal bank transfer or by wire transfer or other electronic transfer to an account at a commercial bank or savings institution located in the continental United States and designated in writing by such Bondowner to the Trustee with a copy to the City at least Five (5) Business Days prior to any principal payment date; *provided, that* so long as the Company or any entity Controlled by, under common Control with or Controlling the Company is the sole Bondowner of all Bonds then Outstanding and the lessee under the Lease, the Company may offset a portion of the Basic Rent due under the Lease against principal payments due under such Bonds and shall give the Trustee notice of such offset. If any such Bond is presented to the Trustee together with such payment, or for such payment, or upon receipt of such notice of offset, as applicable, the Trustee shall enter the amount of such principal payment on the Table of Cumulative Outstanding Principal Amount on such Bond in the manner provided by Section 402 of this Indenture and on the Register. Notwithstanding the foregoing, the Register maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount on any such series of Bonds at any time, and the Bondowner is not required to present such Bonds for action by the Trustee, as Registrar, with each payment of principal on such Bonds.

(c) Payment of the interest on the Bonds shall be made by the Trustee on each December 1, commencing on December 1, 2023, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full, but in no event later than the date provided in Section 208(a) of this Indenture. Interest shall be paid either: (i) by check or draft mailed by the Trustee to the Bondowner at such Bondowner's address as such address appears on the Register; or (ii) by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution located in the continental United States and designated by such Bondowner to the Trustee with a copy to the City at least Five (5) Business Days prior to any interest payment date; *provided that* so long as the Company or any entity Controlled by, under common Control with or Controlling the Company is the sole Bondowner of all Bonds then Outstanding and the lessee under the Lease, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under this 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. Upon such payment or occurrence of offset, as applicable, the Trustee shall record the amount of such interest payment on the Register.



**Section 205. Execution and Authentication of Bonds.**

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk and shall have the corporate seal of the City affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. The Bonds may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bonds although at the date of such Bonds such persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Section 403 of this Indenture, which shall be manually executed by the Trustee. No Bonds shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes unless and until such Certificate of Authentication shall have been duly executed by the Trustee. Such executed Certificate of Authentication upon the Bonds shall be conclusive evidence that the Bonds have been duly authenticated and delivered under this Indenture. The Certificate of Authentication shall be deemed to have been duly executed if signed by any authorized officer or signatory of the Trustee.

**Section 206. Registration, Transfer and Exchange of Bonds.**

(a) The Trustee shall keep at the corporate trust office of the Trustee the Register for the registration and for the transfer of the Bonds as provided in this Indenture and any applicable Supplemental Indenture.

(b) The Bonds may be transferred only upon the Register upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Bondowner or such Bondowner's attorney or legal representative in such form as shall be satisfactory to the Trustee. The Bonds have not been registered under the Securities Act of 1933, as amended, or any state securities law, and the Bonds may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City and the Trustee, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities law together with an executed representation letter signed by the proposed assignee containing substantially the same representations contained in the representation letter delivered to the Trustee from the Bondowner upon the initial issuance of the Bonds. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which a Bond shall be exchanged or transferred under this Indenture, the provisions of any legend restrictions on such Bond shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time a new Bond of equal tenor in accordance with the provisions of this Indenture. Each Bond surrendered in any such

exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer sufficient to reimburse any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer during the Fifteen (15) days immediately preceding an interest payment date on such Bond or, in the case of any proposed redemption of any Bond, during the Fifteen (15) days immediately preceding the selection of such Bond for redemption or after such Bond has been selected for redemption.

**Section 207. Persons Deemed Owners of Bonds.** As to any Bond, the person in whose name the same shall be registered as shown on the Register required by Section 206 of this Indenture shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the registered owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

**Section 208. Authorization of the Bonds.**

(a) There shall be issued and secured by this Indenture a series of Bonds in the maximum aggregate principal amount of not to exceed \$55,000,000 which shall be designated “City of Moberly, Missouri Taxable Industrial Revenue Bond (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023” of applicable series for the purpose of providing funds for paying Project Costs. The Bonds shall be dated as provided in Section 203(b) of this Indenture. The Bonds and applicable portions thereof shall become due (subject to prior redemption as hereinafter provided in Article III of this Indenture) on the later of: (i) December 1, 2034; 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 this Indenture) pertains, the corresponding portion of the Cumulative Outstanding Principal Amount reflected on Column D to the Table. The Bonds shall bear interest as specified in Section 208(f) of this Indenture, payable on the dates specified in Section 208(f) of this Indenture.

(b) The Trustee is hereby designated as the City’s Paying Agent for the payment of the principal of and interest on the Bonds.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in Article IV of this Indenture and delivered to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

- (1) An original or certified copy of the Bond Ordinance;
- (2) An original or certified copy of executed counterparts of this Indenture, the Lease, and the Bond Purchase Agreement;

(3) A representation letter from the purchaser of the Bonds in substantially the form attached as Exhibit D to and incorporated by reference in this Indenture and reasonably satisfactory to the City and the Trustee;

(4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Bonds and deliver the same to the purchaser identified in the Bond Purchase Agreement upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of Bond Counsel to the effect that the Bonds constitute a valid and legally binding limited and special revenue obligation of the City; and

(6) Such other certificates, statements, receipts and documents as the City or the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in Section 208(c) of this Indenture shall have been filed with the Trustee, and when the Bonds shall have been executed and authenticated as required by this Indenture the Company shall deliver to the Trustee the Closing Price and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and shall hold the Bonds in trust for the Company.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with Section 4.4 of the 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 this Section 208 and in Article V of this 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 date of endorsement of each such Additional Payment shall be the date of the City’s approval of such requisition certificate. The City and the Company further agree that, in the case of each Additional Payment, the delivery by the Company of such Additional Payment and the acceptance by the City of the portion of the Project to be acquired in connection with such Additional Payment shall be deemed to be reaffirmation as of the date of such Additional Payment by the parties of the accuracy of and their respective compliance with the representations and warranties set forth in the Bond Purchase Agreement and given as of the date of the Bond Purchase Agreement and as of the Closing Date.

