

MONTGOMERY COUNTY PUBLIC SCHOOLS

Expanding Opportunity and Unleashing Potential

DIVISION OF PROCUREMENT

January 27, 2023

RFP Number: 1072.4
Pre-bid Conference: February 16, 2023
Due Date: March 7, 2023
Open Time: 2:00 p.m.

To: Prospective Offerors

Montgomery County Public Schools (MCPS) is seeking proposals from qualified vendors for master lease financing.

A pre-bid conference will be held on Thursday, February 16, 2023 at 10:00 a.m., virtually, via Microsoft Teams. Questions regarding the RFP must be submitted by February 7, 2023.

Proposals must be received on or before 2:00 p.m., on March 7, 2023. Proposals received after this date and time will not be considered. Proposals must be delivered in a sealed opaque envelope with the RFP number, opening date and opening time indicated in the lower left corner of the envelope. Proposals must be marked on cover pages of each with “**ORIGINAL**” and “**COPIES**”. Proposals are to be delivered to Montgomery County Public Schools, (MCPS) Division of Procurement, 45 W. Gude Drive, Suite 3100, Rockville, Maryland 20850

The provider must submit one (1) original and three (3) copies of their proposal, one (1) redacted copy and a flash drive with the original and redacted versions. **The proposal must be signed by an official having authority to contract with MCPS.** The firm and official's name shall be used. This solicitation does not commit the district to pay any costs incurred in the submission of proposals or guarantee that an award will be made.

In the event of emergency closing of Board of Education offices, this bid will open at the same time on the next regular working day.

Sincerely,

Angela McIntosh-Davis, Director
Division of Procurement

AMD
Enclosure

MONTGOMERY COUNTY PUBLIC SCHOOLS
Office of Finance
Division of Procurement
850 Hungerford Drive
Rockville, Maryland 20850

Request for Proposal No. 1072.4, Master Lease Financing

1.0 INTENT

Montgomery County Public Schools (MCPS) seeks proposals from qualified vendors for master lease financing. The general conditions and specifications contained herein are intended to cover lease financing of essential equipment for MCPS during the life of the master lease agreement.

Vendors may choose to offer the terms and conditions of this solicitation to other agencies who are members of the Metropolitan Washington Council of Governments by completing the attached Rider Clause (Attachment 3).

As a governmental agency, MCPS is seeking tax exempt preferred municipal financing through a master lease.

MCPS prefers not to consider lease/purchase agreements that permit the issuance of Certificates of Participation unless deemed to be extremely beneficial to MCPS.

2.0 BACKGROUND

Montgomery County Public Schools (MCPS) is seeking proposals to provide financing for the purchase of assets under a three (3) year master lease agreement.

MCPS currently acquires school buses, technology equipment, and other vehicles and equipment under a master lease agreement. Lease financing for the last five fiscal years totaled \$161,032,876. Annual lease financing ranged from \$18,969,896 to \$45,298,767, and annually averaged \$32,206,575 during the period. MCPS terms specify annual payments in advance.

Approximately 46 percent of lease financing is for technology modernization equipment, 37 percent for school buses, with the remainder principally for maintenance vehicles and equipment, and classroom furniture.

The current master lease agreement amortization periods range from a net three (3) years to a net six (6) years, depending on the asset group. Amortization periods are considerably shorter than the life of acquired asset groups.

MCPS uses lease financing proceeds to reimburse it for payments made to suppliers. Master lease closings occur one to two times per fiscal year, and are comprised of assets acquired since the preceding lease closing.

Energy savings performance must be considered for financing over a twenty-year term.

3.0 SCOPE OF SERVICE

3.1 The terms controlling this transaction are expressed in the Master Lease (form agreement) and other attached forms that have been appended to these bid specifications. It is MCPS' policy not to vary from those terms and conditions except in unusual circumstances and in the public interest.

3.2 Title to the equipment financed will be in the name of MCPS. MCPS agrees to execute reasonable documents necessary to affect the lessor's security interest in the equipment, at the expense of the lessor. At the end of

the lease term, the lessor shall confirm transfer of all rights, title and interest in the equipment to the lessee. The lease financing transaction will be subject to a fiscal year funding-out clause. See Attachment 2, section 8. Under the conditions of this clause, if sufficient funds are not appropriated for a particular Equipment Schedule (as defined in the Master Lease) by the Board of Education for any new fiscal year, MCPS will return all equipment listed on such Equipment Schedule to the leasing/financing company, subject to the provisions of Section 8(c) [partial non-appropriation] of the lease agreement.

- 3.3 In submitting a proposal, the offeror certifies that it can provide the required financing without any additional burden or expense to MCPS, including cumbersome documentation and attorney opinion letters. MCPS' attorney will not provide any opinion letter for master lease transactions. Lessors are expected to provide required legal opinions. Any legal costs or recording fees will be borne by the lessor.
- 3.4 All documentation required for a lease closing under the master lease will be provided by the lessor at least five (5) days before a scheduled closing date.
- 3.5 The interest portion of each lease payment payable will be determined in accordance with a schedule based on a fixed calculation, whose components are included in the bid submission. The process for determining the interest rate is provided on page 8, Proposal Bid Form.
- 3.6 MCPS will be responsible for developing specifications, conducting the bid process, obtaining appropriate approvals, and inspecting and accepting equipment to be financed under the master lease. Escrow financing will be used to fund periodic MCPS reimbursement requests.
- 3.7 MCPS will have the option to prepay a schedule under its master lease at the time of any lease payment without prepayment penalty.
- 3.8 Awarded vendor shall provide rate information to the Project Contact on a quarterly basis.