(f) The Bonds shall bear interest at the rate of 5.00% per annum on the Cumulative Outstanding Principal Amount of the Bonds, and such interest shall be payable in arrears on each December 1 commencing on December 1, 2023 and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full, but in no event later than the date provided in Section

208(a) of this Indenture. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amounts deposited or deemed to be deposited into the Acquisition Fund pursuant to the terms of this Indenture, representing the then current amount of the Bonds including all Additional Payments and other real property or personal property transferred to the City in exchange for the issuance by the City of the Bonds in accordance with this Indenture and the Lease and applicable Supplemental Lease, as “Principal Amount Issued/Advanced,” and shall enter the aggregate principal amount of the Bonds then Outstanding as the “Cumulative Outstanding Principal Amount” on the Table and on the Register. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to Bondowners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter the principal amount paid on the Bonds on the Table and on the Register as “Principal Amount Paid Pursuant to Redemption Provisions” and shall reduce by the principal amount so paid the Cumulative Outstanding Principal Amount on the Table and on the Register; *provided that*, in the event Bonds are delivered to the order of the purchaser or the Company, as applicable, pursuant to Section 208(d) of this Indenture, on each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Bondowner pursuant to the redemption provisions of this Indenture, the Bondowner may enter the principal amount paid on the Bonds under the column headed “Principal Amount Paid Pursuant to Redemption Provisions” on the Table and may enter the then Outstanding principal amount of the Bonds under the column headed “Cumulative Outstanding Principal Amount” on the Table. However, the portions of the Register maintained by the Trustee as to principal amount issued or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

**Section 209. No Additional Bonds.** Other than the Bonds, the City shall not issue any bonds or other long-term obligations payable from the amounts due to the City under the Lease.

**Section 210. Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any Bonds shall become mutilated, or be lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver new Bond of like date and tenor as the Bonds mutilated, lost, stolen or destroyed; *provided that*, in the case of any mutilated Bonds, such mutilated Bonds shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bonds, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the City and the Trustee, together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a substitute Bond, the City may pay or authorize the payment of the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

**Section 211. Cancellation and Destruction of Bonds Upon Payment.**

(a) All Bonds which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before

maturity shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate describing the Bonds so destroyed and shall file executed counterparts of such certificate with the City and the Company.

### **ARTICLE III REDEMPTION OF BONDS**

**Section 301. Redemption Generally.** The Bonds shall be subject to redemption prior to maturity in accordance with the terms and provisions set forth in this Article III.

**Section 302. Redemption of Bonds.** The Bonds shall be subject to redemption and payment in whole or in part, as follows:

(a) At any time prior to the stated maturity thereof, at the option of the City, upon written instructions from the Company, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment; or

(b) At any time prior to the stated maturity thereof, to the extent amounts are deposited into the Bond Fund in accordance with clauses (c) through (g) of Section 602 of this Indenture, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

**Section 303. Effect of Call for Redemption.** Prior to the date fixed for redemption, funds or Government Securities shall be placed with the Trustee which are sufficient to pay the Bonds or portions thereof called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount thereof thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If all of the Bonds are fully redeemed prior to maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in Section 11.2 of the Lease.

**Section 304. Notice of Redemption.** In the event the Bonds or any portions thereof are to be called for redemption as provided in Section 302 of this Indenture, the Company shall deliver written notice to the City and the Trustee of the principal amount of such Bonds that the Company has elected to redeem, such notice to be delivered at least Forty (40) days (Ten (10) days if the Company, or any entity Controlled by the Company is the Bondowner of all of the Bonds to be redeemed) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Bondowner at least Thirty (30) days (Five (5) days if the Company, or any entity Controlled by the Company is the Bondowner of all of the Bonds to be redeemed) prior to the scheduled redemption

date by first class mail stating the principal amount of such Bonds to be redeemed and the date upon which such Bonds will be redeemed and paid.

**ARTICLE IV  
FORM OF BONDS**

**Section 401. Generally.** The Bonds and the Trustee’s Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in this Article IV. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

**Section 402. Form of Bonds.**

**(FORM OF BOND)**

This Bond has not been registered under the Securities Act of 1933, as amended, or any state securities laws and this Bond may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City and the Trustee to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities laws. This Bond may be transferred to any entity Controlled by the Company without the necessity of obtaining such an opinion. *Capitalized terms used and not defined in this Bond shall have the meanings ascribed to them in that certain Trust Indenture, dated as of \_\_\_\_\_ 1, 2023 between the City and the Trustee (as may be amended and supplemented from time to time in accordance with the provisions thereof, the “Indenture”).*

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**CITY OF MOBERLY, MISSOURI  
TAXABLE INDUSTRIAL REVENUE BOND  
(EQUIPMENTSHARE.COM INC. MANUFACTURING, REFURBISHMENT  
AND DISTRIBUTION FACILITY PROJECT)  
SERIES 2023**

**REGISTERED OWNER: EQUIPMENTSHARE.COM INC.**

**PRINCIPAL AMOUNT: SEE COLUMN D, SCHEDULE 1, ATTACHED HERETO**

THE CITY OF MOBERLY, MISSOURI, a city of the third classification organized and existing under the laws of the State of Missouri (the “City”), for value received, promises to pay to the order of the registered owner identified above or registered assigns, but solely from the source hereinafter referred to, 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, the corresponding portion of the Cumulative Outstanding Principal Amount reflected on Column D to the Table and recorded as provided in the Indenture. The City agrees to pay such principal amount to the registered owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, or as otherwise provided in the Indenture, and in like manner to pay to the registered owner hereof, either by check or draft mailed to the registered owner at a stated address as it appears on the Register kept by the Trustee under the Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States, interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the rate of 5.00% per annum payable annually in arrears on each December 1 commencing on December 1, 2023, and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full. Interest shall be computed on the basis of a year of 360 days consisting of 12 months of 30 days each. Principal on this Bond shall be payable in full on the later of: (i) December 1, 2034; or (ii) with respect to any 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 pertains, as provided above.

The Trustee shall keep and maintain a record of the amounts deposited or deemed to be deposited into the Acquisition Fund pursuant to the terms of the Indenture representing the then current amount of the Bonds including all Additional Payments and other property or amounts transferred to the City in exchange for the issuance by the City of this Bond, as “Principal Amount Issued/Advanced” and shall enter the aggregate principal amount of this Bond then Outstanding as the “Cumulative Outstanding Principal Amount” on its records maintained for this Bond. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner thereof, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on this Bond as “Principal Amount Paid Pursuant to Redemption Provisions,” and on its records shall reduce by the principal amount so paid the Cumulative Outstanding Principal Amount. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner thereof pursuant to the redemption provisions of the Indenture, the registered owner may enter the principal amount paid on this Bond under the column headed “Principal Amount Paid Pursuant to Redemption Provisions” on the Table and may enter the then-Outstanding principal amount of this Bond under the column headed “Cumulative Outstanding Principal Amount” on the Table. However, the records maintained by the Trustee as to principal amount issued or principal amounts paid on this Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

THIS BOND is a duly authorized Bond of the City designated “City of Moberly, Missouri Taxable Industrial Revenue Bond (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2023” of applicable series in the maximum aggregate principal amount of not to exceed \$55,000,000, to be issued for the purpose of providing funds to pay Project Costs and the Property and the Project shall be leased to the Company, under the terms of a Lease, between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations and constitution and statutes of the State of Missouri, including particularly the Acts, and pursuant to proceedings duly had by the governing body of the City.

THIS BOND is issued under and is equally and ratably secured and entitled to the protection given by the Indenture. Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for this Bond, the rights, duties and obligations of the City, the Trustee and the owners of this Bond, and the terms upon which this Bond is issued and secured.

THIS BOND shall be subject to redemption and payment in whole or in part, as follows:

(a) At any time prior to the stated maturity thereof, at the option of the City, upon instructions from the Company, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment; or

(b) At any time prior to the stated maturity thereof, to the extent amounts are deposited into the Bond Fund, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

In the event this Bond is to be called for redemption, the Company shall deliver written notice to the City and the Trustee that the Company has elected to redeem all or a portion of this Bond at least 40 days (10 days if the Company, or any entity Controlled by the Company, is the Bondowner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the owner of this Bond at least 30 days (5 days if the Company, or any entity Controlled by the Company, is the Bondowner) prior to the scheduled redemption date by first class mail stating the date upon which this Bond will be redeemed and paid.

THIS BOND, including interest thereon, is a special limited obligation of the City and is payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and is secured by a pledge and assignment of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. This Bond does not constitute a general obligation of the City, of the County of Randolph, or of the State of Missouri or any political subdivision thereof, and neither the City, said County, nor said State shall be liable thereon, and this Bond shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and is not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on this Bond are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special account created by the City in the Indenture and designated the "City of Moberly, Missouri, Taxable Industrial Revenue Bond Fund – EquipmentShare Manufacturing Facility Project;" *provided that*, so long as the Company, or any entity Controlled by the Company, is the sole Bondowner of all Bonds then Outstanding and the lessee under the Lease, the Company may offset a portion of the Basic Rent due under the Lease against principal and interest payments due under the Bonds.

THE OWNER of this Bond shall have no right to enforce the provision of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with



respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of this Bond issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

THIS BOND is transferable, only as provided in the Indenture, and only upon the Register kept for that purpose at the above-mentioned office of the Trustee by the registered owner hereof in person or by such person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or such person's duly authorized attorney, and thereupon a new fully registered Bond, without coupons, and in the same aggregate principal amount, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

THIS BOND may be issuable in denominations authorized under the Indenture.

THIS BOND shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the constitution and laws of the State of Missouri.

IN WITNESS WHEREOF, City of Moberly, Missouri, has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated as of \_\_\_\_\_ 1, 2023.

**CITY OF MOBERLY, MISSOURI**

By: \_\_\_\_\_  
Mayor

(SEAL)  
ATTEST:

By: \_\_\_\_\_  
City Clerk

**SCHEDULE 1**  
**TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT**

A	B	C	D	E
Endorsement Date	Principal Amount Issued/Advanced	Principal Amount Paid Pursuant to Redemption Provisions	Cumulative Outstanding Principal Amount	Notation Made By
_____ 1, 2023	\$ _____		\$ _____	
_____, 2024	\$ _____	\$ _____	\$ _____	
_____, 2025	\$ _____	\$ _____	\$ _____	
_____, 2026	\$ _____	\$ _____	\$ _____	

(FORM OF ASSIGNMENT)  
(NOTE RESTRICTIONS ON TRANSFERS)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Print or Typewrite Name, Address and Social Security or  
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept by the Trustee for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

\_\_\_\_\_  
(Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15) or such other similar rule as the Trustee may deem applicable)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**Section 403. Form of Certificate of Authentication.**

(FORM OF TRUSTEE’S CERTIFICATE OF AUTHENTICATION)

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CERTIFICATE OF AUTHENTICATION

This Bond is the City of Moberly, Missouri Taxable Industrial Revenue Bond (EquipmentShare.com Inc. Manufacturing, Refurbishment and Distribution Facility Project) Series 2022, described in the Indenture. The effective date of registration of this Bond is set forth below.

**BOKF, N.A., as Trustee**

\_\_\_\_\_ By \_\_\_\_\_  
Date Name: \_\_\_\_\_  
Authorized Officer

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**ARTICLE V  
CUSTODY AND APPLICATION OF BOND PROCEEDS**

**Section 501. Creation of the Acquisition Fund.** There is hereby created and ordered to be established in the custody of the Trustee a special trust fund in the name of the City to be designated the “City of Moberly, Missouri, Acquisition Fund - EquipmentShare Manufacturing Facility Project,” (the “**Acquisition Fund**”).

**Section 502. Deposits into the Acquisition Fund.** The proceeds of the sale of the Bonds (whether actually paid or deemed to be paid pursuant to Section 208(d) of this Indenture) together with such additional payments as provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to Section 602 of this Indenture, shall be deposited by the Trustee into the Acquisition Fund. Any money received by the Trustee from any other source for the purpose of acquisition, construction, extension or improvement of improvements to the Project or for other projects authorized hereunder shall also be deposited into the Acquisition Fund.

**Section 503. Disbursements from the Acquisition Fund.**

(a) The amounts in the Acquisition Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company for payment of Project Costs upon receipt of requisition certificates signed by the Company and approved in writing by the Authorized City Representative in accordance with the provisions of Article IV of the Lease, and the Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions. In paying any requisition certificate under this Section 503, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by

the Authorized City Representative. The Trustee shall not be required to make any inspections of the Project, the Property, the Financed Facilities or the Financed Equipment or otherwise supervise the progress or completion thereof. The execution of each requisition certificate by the Authorized City Representative shall constitute unto the Trustee an irrevocable determination that the conditions precedent to payment of the specified amounts from the applicable account within the Acquisition Fund have occurred.

(b) If, pursuant to Sections 208(d) or 208(e) of this Indenture, the Trustee is deemed to have deposited into the Acquisition Fund the Closing Price or an Additional Payment as specified in a requisition certificate submitted by the Company, the Trustee, upon endorsement of the Bonds in such amount, shall be deemed to have disbursed such amount from the Acquisition Fund to the Company as the full payment of the applicable Project Costs as specified in and in accordance with such requisition certificate.

(c) The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

(d) The Trustee shall keep and maintain adequate records pertaining to the Acquisition Fund and all disbursements therefrom and shall provide a statement of receipts and disbursements with respect thereto to the City on a quarterly basis. After a certificate of payment of all Project Costs has been filed as provided in Section 504 of this Indenture, the Trustee, to the extent it has not already done so pursuant to this Section 504 or Section 1012 of this Indenture, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

**Section 504. Completion of the Project.** The completion of the Project and the payment of all Project Costs and expenses incident thereto shall be evidenced by the filing with the Trustee and the City of the certificate required by the provisions of Section 4.5 of the Lease. As soon as practicable after the filing of such certificate any balance remaining in the Acquisition Fund shall without further authorization be deposited in the Bond Fund.