4.0 PROPOSAL SUBMISSION

The following information must be submitted with the proposal:

- 4.1 One (1) original and three (3) copies of Offeror's response and all attached documents;
 - Sample documentation for this transaction including all required closing documents and any required opinions.
 - Certifications, representations or disclosure information that will be required.
 - Firm methodology for determining interest rates under the master lease. Index or scale values shall, for calculation illustration purposes, use April 12, 2010 as the effective date. (Use bid form, page 7);
- 4.2 All funding parties are to be disclosed.
- 4.3 Proposed schedule for executing documents and funding a closing under the master lease.
- 4.4 Other pertinent information necessary to explain the proposal.
- 4.5 Financial statements of the proposer and other funding parties, for the most current reporting period.
- 4.6 Customer references, from school systems and local governments in the Maryland, District of Columbia and Virginia areas are preferred.
- 4.7 Description of the offeror's background and experience in municipal financing, particularly equipment leases, with description of three-year history.
- 4.8 Completion of all attachments and appendices.

5.0 CONTRACT TERM

The term of each Master Lease shall be for a three (3) year period. MCPS reserves the right to extend its Master Lease at existing prices, terms and conditions for three (3) additional 3-year periods. Written notice to extend a Master Lease will be issued to the successful offeror thirty (30) days prior to the expiration of the original Master Lease or extension term. The vendor shall have ten (10) days from date of notification to accept or reject the extension.

MCPS reserves the right to enter lease agreements with other lease/financing companies as needs arise during the term of their Master Leases.

6.0 PROJECT CONTACT

After award the MCPS project contact for this proposed procurement is:

Montgomery County Public Schools
Division of Controller
Ms. Susan B Chen Controller
45 West Gude Drive., Suite 3200
Rockville, MD 20850
Phone: 240-740-7480

7.0 SCHEDULE

The anticipated schedule for activities related to this RFP is as follows:

RFP issued:	January 27, 2023
Questions due:	February 7, 2023
Virtual Pre-proposal conference:	February 16, 2023, 10:00 a.m.
Proposals due:	March 7, 2023, 2:00 p.m.
Anticipated award date:	June, 2023

All dates are subject to change at the discretion of MCPS.

The successful Offeror will be expected to be ready to start immediately upon award of the contract.

8.0 VIRTUAL PRE-PROPOSAL CONFERENCE

A virtual pre-proposal conference for prospective Offerors will be held on February 16, 2023 at 10:00 a.m., attendance at this conference is encouraged, but is not mandatory. The purpose of the pre-proposal conference will be to allow prospective Offerors the opportunity to obtain clarification of the RFP and ask questions directly of MCPS staff to assist them in the preparation of Proposals.

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 249 719 910 227

Passcode: 834Vpv

[Download Teams](#) | [Join on the web](#)

Contractors shall provide the names of the persons who will attend the pre-proposal conference. Send the names to Tammy Lyles, via e-mail, tammy_m_jarman@mcpsmd.org, no later than February 13, 2023.

9.0 PROPOSAL SUBMISSION AND DUE DATE

Proposal submissions shall address each paragraph in the same order as the RFP. Requirements for each section are indicated below, and proposals must contain all required information in order to be considered responsive. Proposals in response to this RFP are due on or before 2:00 p.m., March 7, 2023 at the address below. An original, three (3) copies and one (1) redacted version of the proposal should be sent by mail, courier or hand-delivery and placed on a flash drive to:

Montgomery County Public Schools
Division of Procurement
45 W. Gude Dr., Suite 3100
Rockville, MD 20850

10.0 EVALUATION AND AWARD

While the specifications indicated are intended to describe the principal requirements, Offerors are notified that bids will be evaluated as follows:

- Offerors offering the lowest responsive proposal
- Offeror’s ability to meet the required specifications
- Management and financial strength of the Offeror
- Complexity of the proposed transaction
- Administrative burden to MCPS
- References

It is the intention of MCPS to award its master lease to the Offeror meeting the specifications and submitting the most favorable rate with consideration being given to any previous performance for MCPS as to quality of service and Offeror’s ability to perform if awarded the contract. At the sole discretion of MCPS, awards will be made to one successful Offeror submitting the lowest aggregate quotation and best responsible submission. However, the Board reserves the right to make awards according to the best interests of the Board of Education of Montgomery County, Maryland. MCPS reserves the right to reject any or all responses.

11.0 REFERENCES

Offerors are required to provide three (3) references. The references shall have company name, contact person, address and phone number of three (3) current customers for which a contract for similar services have been provided. If the reference information is not accurate and MCPS cannot contact the person(s) named your proposal may not be considered.

<u>Contact</u> <u>Company Name & Address</u>	<u>Phone</u> <u>Person</u>	<u>Contract</u> <u>Number</u>	<u>Number</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

12.0 DEVIATIONS

If your offer differs in any way from the conditions and/or specifications in this bid, if alternate financing is offered, or if exceptions are taken to any clause of the form Master Lease (Attachment 2), each deviation shall

be so noted in a separate letter attached to this bid. Unless your offer contains specific deviations, it will be assumed that the required documentation will not be altered in any way. Failure to adhere to this requirement may result in rejection.