**Section 505. Disposition Upon Acceleration.** If the principal of the Bonds shall have become due and payable pursuant to Section 902 of this Indenture, upon the date of payment by the Trustee of any moneys due as hereinafter provided in Article IX of this Indenture, any balance remaining in the Acquisition Fund shall without further authorization be deposited in the Bond Fund by the Trustee with notice to the City and to the Company of such action.

## ARTICLE VI REVENUES AND FUNDS

**Section 601. Creation of the Bond Fund.** There is hereby created and ordered established in the custody of the Trustee a special trust fund in the name of the City to be designated the “City of Moberly, Missouri, Bond Fund – EquipmentShare Manufacturing Facility Project,” (the “**Bond Fund**”).

**Section 602. Deposits Into the Bond Fund.** The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds, if any, paid by the purchaser of such

Bonds; (b) all rent payments payable by the Company to the City specified in Section 5.1 of the Lease and amounts due under Section 5.2 of the Lease for deposit in the Bond Fund; (c) any amount in the Acquisition Fund to be transferred to the Bond Fund pursuant to Section 504 of this Indenture upon payment of all Project Costs; (d) the balance of any Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to Article IX of the Lease; (e) the amounts to be deposited in the Bond Fund pursuant to Section 9.1 and Section 9.2 of the Lease; (f) all interest and other income derived from investments of Bond Fund moneys as provided in Section 702 of this Indenture; and (g) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Bond Fund.

**Section 603. Application of Moneys in the Bond Fund.**

(a) Except as provided in Section 606 and Section 908 of this Indenture or in paragraph 4.6(a) of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds on a parity basis as the same matures and becomes due or upon the redemption thereof prior to maturity; *provided, however*, that any amounts received by the Trustee as Additional Rent under Section 5.2 of the Lease and deposited to the Bond Fund as provided in Section 602 of this Indenture, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same becomes due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee may use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by Article III of this Indenture so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

**Section 604. Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds shall be a Saturday, a Sunday or a legal holiday or a day on which banking institutions in the city of payment are authorized by law to close, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

**Section 605. Nonpresentment of Bonds.** In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bonds shall have been made available to the Trustee, all liability of the City to the Bondowner thereof for the payment of such Bonds shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Bondowner of such Bonds who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bonds. If any Bonds shall not be presented for payment within One (1) year following the date when such Bonds become due, whether by maturity or otherwise, the Trustee shall repay to the Company the funds theretofore held by the Trustee for payment of such Bonds, and such Bonds shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Bondowner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 606. Repayment to the Company from the Bond Fund.** After payment in full of the principal of and interest, if any, on all Bonds (or provision has been made for the payment thereof) as provided in this Indenture, and of the fees, charges and expenses of the Trustee, the City and any Paying Agent and of any other amounts required to be paid under this Indenture and the Lease (including, without limitation, any amounts payable under the Development Agreement), all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

## **ARTICLE VII SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

**Section 701. Moneys to be Held in Trust.** All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Acquisition Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture, the Lease and the Development Agreement, as applicable, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien of this Indenture. Neither the Trustee nor any Paying Agent shall be under any liability for interest or any moneys received hereunder except such as may be agreed upon.

**Section 702. Investment of Moneys in Acquisition Fund and Bond Fund.** Moneys held in the Acquisition Fund and the Bond Fund shall, pursuant to written direction of the City, signed by the Authorized City Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the owner prior to the date such funds will be needed. In the event the City fails to provide written directions concerning investment of moneys held in the Acquisition Fund and the Bond Fund, the Trustee may invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption prior to the date such funds will be needed. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon

and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to Section 1001(h) of this Indenture of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Acquisition Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any fund is insufficient for the purposes of such fund. In determining the balance in any fund, investments in such fund shall be valued at the lower of their original cost or their fair market value as of the most recent payment date. The Trustee may make any and all investments permitted by the provisions of this Section 702 through its own bond department or any affiliate or short-term investment department.

**Section 703. Record Keeping.** The Trustee shall maintain records designed to show compliance with the provisions of this Article VII and with the provisions of Article VI of this Indenture for at least Six (6) years after the payment of all of the Outstanding Bonds.

## **ARTICLE VIII GENERAL COVENANTS AND PROVISIONS**

**Section 801. Payment of Principal and Interest.** The City covenants and agrees that the City will, but solely from the rents, revenues and receipts derived from the Property, the Project, and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided in this Section 801 and in the Bonds according to the true intent and meaning thereof. Notwithstanding anything elsewhere to the contrary in this Indenture or in the Bonds, amounts of Basic Rent required to be 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 (ii) redemption of the Bonds in whole, but not in part; and (B) payments of principal on the Bonds upon maturity, or upon redemption of the Bonds, whether in whole or in part. Such payments by the City of principal and interest may be made by credit as contemplated in Section 1302(d) of this Indenture. Nothing herein shall be construed as requiring or authorizing the City to operate the Project, the Property or any portion thereof as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Property, the Project and the Lease.

**Section 802. Authority to Execute Indenture and Issue Bonds.** The City covenants that it is duly authorized under the constitution and laws of the State of Missouri to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Bondowners thereof are and will be a valid and enforceable obligation of the City according to the import thereof.

**Section 803. Performance of Covenants.** The City covenants that the City will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of the City Council pertaining thereto. The

Trustee may take such action as the Trustee deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

**Section 804. Instruments of Further Assurance.** The City covenants that the City will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants and agrees that, except as in this Indenture and in the Lease provided, the City will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Property or the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of the City's rights under the Lease.

**Section 805. Recordings and Filings.** Upon request of the purchaser or purchasers of the Bonds or the Trustee, the City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all appropriate financing and continuation statements and other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Bondowners and the rights of the Trustee hereunder.

**Section 806. Inspection of Books.** The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

**Section 807. Enforcement of Rights Under the Lease.** The City covenants and agrees that the City shall enforce all of the City's rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Property, the Project, the Financed Facilities and the Financed Equipment in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Bondowners with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; *provided that*, the City and the Trustee, as its assignee, shall not enforce any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under this Indenture or any Supplemental Indenture, the Lease, the Development Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies, payment bonds or similar security required by the Lease or by the Development Agreement) unless and until directed to do so in writing by the Bondowners of 100% of the Outstanding Bonds. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in the Company's name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Bondowner, whether or not the City is in default hereunder. So long as not otherwise provided in this Indenture, the Company shall be permitted to possess, use and enjoy the Property, the Project, the Financed Facilities and the Financed Equipment and appurtenances thereto so as to carry out the Company's obligations under the Lease; *provided*



that the option to purchase the Property and the Project granted to the Company in Article IX of the Lease shall be and remain superior to this Indenture.

## **ARTICLE IX DEFAULT AND REMEDIES**

**Section 901. Events of Default; Notice; Opportunity to Cure.** If any of the following events occur, it is hereby defined as and declared to be and to constitute an “Event of Default”:

- (a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof;
- (c) An Event of Default as defined in the Lease shall have occurred; or
- (d) Any uncured 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 under the Development Agreement; or (ii) the City’s rights to indemnification or to be protected from liabilities by insurance coverages, payment bonds or similar security required by the Development Agreement or the Lease; or (iii) the Company’s failure to obtain or maintain or cause to be obtained and maintained insurance coverages, payment bonds or similar security required by the Development Agreement or the Lease.

Anything herein to the contrary notwithstanding, no default specified above shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given by the City, the Trustee or by the Bondowners of 25% in aggregate principal amount of the Bonds Outstanding to the Company and the Company shall have had Thirty (30) days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within such period; *provided, however*, if any such default (other than a default in the payment of any money) shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Company within such period and diligently pursued until the default is corrected. In addition, anything herein to the contrary notwithstanding, to the extent the Company makes an applicable payment of Additional Rents pursuant to the Lease, and the City or Trustee fails to use the funds from such payment to make the corresponding payment under the Lease no Event of Default shall have occurred under this Indenture.

**Section 902. Acceleration of Maturity in Event of Default.** If an Event of Default shall have occurred and be continuing, the Trustee may, and upon the written request of the Bondowners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, or upon the written request of the City in the case of an Event of Default set forth in Section 901(d) of this

Indenture, shall, by notice in writing delivered to the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

**Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.** If an Event of Default shall have occurred and be continuing, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements; the Trustee may lease the Project, the Property, the Financed Facilities and the Financed Equipment or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, the Trustee's agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges prior to the lien of this Indenture, (d) all expenses of such repairs and improvements, and (e) any amounts payable under the Development Agreement (except for the rights of the City to receive payments owing to the City for its own account under the Lease, the Development Agreement or any other agreement related to the Bonds or for the City's rights of indemnification or to be protected from liabilities by insurance policies, payment bonds or similar security required by the Lease or by the Development Agreement), and the Trustee shall apply the remainder of the moneys so received in accordance with the provisions of Section 908 of this Indenture. Whenever all that is due upon the Bonds shall have been paid and all defaults made good, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

**Section 904. Appointment of Receivers in Event of Default.** If an Event of Default shall have occurred and be continuing, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondowners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

**Section 905. Exercise of Remedies by the Trustee.**

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding, and to enforce and compel the performance of the duties and obligations of the City or the Company as set forth in this Indenture, the Lease or the Development Agreement, respectively.

(b) If an Event of Default arising under Sections 901(a), (b) or (c) of this Indenture shall have occurred and be continuing, and if requested to do so by the owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in Section 1001(l) of this Indenture, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article IX as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the Bondowner.

(c) All rights of action under this Indenture or under any of the Bonds (other than the City's rights of indemnification or to be protected from liabilities by insurance policies, payment bonds and similar security required by the Lease or by the Development Agreement) may be enforced by the Trustee without the possession of such Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in the name of the Trustee without necessity of joining as plaintiffs or defendants any Bondowner, and any recovery of judgment shall be, subject to the provisions of Section 908 of this Indenture and the provisions of the Development Agreement and the rights of the City thereunder, for the equal benefit of all the Bondowners of the Outstanding Bonds.

**Section 906. Limitation on Exercise of Remedies by Bondowners.** No Bondowner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (i) a default arising under Sections 901(a), (b) or (c) of this Indenture has occurred of which the Trustee has been notified as provided in Section 1001(h) of this Indenture or of which by said Section 1001(h) the Trustee is deemed to have notice, (ii) such default shall have become an Event of Default, (iii) the Bondowners of 25% in aggregate principal amount of the Bonds then Outstanding shall have made written request to the Trustee, shall have offered the Trustee reasonable opportunity either to proceed and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and shall have offered to the Trustee indemnity as provided in subsection (l) of Section 1001 of this Indenture, and (iv) the Trustee shall thereafter fail or refuse to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Bondowners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Bondowners of the Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondowner to payment of the principal of and interest on any Bonds at and after the maturity thereof or the obligation of the City to pay the principal of and interest on such Bonds issued hereunder to the respective Bondowners thereof at the time, place, from the source and in the manner herein and in such Bonds expressed.

**Section 907. Right of Bondowners to Direct Proceedings.**

(a) Anything in this Indenture to the contrary notwithstanding, the Bondowners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; *provided that* such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture; and *provided further* that the Trustee shall have the right to decline to follow any such direction if the Trustee shall in good faith determine that the proceedings so directed would involve the Trustee in personal liability; and *provided further* that nothing in this Section 907 shall affect any City right under the Development Agreement.

(b) Notwithstanding any provision in this Indenture to the contrary, the Bondowners shall not have the right to control or direct any remedies hereunder if an Event of Default has occurred or is occurring pursuant to paragraph 12.1(e) of the Lease or in the event the City or the Trustee are enforcing rights (a) to collect moneys for their own account as required by the Lease or by the Development Agreement, or (b) to indemnification or to be protected from liabilities by insurance policies or payment bonds as required by the Lease or by the Development Agreement.

**Section 908. Application of Moneys in Event of Default.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article IX shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys fees and expenses) or to be paid to the City under the Development Agreement or to the Trustee pursuant to Section 903 of this Indenture, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

(1) Unless all of the principal of all of the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the persons entitled thereof of the unpaid principal of the Bonds which shall have become due and payable (other than portions of the Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

(2) If all of the principal of the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the person entitled thereto, without any discrimination or privilege.

(3) If all of the principal of the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of Section 910 of this Indenture, then, subject to the provisions of subsection (2) of this Section 908 in the event that all of the principal of the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section 908.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section 908, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, the Trustee shall fix the date (which shall be an interest payment date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid in full under the provisions of this Section 908, and all fees, expenses and charges of the City and the Trustee have been paid in full (including any amounts payable under the Development Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in Section 606 of this Indenture.

**Section 909. Remedies Cumulative.** No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondowners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondowners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the City, the Company, the Trustee and the Bondowners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 910. Waivers of Events of Default.** The Trustee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on the Bonds, and shall do so upon the written request of the Bondowners of

at least 50% in aggregate principal amount of all of the Bonds then Outstanding (except for any Event of Default hereunder as a result of any Event of Default under paragraph 12.1(e) of the Lease or arising under Section 901(d) of this Indenture, which Events of Default may only be waived by the City); *provided, however*, that there shall not be waived without the consent of all the Bondowners of all of the Bonds then Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee (including attorneys fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Bondowners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default or impair any right consequent thereon.