13.0 ATTACHED EXHIBITS OR APPENDICIES

1. Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2022
2. Form Master Equipment Lease/Purchase Agreement
3. Mid-Atlantic Cooperative Rider Clause
4. Equal Opportunity Certification
5. Certification of Nonsegregated Facilities
6. Minority Business Enterprise
7. Non-Debarment Acknowledgement

14.0 ADDENDA/ERRATA

Changes and addenda to a solicitation may occur prior to the solicitation opening date and time. It is the bidder's responsibility to check the MCPS website, under "Event Calendar" or contact the Division of Procurement at 240-740-7600 to verify whether addenda/errata have been issued. Failure to provide the signed acknowledgement of the addenda/errata may result in a bid being deemed non-responsive. MCPS website is <http://www.montgomeryschoolsmd.org/departments/procurement/>.

15.0 MULTI-AGENCY PARTICIPATION

MCPS reserves the right to extend the terms and conditions of this solicitation to any and all other agencies within the state of Maryland as well as any other federal, state, municipal, county, or local governmental agency under the jurisdiction of the United States and its territories. This shall include but not be limited to private schools, parochial schools, non-public schools such as charter schools, special districts, intermediate units, non-profit agencies providing services on behalf of government, and/or state, community and/or private colleges/universities that required these goods, commodities and/or services. Use of this solicitation by other agencies may be dependent on special local/state requirements attached to and made a part of the solicitation at time of contracting. The supplier/contractor agrees to notify the issuing agency of those entities that wish to use any contract resulting from this bid and will also provide usage information, which may be requested. A copy of the contract pricing and the bid requirements incorporated in this contract will be supplied to requesting agencies. Each participating jurisdiction or agency shall enter into its own contract with the Award Bidder(s) and this contract shall be binding only upon the principals signing such an agreement. Invoices shall be submitted "directly" to the ordering jurisdiction for each unit purchased. Disputes over the execution of any contract shall be the responsibility of the participating jurisdiction or agency that entered into that contract. Disputes must be resolved solely between the participating agency and the Award Bidder. MCPS assumes no authority, liability, or obligation on behalf of any other public or non-public entity that may use any contract resulting from this bid MCPS pricing is based on the specifications provided in this solicitation.

16.0 eMARYLAND MARKETPLACE ADVANTAGE (EMMA)

As of June 1, 2008, Maryland law requires local and state agencies to post solicitations on EMMA. Registration with EMMA is free. It is recommended that any interested supplier register at <https://procurement.maryland.gov>, regardless of the award outcome for this procurement as it is a valuable resource for upcoming bid notifications for municipalities throughout Maryland.

17.0 INQUIRIES

Inquiries regarding this solicitation must be submitted in writing, to Angela McIntosh Davis, Director,

Montgomery County Public Schools, Division of Procurement, via email to angela_s_mcintosh-davis@mcpsmd.org. The Board of Education will not be responsible for any oral or telephone explanation or interpretation. Vendor contact with any other MCPS employee regarding this solicitation until the contract is awarded by the Board of Education will be considered by MCPS as an attempt to obtain an unfair advantage and result in non-consideration of its RFP response. The MCPS Procurement website address is <http://www.montgomeryschoolsmd.org/departments/procurement/>.

18.0 CONTRACT

MCPS plans to enter a contractual agreement with Respondent(s) to whom the award is made and intends to make MCPS General Contract Articles, attached hereto and incorporated herein as Attachment E, part of the contractual agreement, except and unless modified by MCPS. In addition, the Contractor will ensure that all offerors abide by the provisions of the MCPS General Contract Articles. Proposals must clearly identify any variances from or objections to the specifications in this RFP and the terms and conditions of the MCPS General Contract Articles. Lacking any response to the contrary, MCPS will infer that the Respondent agrees to the specifications of this RFP and each term and condition of the MCPS General Contract Articles. Respondents should note that any variance may provide a basis for MCPS to reject the proposal. In particular, the provisions set forth in Articles 5, 12-14, 16-18, 21-24, 26, and 28 of the MCPS General Contract Articles are non-negotiable.

19.0 CONTRACT TERMINATION

MCPS reserves the right to cancel the contract in whole or in part at any time in accordance with Article 12 of the MCPS General Contract Articles. MCPS also reserves the right to cancel the contract with a Respondent for failure to comply or failure to fulfill the terms of this contract in accordance with Article 13 of the MCPS General Contract Articles.

20.0 TREATMENT OF TECHNICAL DATA IN PROPOSAL

The proposal submitted in response to this request may contain technical data which the offeror does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data, subject to the provisions of the Maryland Public Information Act, may be so restricted:

Provided, that offeror marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend: "Technical data contained in pages __ of this proposal shall not be used or disclosed, except for evaluation purposes."

Provided, that if a contract is awarded to this offeror as a result of or in connection with the submission of this proposal, MCPS shall have the right to use or disclose these technical data to the extent provided in the contract.

This restriction does not limit the right of MCPS to use or disclose technical data obtained from another source without restriction.

MCPS assumes no liability for disclosure or use of unmarked technical data or products and may use or disclose the data for any purpose and may consider that the proposal was not submitted in confidence and therefore is releasable. Price and cost data concerning salaries, overhead, and general and administrative expenses are considered proprietary information and will not be disclosed, if marked in accordance with the instructions in 21.0.