## **ARTICLE X THE TRUSTEE**

**Section 1001. Acceptance of the Trusts.** The Trustee hereby accepts the trusts imposed upon it by this Indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default shall have occurred and be continuing, subject to Section 1001(l) of this Indenture, the Trustee shall exercise such of the rights and powers vested in the Trustee by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent corporate trust department would exercise or use under the circumstances in the conduct of the Trustee's own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by the Trustee with due care, and the Trustee shall be entitled to act upon the opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by the Trustee taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) Except as provided in the Lease and particularly Section 10.8 thereof, the Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to

the Certificate of Authentication of the Trustee endorsed on such Bonds), or for the recording or rerecording, filing or refiling of this Indenture or for insuring the Property, the Project, the Financed Facilities or the Financed Equipment or for collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by the Trustee in accordance with Article VII of this Indenture.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered under this Indenture. The Trustee, in its individual or any other capacity, may become the owner or pledgee of such Bonds with the same rights which the Trustee would have if it were not Trustee.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any ordinance, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by the Trustee to be genuine and correct and to have been signed, presented or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent is a Bondowner of any Bond, shall be conclusive and binding upon all future Bondowners of the same Bond including those issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Trustee has been notified as provided in paragraph 1001(h) of this Indenture or of which by said paragraph the Trustee is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at the Trustee's discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in Article VI of this Indenture, unless the Trustee shall be specifically notified in writing of such default by the City or by the Bondowners of at least 25% in aggregate principal amount of all of the Bonds then Outstanding.

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and the Trustee's duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but shall not be required, to inspect any and all of the Property, the Project, the Financed Facilities or the Financed Equipment and all books, papers and records of the City pertaining to the Property, the Project, the Financed Facilities, the Financed Equipment and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Property, the Project, the Financed Facilities or the Financed Equipment.

(k) The Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bond, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bond, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking any action under this Indenture other than the payments from moneys on deposit in the Acquisition Fund or the Bond Fund, as provided in this Indenture, the Trustee may require that satisfactory indemnity be furnished to the Trustee for the reimbursement of all costs and expenses to which the Trustee may be put and to protect the Trustee against all liability which the Trustee may incur in or by reason of such action, except liability which is adjudicated to have resulted from the Trustee's negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision intended to provide to the Trustee authority to act, right to payment of fees and expenses, or protection, immunity and indemnification shall include any action of the Trustee whether deemed to be in the capacity of trustee, Paying Agent, or Registrar.

(n) In executing or accepting additional trusts created by any Supplemental Indenture or Supplemental Lease or modifications thereby of the trusts created under this Indenture, the Trustee shall be entitled to receive, and shall be fully protected in relying upon, an opinion of counsel stating that the execution of such Supplemental Indenture or Supplemental Lease is authorized and permitted by this Indenture and that all conditions precedent have been complied with by the City and the Company.

**Section 1002. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for the Trustee's ordinary services rendered under this Indenture and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services and, in the event that it should become necessary that the Trustee perform extraordinary services, the Trustee shall be



entitled to reasonable compensation therefor and to reimbursement for reasonable expenses in connection therewith; *provided that* if such extraordinary services or expenses are occasioned by the neglect or willful misconduct of the Trustee, the Trustee shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of Section 5.2 of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment prior to any payment on account of principal of or interest on the Bonds, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

**Section 1003. Notice to Bondowners if Default Occurs.** If a default occurs of which the Trustee is by Section 1001(h) of this Indenture required to take notice or if notice of default be given as in said Section 1001(h) provided, then the Trustee shall give written notice thereof to the last known Bondowners of all Bonds then Outstanding as shown by the Register required by Section 206 of this Indenture to be kept at the corporate trust office of the Trustee.

**Section 1004. Intervention by the Trustee.** In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and the Trustee's counsel, has a substantial bearing on the interests of Bondowners of the Bonds (other than for the rights of the City to receive payments owing to the City for its own account under the Lease, the Development Agreement or any other agreement related to the Bonds or for the City's rights of indemnification or to be protected from liabilities by insurance policies, payment bonds or similar security required by the Lease or by the Development Agreement), the Trustee may intervene on behalf of Bondowners and, subject to the provisions of Section 1001(l) of this Indenture, shall do so if requested in writing by the Bondowners of at least 25% of the aggregate principal amount of the Bonds then Outstanding.

**Section 1005. Successor Trustee Upon Merger, Consolidation or Sale.** With the prior written consent of the City and the Company, any corporation or association into which the Trustee may be merged or converted or with or into which the Trustee may be consolidated, or to which the Trustee may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which the Trustee is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

**Section 1006. Resignation of Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving Thirty (30) days' written notice to the City, the Company and the Bondowners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the City. The Trustee shall resign at any time the Trustee determines that the Trustee has a conflict of interest (as defined in the Trust Indenture Act of 1939), and shall, within Ninety (90) days after ascertaining that the Trustee has a conflict of

interest, or within Thirty (30) days after receiving written notice from the City or the Company (so long as the Company is not in default under the Lease) that the Trustee has a conflict of interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in this Indenture.

**Section 1007. Removal of Trustee.** The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Bondowners of a majority in aggregate principal amount of the Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture (including, without limitation, such Event of Default under Section 901(d) of this Indenture) or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Bondowners of the Bonds and signed by the Company.

**Section 1008. Appointment of Successor Trustee.** In case the Trustee shall resign or be removed, or shall otherwise become incapable of acting hereunder, or in case the Trustee shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) may be appointed by the City, or (b) reasonably acceptable to the City may be appointed by the Bondowners of a majority in aggregate principal amount of the Bonds then Outstanding, by an instrument or concurrent instruments in writing; *provided, nevertheless*, that in case of such vacancy, the City, by an instrument executed and signed by the Mayor and attested by the City Clerk under the City's seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall hold such appointment no longer than Ninety (90) days and shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section 1008 shall be a trust company or bank in good standing and qualified to accept such trust having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than \$50,000,000.

**Section 1009. Vesting of Trusts in Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor; but such predecessor shall, nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

**Section 1010. Right of Trustee to Pay Taxes and Other Charges.** In case any tax, assessment, payment in lieu of taxes, or governmental or other charge upon, or insurance premium with respect to, any part of the Property, the Project, the Financed Facilities, or the Financed

Equipment is not paid as required in this Indenture, the Development Agreement, or in the Lease, and after than Thirty (30) days' written notice by the Trustee to the Company the Trustee may pay such tax, payment in lieu, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Bondowners hereunder arising in consequence of such failure; any amount at any time so paid under this Section 1010, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Property, the Project, the Financed Facilities, and the Financed Equipment, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless the Trustee shall have been requested to do so by the Bondowners of at least 25% of the aggregate principal amount of the Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

**Section 1011. Trust Estate May be Vested in Co-trustee.**

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including, particularly, the State of Missouri) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either on default or in case the Trustee deems that by reason of any present or future law of any jurisdiction the Trustee may not exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee in such instance.

(b) In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the City and the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City or the Company be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City or the Company, as applicable.

(d) In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

**Section 1012. Accounting.** The Trustee shall render an annual accounting for the period ending December 31 of each year to the City, the Company and to any Bondowner requesting the same and, upon the request of the Company or the Bondowner, a monthly accounting to the Company and the Bondowner, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

**Section 1013. Performance of Duties Under the Lease.** The Trustee hereby accepts and agrees to perform all duties and obligations assigned to the Trustee under the Lease.

## **ARTICLE XI SUPPLEMENTAL INDENTURES**

**Section 1101. Supplemental Indentures Not Requiring Consent of Bondowners.** The City and the Trustee may from time to time, without the consent of or notice to any of the Bondowners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change not materially adverse to the security for the Bondowners;

(b) To grant to or confer upon the Trustee for the benefit of the Bondowners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondowners or the Trustee or either of them;

(c) To more precisely identify the Property, the Project, the Financed Facilities, or the Financed Equipment or to add additional property thereto; or

(d) To subject to this Indenture additional revenues, properties or collateral.

**Section 1102. Supplemental Indentures Requiring Consent of Bondowners.**

(a) Exclusive of Supplemental Indentures covered by Section 1101 of this Indenture and subject to the terms and provisions contained in this Section 1102, and not otherwise, the Bondowners of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; *provided, however,* that without the consent of the Bondowners of 100% of the principal amount of the Bonds then Outstanding, nothing in this Section 1102 contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond over any other Bond,

or (4) a reduction in the aggregate principal amount of the Bonds the Bondowners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section 1102, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Bondowner as shown on the Register required by Section 206 of this Indenture. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof, which shall be promptly mailed to the Bondowner upon written request, are on file at the principal corporate trust office of the Trustee for inspection by all Bondowners. If within Sixty (60) days or such longer period as may be prescribed by the City following the mailing and final publication of such notice, the Bondowners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Bondowner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

**Section 1103. Company's Consent to Supplemental Indentures.** Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article XI which affects any rights of the Company shall not become effective unless and until the Company shall have consented in writing to the execution and delivery of such Supplemental Indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture together with a copy of the proposed Supplemental Indenture to be mailed to the Company at least Thirty (30) days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

## **ARTICLE XII SUPPLEMENTAL LEASES**

**Section 1201. Supplemental Leases Not Requiring Consent of Bondowners.** The City and the Trustee shall, without the consent of or notice to the Bondowners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) in connection with the making by the Company of Additional Payments and acceptance by the City of additional real or personal property to be subject to the Lease, (b) by the provisions of the Lease and this Indenture, (c) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (d) so as to more precisely identify the Property, the Project, the Financed Facilities, or the Financed Equipment or add additional property thereto, (e) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Bondowners.

**Section 1202. Supplemental Leases Requiring Consent of Bondowners.** Except for Supplemental Leases as provided for in Section 1201 of this Indenture, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Bondowners of not less than a majority in aggregate principal amount of the Bonds at

the time Outstanding given and obtained as provided in Section 1102 of this Indenture. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in Section 1102 of this Indenture with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the principal corporate trust office of the Trustee for inspection by all Bondowners.

### **ARTICLE XIII SATISFACTION AND DISCHARGE OF INDENTURE**

#### **Section 1301. Satisfaction and Discharge of this Indenture.**

(a) When all of the principal of and interest on all of the Bonds shall have been paid in accordance with their terms or provision has been made for such payment, as provided in Section 1302 of this Indenture, and provision shall also be made for paying all other sums payable under this Indenture and under the Lease, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of such Bonds, and all sums payable by the Company under the Development Agreement, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void, and thereupon the Trustee shall cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be requisite to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City any property at the time subject to this Indenture which may then be in the Trustee's possession, except amounts in the Bond Fund required to be paid to the Company under Section 606 of this Indenture and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with Section 1302 of this Indenture as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

#### **Section 1302. Bond Deemed to be Paid.**

(a) Bonds shall be deemed to be paid within the meaning of this Article XIII when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) shall have been made or caused to be made in accordance with the terms thereof, or (2) shall have been provided for by depositing with the Trustee in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) shall have been provided for by surrendering such Bonds to the Trustee for cancellation. At such time as such Bonds shall be deemed to be paid hereunder, as

aforesaid, such Bonds shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed prior to the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed prior to their respective stated maturities, proper notice of such redemption shall have been given in accordance with Article III of this Indenture or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section 1302, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section 1302 for the payment of the Bonds shall be applied to and used solely for the payment of such Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

(d) At the Company's option, the Company may deliver to the Trustee for cancellation Bonds or portions thereof not previously paid, and the Company shall receive a credit against the Basic Rent or other amounts payable by the Company for the redemption or defeasance of the Bonds in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

#### **ARTICLE XIV MISCELLANEOUS PROVISIONS**

**Section 1401. Consents and Other Instruments by Bondowners.** Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgements within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the Register maintained on behalf of the City by the Trustee pursuant to Section 206 of this Indenture.

**Section 1402. Limitation of Rights Under this Indenture.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any person other than the parties hereto, and the Bondowners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Bondowners, as herein provided.

**Section 1403. Notices.** It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company or Bondowners if the same shall be duly mailed by registered or certified mail addressed:

- (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) To the Company: EquipmentShare.com Inc.  
5710 Bull Run Drive  
Columbia, Missouri 65201  
ATTN: \_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
ATTN: \_\_\_\_\_

(d) To the Bondowners if the same shall be duly mailed by first class, registered or certified mail addressed to each of the Bondowners of the Bonds at the time Outstanding as shown on the Register required by Section 206 of this Indenture to be kept at the principal corporate trust office of the Trustee.

**Section 1404. Severability.** If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or



unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

**Section 1405. Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 1406. Governing Law; Choice of Forum.** This Indenture and its performance shall be governed by and construed under the laws of the State of Missouri applicable to contracts made and to be performed wholly within such state, without regard to choice or conflict of laws provisions. Any action at law, suit in equity, or other judicial proceeding arising out of this Indenture shall be instituted only in the circuit court of Randolph County, Missouri or in federal court of the Eastern District of Missouri and waive any objections based upon venue or *forum non conveniens* or otherwise.

**IN WITNESS WHEREOF**, City of Moberly, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by its City Clerk, and to evidence its acceptance of the trusts hereby created, BOKF, N.A. has caused this Indenture to be signed in its name and behalf by its duly authorized officer and its official seal to be hereunto affixed and attested by its Secretary or Assistant Secretary, all as of the date first above written.