21.0 PROPRIETARY AND CONFIDENTIAL INFORMATION

Offerors are notified that MCPS has unlimited data rights regarding proposals submitted in response to this solicitation. Unlimited data rights means that MCPS has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by the offeror in response to this or any solicitation issued by MCPS. However, MCPS will exempt information that is confidential commercial or financial information of an offeror, as defined by the Maryland Public Information Act, State Government Article, Section 10-617, from disclosure. It is the responsibility of the offeror to clearly identify each part of its proposal that is confidential commercial or financial information by stamping the **bottom right-hand corner** of each pertinent page with one-inch bold face letters stating the words “**confidential**” or “**proprietary**.” The offeror agrees that any portion of the proposal that is not stamped as proprietary or confidential is not proprietary or confidential. As a condition for MCPS keeping the information confidential, the offeror must agree to defend and hold MCPS harmless if any information is inadvertently released. Each offeror must submit a proprietary and confidential redacted copy of its proposal to be used in responding to MPIA requests.

22.0 UNNECESSARILY ELABORATE BROCHURES

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror’s lack of cost consciousness. Elaborate art work and expensive visual and other presentation aids are neither necessary nor wanted.

23.0 BID PROTESTS

Any bid protests, including appeals, will be governed by the applicable MCPS Division of Procurement Regulations. The burden of production of all relevant evidence, data and documents and the burden of persuasion to support the protest is on the offeror making the protest.

PROPOSAL BID FORM

Proposers are requested to bid on the following basis:

Proposed Index _____

Bank qualified/nonbank qualified: _____

Index adjustment factor:

- 3 year _____
- 4 year _____
- 5 year _____
- 6 year _____
- 7 year _____
- 8 year _____
- 9 year _____
- 10 year _____
- 11 year _____
- 12 year _____
- 13 year _____
- 14 year _____
- 15 year _____
- 16 year _____
- 17 year _____
- 18 year _____
- 19 year _____
- 20 year _____

Interest rate based on January 5, 2023 index values:

- 3 year _____
- 4 year _____
- 5 year _____
- 6 year _____
- 7 year _____
- 8 year _____
- 9 year _____
- 10 year _____
- 11 year _____
- 12 year _____
- 13 year _____
- 14 year _____
- 15 year _____
- 16 year _____
- 17 year _____
- 18 year _____
- 19 year _____
- 20 year _____

Annual payment in advance: Yes

Minimum individual closing amount, if applicable: _____

Prepayment allowed (yes/no): _____

Prepayment penalty, if applicable: _____

Assignment proposed (yes/no): _

Form of assignment, if applicable: _____

Out-of-pocket expenses to be included in the above interest rate:

<u>Lessor's</u> Counsel	\$ _____
Other Expenses	\$ _____
	\$ _____

The undersigned Proposer certifies that this proposal is firm for 30 days from the date of submittal indicated below.

Signed: _____

Title: _____

Date: _____

APPENDIX 1

**MONTGOMERY COUNTY PUBLIC SCHOOLS
COMPREHENSIVE ANNUAL FINANCIAL REPORT
FOR THE FISCAL YEAR ENDED JUNE 30, 2022**

The Comprehensive Annual Financial Report may be found at the following website:

<https://www.montgomeryschoolsmd.org/uploadedFiles/departments/financialservices/FY22ACFR.pdf>

APPENDIX 2

**FORM MASTER EQUIPMENT
LEASE/PURCHASE AGREEMENT**

MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

THIS MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT (the "Lease") is dated as of this _____ date of _____, 20____, by and between _____, as lessor ("Lessor"), and _____, as lessee ("Lessee").

RECITALS

WHEREAS, Lessee has entered into or will enter into one or more Acquisition Contracts (as defined herein) with one or more Vendors (as defined herein) providing for the acquisition, delivery, and installation of the Equipment (as defined herein); and

WHEREAS, in order to provide the funds necessary to finance or refinance the Equipment Cost (as defined herein) of the Equipment when due to the Vendors, Lessee and Lessor desire to enter into this Lease.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereto agree as follows:

1. Definitions - Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Lease, have the meanings herein specified:

"Acceptance Certificate" means, with respect to any item of Equipment, an Acceptance Certificate substantially in the form of Exhibit C hereto, delivered in accordance with Section 3 hereof.

"Acquisition Contract" means one or more purchase orders or contracts with respect to an item of Equipment.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

"Equipment" means an item constituting personal property described generally in Exhibit A hereto, together with any and all additions and attachments thereto (except as otherwise provided herein), modifications, repairs, replacements and parts thereof and substitutions therefore; provided, however, that the term "Equipment" shall not at any time include any such property the unencumbered title to which has been fully acquired by Lessee pursuant to Section 10, Section 17 or Section 19 of this Lease.

"Equipment Cost" means, with respect to an item of Equipment, either the purchase price or prepayment option price, as the case may be, payable to the respective Vendor under the applicable Acquisition Contract(s), which Equipment Cost shall be payable in accordance with the terms and conditions of the Acquisition Contract.

"Equipment Group" means the item or items of Equipment designated from time to time by Lessee as an Equipment Group and which are described in an Equipment Schedule, and which are being or will be leased with an option to purchase by Lessee pursuant to this Lease. An Equipment Group consists of all of the particular items of Equipment listed on any single page or like-numbered set of pages of Exhibit A and so designated as an Equipment Group.

“Equipment Location” means, with respect to an item of Equipment, the location of that Equipment specified in the applicable Acceptance Certificate and on Exhibit A hereto.

“Equipment Schedule” means a schedule consisting of the separate but like-numbered pages of Exhibit A and Exhibit B hereto which have been completed with respect to an Equipment Group and executed by Lessor and Lessee as indicated herein.

“Event of Default” means any Event of Default specified in Section 21 hereof.

“Event of Nonappropriation” means the failure of Lessee or the applicable governing body to appropriate money for any Fiscal Year of Lessee sufficient for the payment of Lease Payments payable with respect to an Equipment Group in that Fiscal Year.

“Fiscal Year” means the 12-month period of Lessee which commences in each year on July 1 and ends on the succeeding June 30, or any other 12-month period adopted as the fiscal year of Lessee and of which Lessee shall give Lessor notice in writing.

“Interest Rate” means the interest rate determined in accordance with Section 3(b) hereto and indicated on Exhibit B to each Equipment Schedule.

“Lease” means, with respect to each Equipment Group, this Equipment Lease/Purchase Agreement and the Equipment Schedule in which such Equipment Group is described, which shall constitute a separate contract relating to such Equipment Group, as amended, modified or supplemented from time to time in accordance herewith.

“Lease Payments” means, with respect to an Equipment Group, the payments due from Lessee on each Payment Date as shown on the Equipment Schedule relating to such Equipment Group. Each Lease Payment shall be denominated into a principal and an interest portion.

“Lessee” means _____, a _____, duly organized and existing under the Constitution and laws of the State of Maryland, and its successors and permitted assigns.

“Lessor” means _____, a _____, duly organized and existing under the Constitution and laws of the Commonwealth/District/State of _____, and its successors and permitted assigns.

“Net Proceeds” means any insurance proceeds or condemnation awards paid with respect to any Equipment remaining after payment therefrom of all expenses incurred in the collection thereof.

“Payment Date” means the date upon which any Lease Payment is due and payable as provided in the applicable Equipment Schedule.

“Purchase Option Price” means, with respect to an Equipment Group, as of the payment Dates specified in the Equipment Schedule relating thereto, the amount so designated and set forth opposite each such date in such Equipment Schedule. As of each Payment Date, the Purchase Option Price payable with respect to a particular Equipment Schedule will equal the remaining aggregate principal portion of the Lease Payments payable pursuant to such Equipment Schedule (after payment of the Lease Payment due on such Payment Date), without premium or penalty.

“Term of this Lease or Lease Term” means, with respect to any Equipment Group, the period during which this Lease is in effect as specified in Section 6.

“Vendor” means each of the manufacturers or vendors from whom Lessee has ordered or will order or with whom Lessee has contracted or will contract for the manufacture, delivery and/or installation of the Equipment.

2. Exhibits – Set forth below is a description of the Exhibits to this Lease.

Exhibit A: A schedule executed by Lessor and Lessee describing the items of Equipment constituting an Equipment Group being leased by Lessee pursuant to this Lease. Exhibit A shall be amended from time to time by attaching consecutively numbered schedules thereto in accordance with Section 3 of this Lease (i.e., A-1-1, A-1-2, A-1-3 et seq., A-2-1, A-2-2, A-2-3, etc.).

Exhibit B: A schedule executed by Lessor and Lessee with respect to an Equipment Group and setting forth the Lease Payments (denominated into principal, interest, and total) payable with respect to such Equipment Group during the Term of this Lease, the applicable Payment Dates, and the Purchase Option Prices at which Lessee may exercise its option to purchase Lessor’s interest in such Equipment Group in accordance with Section 17 or Section 19 of this Lease. Exhibit B shall be amended from time to time by attaching consecutively numbered schedules thereto in accordance with Section 3 of this Lease (i.e., B-1-1, B-1-2, B-1-3 et seq., B-2-1, B-2-2, B-2-3, etc.).

Exhibit C: A form of Acceptance Certificate of Lessee indicating that the Equipment described therein has been delivered and installed and accepted by Lessee.

All of the Exhibits to this Lease, as amended, modified, supplemented or completed, shall be deemed to be a part of this Lease for all purposes of this Lease.

3. Determination of Equipment Groups; Delivery of Equipment; Payment of Equipment Costs.

(a) Lessee has entered into or will enter into the Acquisition Contract(s) providing for the delivery, installation and purchase of each item of Equipment. Lessee’s Acquisition Contracts include or will include or will include, without limitation, the right to purchase the Equipment in accordance with the terms thereof. Lessor agrees to make available funding for the total Equipment Cost evidenced by each Equipment Schedule entered into in connection with this Lease, subject to the provisions of section 3(k).

(b) Following the Execution Date of this Lease set forth on the signature page hereto and the execution and delivery of (insert page numbers of the Equipment Schedules corresponding to the Equipment Group(s) initially financed hereunder, and subject to the provisions of Section 3(k), Lessee may advise Lessor of its desire to lease additional Equipment constituting an Equipment Group and of the desired amortization schedule for such Equipment Group. All items of Equipment constituting an additional Equipment Group shall be amortized over a like period of years. Upon agreement by lessor and Lessee as to the composition of any such additional Equipment Group and such amortization schedule, Lessor shall furnish to Lessee a proposed Exhibit A relating to such Equipment Group completed insofar as possible and a fully completed Exhibit B relating to such Equipment Group. The aggregate Equipment Cost of all items of Equipment constituting an additional Equipment Group shall equal the aggregate principal portion of the Lease Payments payable with respect to such Equipment Group, which shall be amortized in accordance with the instructions of Lessee, as agreed to by Lessor. The interest portion of each Lease Payment payable with respect to any such additional Equipment Group shall be indexed to published five days prior to the day of the month on which Lessor and Lessee agree to the composition of such additional Equipment Group and amortization schedule therefor, determined in accordance with the following schedule:

[Rates bid by winning bidder for chart above to be inserted prior to execution and delivery of the Lease]

Upon determination of such lesser rate, Lessor shall insert such rate in the space marked "Interest Rate" on the applicable page(s) of Exhibit B for such Equipment Group and promptly complete Exhibit B using such lesser interest rate to calculate the Lease Payments payable with respect to such Equipment Group. The Purchase Option Price payable on each Payment Date for a Lease Payment payable with respect to such Equipment Group shall equal the remaining principal portion of all Lease Payments payable with respect to such Equipment Group after payment of the Lease Payment due on such Payment Date, without premium or penalty. Lessor and Lessee shall each promptly execute the proposed Exhibit A and the fully completed Exhibit B, at which time such Equipment Schedule shall become a part of this Lease.

(c) Lessee shall order the Equipment constituting an Equipment Group from the appropriate Vendor or Vendors.

(d) Lessee will cause the Equipment belonging to an Equipment Group to be delivered to Lessee at the applicable Equipment Locations. If not provided for the Equipment Cost of such Equipment, Lessee will pay all transportation and other costs, if any, incurred in connection with the delivery of the Equipment. Lessee will accept the Equipment as and when each item thereof has been delivered and is operational, or in the event that the Vendor allows a pre-acceptance test period, as soon as the test period has expired.

(e) Immediately following acceptance of any Equipment, Lessee will request that payment be made to the applicable Vendor or, in the event Lessee has already made payment of the corresponding Equipment Cost to the applicable vendor, on a reimbursement basis to the Lessee, by forwarding to Lessor a payment request that includes the following:

- (i) a true copy of the Vendor's statement or invoice;
- (ii) in the event Lessee is seeking reimbursement for payment made to a Vendor, evidence that Lessee has paid the applicable Equipment Cost;
- (iii) a copy of the bill of sale for any component of the Equipment for which a bill of sale may be delivered;
- (iv) a true copy of the applicable purchase order;
- (v) the name and address of the applicable payee (Vendor or Lessee);
- (vi) if previously requested in writing by Lessor and at Lessor's expense, a duly executed Uniform Commercial Code financing statement or amendment with respect to such Equipment (Lessor shall be responsible for filing any such financing statement or amendment); and
- (vii) an Acceptance Certificate is substantially the form set forth in Exhibit C hereto.

(f) Subject to compliance with the preceding subsection (e), Lessor shall make payment of the Equipment Cost within five (5) days following receipt of a payment request in accordance with the preceding subsection (e).

(g) In the event Lessee desires to refinance the Equipment cost of any Equipment otherwise subject to another lease or similar agreement pursuant to this Lease, Lessee will request that

payment be made to the applicable lessor, trustee, escrow agent or other provider or, in the event Lessee has already made payment of the corresponding equipment acquisition price to the applicable lessor, trustee, escrow agent or other provider, on a reimbursement basis to Lessee by forwarding to Lessor a payment request that includes the following:

- (i) a certified copy of the lease or other agreement evidencing such equipment acquisition price;
- (ii) in the event Lessee is seeking reimbursement for payment made to a Vendor, evidence that Lessee has paid the applicable equipment acquisition price;
- (iii) satisfactory evidence that the lessor, trustee, escrow agent or other provider has released or will release all of its right, title and interest in such Equipment upon payment of the applicable equipment acquisition price (which satisfactory evidence may include the escrowing of the necessary documents with Lessor, Lessee or any third party);
- (iv) if previously requested in writing, duly executed Uniform Commercial Code termination statements with respect to the lessor, trustee, escrow agent or other provider's security interest in such Equipment, if applicable;
- (v) the name and address of the applicable payee (lessor, trustee, escrow agent, other provider or Lessee);
- (vi) if previously requested in writing by Lessor and at Lessor's expense, a duly executed Uniform Commercial Code financing statement or amendment with respect to such Equipment (Lessor shall be responsible for filing any such financing statement or amendment); and
- (vii) an Acceptance Certificate in substantially the form set forth in Exhibit C hereto;

notwithstanding the provisions of subsection (f) above, Lessor and Lessee may mutually agree in writing that Lessor shall make payment of any payment request provided for in this subsection (g) at a specified date, place and time, provided that provisions of clauses (i) – (vii) are complied with to the reasonable satisfaction of the Lessor.

(h) Lessee hereby consents to and authorizes Lessor to insert the serial or other identifying number relating to each item of Equipment and the corresponding Equipment Location on Exhibit A of the applicable Equipment Schedule (which information shall be set forth in the corresponding Acceptance Certificate if not previously provided to Lessor). Lessor agrees to provide Lessee promptly with a copy of any such completed schedule to Exhibit A.