**CITY OF MOBERLY, MISSOURI**

By \_\_\_\_\_  
Jerry Jeffrey, Mayor

[SEAL]  
ATTEST:

By \_\_\_\_\_  
Shannon Hance, City Clerk

**BOKE, N.A.,**  
as Trustee

By \_\_\_\_\_  
Name:  
Title:

ATTEST:

By \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**  
**LOCATION OF FINANCED FACILITIES**

**EXHIBIT B**  
**THE FINANCED EQUIPMENT**  
**[TO BE PROVIDED BY THE COMPANY]**

**EXHIBIT C  
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 D**  
**FORM OF PURCHASER'S LETTER OF REPRESENTATIONS**

\_\_\_\_\_, 20\_\_\_\_

City of Moberly  
Moberly, Missouri

BOKF, N.A., as Trustee  
St. Louis, Missouri

Re: \$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 "Bonds")

Ladies and Gentlemen:

This letter is to provide you with certain representations and agreements with respect to the **[purchase of/making of an Additional Payment in connection with]** \$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 by the undersigned (the "Purchaser"). The Bonds are secured in the manner set forth in the Trust Indenture dated as of \_\_\_\_\_1, 2023 (the "Indenture"), between the City of Moberly, Missouri (the "City") and BOKF, N.A., as trustee (the "Trustee"). *Capitalized terms used and not defined in this letter shall have the meanings ascribed to them in the Indenture.*

In connection with **[purchase of/making of an Additional Payment under]** the Bonds, the undersigned Purchaser hereby represents and warrants to each of you and agrees with each of you, as follows:

**1. Purchase and Receipt of Bonds.** Purchaser acknowledges the **[initial]** purchase, receipt, and delivery from the City of the above-described Bonds, consisting of a single bond certificate in the maximum aggregate principal amount of \$55,000,000, dated as of \_\_\_\_\_1, 2023 and maturing 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, the corresponding portion of the Cumulative Outstanding Principal Amount reflected on Column D to the Table.

**2. Receipt of Documents.** Purchaser acknowledges that Purchaser has timely received in satisfactory form and manner all proceedings, certificates, opinions, and other documents required to be submitted to Purchaser pursuant to the Indenture prior to or on the date of **[purchase of/making of an Additional Payment under]** the Bonds, and that the City and the

Company have in all respects complied with and satisfied all of their respective obligations to Purchaser that are required under the Indenture to be complied with and satisfied on or before such date.

**3. Security for the Bonds.** Purchaser fully understands and acknowledges:

- (a) That the Bonds have been issued under and pursuant to the Indenture;
- (b) That the Bonds are payable solely out of the rents, revenues, and receipts to be derived from the leasing or sale of the Project to the Company under the Lease, which payments, revenues, and receipts have been pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds; and
- (c) That the Bonds do not constitute an indebtedness of the City or a loan or credit thereof within the meaning of any constitutional or statutory debt limitation or restriction.

**4. No Registration.** Purchaser understands that the Bonds have not been registered under the Securities Act of 1933, as amended, or the securities law of any state and will be sold to Purchaser in reliance upon certain exemptions from registration and in reliance upon the representations and warranties of Purchaser set forth herein. Purchaser acknowledges that no official statement or other offering document has been prepared with respect to the Bonds and that the absence of such offering material will limit the transferability of the Bonds. Purchaser is familiar with and has counsel who is familiar with federal and state laws pertaining to the transfer and distribution of securities, including, without limitation, disclosure obligations of the seller incident to any such transfer or distribution. Purchaser understands and acknowledges that the Bonds are exempt from the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission. Purchaser hereby covenants and agrees that Purchaser will not sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage, or dispose of the Bonds or any interest therein in violation of applicable federal or state law or in violation of the restrictions on sale, assignment, negotiation, or transfer of the Bonds set forth in paragraph 9 of this letter.

**5. Purchase of Bonds.** Purchaser has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bonds in particular, to enable Purchaser to evaluate the risks involved in an investment in the Bonds. Purchaser is **[purchasing/making an Additional Payment under]** the Bonds solely as an investment and for Purchaser's own account, as principal (not on behalf of another) with the present intent of holding the Bonds in Purchaser's investment portfolio, and not with a view to or in connection with any agreement or understanding looking toward any distribution, resale, fractionalization, subdivision, or other disposition thereof, and no person other than Purchaser has direct or indirect interest in the Bonds. Purchaser has satisfied itself that the Bonds may be legally purchased and assigned and transferred to Purchaser.

**6. Financial Statements and Documents; Access to Information.** Purchaser has received and carefully reviewed a copy of the Indenture and the Lease. Purchaser has received all

financial and other information from the Company that Purchaser has requested, has had all questions answered by appropriate officers of Company, and to the knowledge of Purchaser, has received all information necessary to make an informed decision with respect to issuance and purchase of the Bonds.

**7. Accredited Investor.** Purchaser certifies that Purchaser is (i) an “accredited investor” as that term is defined in Rule 501(a) of Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “1933 Act”) or (ii) a “qualified institutional buyer” as that term is defined in Rule 144A promulgated by the Securities and Exchange Commission under the 1933 Act (or other applicable state and federal securities laws and regulations).

**8. Suitable Investment.** Purchaser is now and was when Purchaser agreed to [purchase/make an Additional Payment under] the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds. Purchaser confirms that Purchaser’s investment in the Bonds constitutes an investment that is suitable for and consistent with Purchaser’s investment program and that Purchaser is able to bear the economic risk of an investment in the Bonds, including a complete loss of such investment.

**9. Sale or Exchange.** Purchaser acknowledges that the right to sell, assign, negotiate, or otherwise transfer the Bonds shall be limited to the sale, assignment, negotiation, or transfer to an “accredited investor” as that term is used and defined in Rule 501(a) of Regulation D of the 1933 Act and a “qualified institutional buyer” as that term is used and defined in Rule 144A promulgated by the Securities and Exchange Commission under the 1933 Act. Purchaser acknowledges and agrees that Purchaser will only offer, sell, pledge, transfer, or exchange the Bonds (a) in accordance with an available exemption from the registration requirements of the 1933 Act, (b) in accordance with any applicable state securities laws, and (c) in accordance with the provisions of the Indenture.

**10. Indemnification; Reliance.** Purchaser agrees to indemnify and hold each of the addressees of this letter and Bond Counsel harmless from any claims, judgments, costs, fees and expenses of whatsoever nature, whether relating to litigation or otherwise, resulting from the attempted or affected sale, offer for sale, pledge, transfer, conveyance, hypothecation, mortgage, disposition of the Bonds in violation or contravention of this letter. Purchaser has satisfied itself that the Bonds may be legally purchased by and assigned and transferred to Purchaser and the addressees and Bond Counsel may rely upon the representations of Purchaser set forth herein.

Very truly yours,

**EQUIPMENTSHARE.COM INC.**

“Purchaser”

By: \_\_\_\_\_

Title: \_\_\_\_\_