(i) In the event Lessee has not delivered to Lessor an Acceptance Certificate for each item of Equipment belonging to an Equipment Group within forty-five (45) days of the first Payment Date on which a Lease Payment is due with respect to such Equipment Group, at Lessee's sole option and upon written notice to the Lessor, Lessor and Lessee shall promptly cause to be prepared and executed a revised Equipment Schedule with respect to such Equipment Group that evidences the deletion from such Equipment Group of the item(s) of Equipment which have not then been delivered and accepted in accordance with this Section 3. The Lease Payments payable with respect to such revised Equipment Group shall be reduced proportionately or in any other manner selected by Lessee to evidence the deletion from such Equipment Group of the item(s) of Equipment which have not then been delivered and accepted in accordance with this Section 3; provided that, the interest portion of such revised Lease Payments shall be calculated in accordance with the Interest Rate originally used to establish such Lease payments and not the Interest Rate in effect on the date of such recalculation.

(j) In the event the actual Equipment Cost payable to the applicable Vendor for any item of Equipment belonging to an Equipment Group is less than the Equipment Group to which such item of Equipment belongs, Lessee, at its sole option and upon written notice to Lessor, may at any time during the Lease Term with respect to such Equipment Group, cause to be prepared and executed a revised Equipment Schedule with respect to such Equipment Group that evidences the reduced Equipment Cost of such Equipment. The Lease Payments payable with respect to such revised Equipment Schedule shall be reduced proportionately or in any other manner selected by Lessee to Evidence such reduced Equipment Cost; provided that, the interest portion of such revised Lease Payments shall be calculated in accordance with the Interest Rate originally used to establish such Lease payments and not the Interest Rate in effect on the date of such recalculation.

(k) The initial period during which funding for Equipment Costs shall be available under the provisions of this Lease shall end on that date which is three (3) years from the date of execution and delivery for this Lease (which shall be evidenced by the Execution Date set forth on the signature page to this Lease). Lessee, at Lessee's option, shall have the right to extend the period of funding availability upon the same terms and conditions of this Lease for two (2) additional terms of one (1) year each. Lessee shall provide the Lessor with written notice of its election to extend the period of funding availability not less than thirty (30) days prior to the expiration of the original period of funding availability or the first extension period, as the case may be. Lessor shall have ten (10) days from the date of such notification to accept or reject such an extension in writing. If Lessor accepts any such extension, Lessor and Lessee shall enter into an amendment to this Lease evidencing such extension.

4. Limitation on Warranties. (a) Lessee acknowledges and agrees that the Equipment is of a size, design, and capacity selected by Lessee; that Lessee is satisfied that the Equipment is suitable for its purpose; Lessor is neither a manufacturer nor a vendor of the Equipment; and that LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY, OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITIONS, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER.

(b) With respect to each Equipment Group, Lessor hereby assigns to the Lessee during the applicable Lease Term, so long as no Event of Default with respect to such Equipment Group has occurred hereunder and is continuing, all manufacturer's warranties, if any, expressed or implied with respect to the Equipment constituting such Equipment Group, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense. With respect to each Equipment Group, Lessor hereby assigns to Lessee during the applicable Lease Term all of its interest, if any, in patent indemnity protection provided by any Vendor with respect to the Equipment constituting such Equipment Group. Such assignment of patent indemnity protection by Lessor to Lessee shall constitute the entire liability of Lessor for any patent infringement by Equipment furnished pursuant to this Lease.

5. Lease of the Equipment; Quiet Possession. To the extent the Equipment Cost of any Equipment is being refinanced by Lessee pursuant to this Lease, Lessee hereby transfers all of Lessee's right and interest in such Equipment to Lessor. Lessor agrees to and does hereby lease the Equipment to Lessee and Lessee agrees to and does hereby lease the Equipment from the Lessor, all upon the terms and conditions set forth herein. Lessor hereby covenants to provide Lessee during the Lease Term with the quiet use and enjoyment of the Equipment, and Lessee shall during the Lease Term peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Lease. Lessor will, at the written request of Lessee and at Lessee's cost, join in any legal action in which Lessee asserts its right to such possession and enjoyment against a party other than Lessor, to the extent it lawfully may do so.

6. Term. This Lease shall be in effect from the date of its execution and delivery (as evidenced by the Execution Date set forth on the signature page hereto) and shall remain in effect until Lessee has paid the Lease Payments and/or Purchase Option Price relating to all Equipment Groups financed or refinanced hereunder, and Lessor has conveyed its interest in all Equipment Groups to Lessee. This Lease is subject to earlier termination with respect to an Equipment Group as set forth in Section 8, Section 17 or Section 19 hereof.

7. Lease Payments. (a) Lessee agrees to pay the Lessor the Lease Payments on the Payment Dates and in the amounts specified in Exhibit B hereto with respect to each Equipment Group. A portion of each Lease payment is paid as and represents the payment of interest as set forth on Exhibit B. Lessee shall pay the Lease Payments exclusively from moneys legally available therefore, in lawful money of the United States of America. The Lease Payments will be payable at the office of Lessor.

(b) Thirty (30) days prior to the Payment Date on which Lease Payment is due, Lessor shall send to Lessee at the address provided in Section 24 written notice of the Lease Payment due on such Payment Date.

(c) Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments payable with respect to each Equipment Group during the Lease term and hereby covenants that it will do all things lawfully within its power to obtain, maintain, and properly request and pursue funds from which the Lease Payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding using its bona fide best effort to have such portion of the budget approved.

(d) It is Lessee's intention to make the Lease Payments for each Equipment Group for the applicable full Lease Term if funds are legally available therefore and in that regard Lessee represents that the use of the equipment is essential to its proper, efficient and economic operation.

(e) The obligations of Lessee to make the Lease Payments due with respect to any Equipment Group in any Fiscal Year for which this Lease is in effect shall constitute a current expense of Lessee for such Fiscal Year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State of Maryland.

(f) Except as provided in Section 3(I), Section 3(j) or Section 8, the obligation of Lessee to make the Lease Payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Lease Payments required hereunder when due and shall not withhold any Lease Payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Lease Payments required under this Lease. Lessee's obligation to make Lease Payments relating to an Equipment Group during the Lease Term shall not be abated through accident or unforeseen circumstances.

8. Nonappropriation. (a) Upon an Event of Nonappropriation relating to any particular Equipment Group, Lessee shall have the right to terminate this Lease with respect to such Equipment Group as of the end of the then current Fiscal Year. Lessee shall deliver written notice to Lessor of any such termination within thirty (30) days following the date of which Lessee has knowledge of such Event of Nonappropriation, specifying the effective date of such termination (which must be the end of the then current Fiscal Year), but in no event later than the effective date of termination. The failure of Lessee to give the notice required by this subsection (a) shall not give rise to or extend Lessee's obligation to make the Lease Payments payable with respect to such Equipment Group except to the extent provided in subsection (b) below. In the event of a termination of this Lease with respect to any Equipment Group as

provided in this Section 8, Lessee, at its cost, expense and risk, agrees to promptly and peaceably deliver the Equipment constituting such Equipment Group to Lessor without incurring any other or additional costs or liability under this Lease, except as provided in subsection (b) below.

(b) Following an Event of Nonappropriation and the election by Lessee to terminate this Lease with respect to the applicable Equipment Group, Lessee shall not be obligated to pay the Lease Payments due hereunder relating to such Equipment Group except to the extent funds have been appropriated for such purpose and in no event beyond the date on which this Lease terminates for nonappropriation with respect to such Equipment Group; provided, however, with respect to such Equipment Group any and all sums which have been appropriated previously for the purpose of making the Lease Payments payable with respect to such Equipment Group but which have not applied for such purpose as of such date.

(c) Upon an Event of Nonappropriation relating to any particular Equipment Group, and provided that Lessee can demonstrate to Lessor's reasonable satisfaction that the funds sufficient to pay a portion of the Lease Payments payable with respect to a portion of the Equipment constituting such Equipment Group have been appropriated (the "Appropriated Equipment"), Lessee, at its sole option, may elect to terminate this Lease as to the portion of the Equipment constituting such Equipment Group to which such Event of Nonappropriation corresponds (the "Nonappropriated Equipment") and to continue this Lease with respect to the Appropriated Equipment. If Lessee exercises such option, Lessor agrees to provide a revised Equipment Schedule for the Appropriated Equipment of such Equipment Group, and the provisions of subsection (a) and (b) above shall apply solely with respect to the Nonappropriated Equipment. The Appropriated Equipment, as evidenced by the revised Equipment Schedule, shall constitute a revised Equipment Group.

(d) Notwithstanding anything in the Lease to the contrary, the provision of this Section 8 shall survive termination of this Lease.

9. Representations. (a) Lessee represents as of the date hereof and at all times during the Lease Term that:

(i) Lessee is a body politic and corporate created under the Constitution and laws of the State of Maryland;

(ii) the execution, delivery and performance by Lessee of this Lease (including the Exhibits hereto) has been duly authorized by all necessary action on the part of Lessee;

(iii) the entering into and performance of the Lease will not violate any judgement, order, or regulation applicable to Lessee or result in any breach of, or constitute a default hereunder, or except as otherwise expressly provided in this Lease, result in the creation of any lien, charge, security interest or other encumbrance upon the Equipment or any assets of Lessee pursuant to any indenture, mortgage, deed of trust, bank loan, credit agreement or other instrument to which Lessee is a part or by which it or its assets may be bound;

(iv) there are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against or affecting Lessee in any court or before any governmental commission, board or authority, which, if adversely determined, will have a material, adverse effect on the ability of Lessee to perform its obligations under this Lease;

(v) the Equipment is personal property and when subject to use by Lessee, will not be or become fixtures under the laws of the State of Maryland;

(vi) Lessee has observed and complied with all applicable external or internal public bidding

procedures regarding the award of the transactions contemplated in this Lease;

(vii) Lessee has prepared and included in its budget for the current Fiscal Year a request for funds to make the Lease Payments and any other amounts payable hereunder during such Fiscal Year;

(viii) the use of the Equipment by Lessee is essential to Lessee's proper, efficient and economic operation;

(ix) no portion of the Equipment will be used directly or indirectly in any trade or business carried on by any person other than Lessee, except as otherwise expressly permitted in this Lease;

(x) except as otherwise expressly permitted in this Lease, no portion of the Equipment will be used by an organization described in Section 501 (c) (3) of the Code;

(xi) Lessee will submit to the Secretary of the Treasury information reporting statements and other information relating to this Lease and each Equipment Schedule at the times and in the forms required by the Code.

10. Title. During the Lease Term with respect to any Equipment Group, and so long as Lessee is not in default under Section 21 with respect to such Equipment Group, legal title to such Equipment Group and any and all repairs, replacements, substitutions and modifications to it shall be in Lessee. Upon termination of this Lease with respect to any Equipment Group pursuant to Section 8 or upon the taking of possession of any Equipment Group by Lessor in accordance with Section 22 (a) (ii), full and unencumbered legal title to such Equipment Group shall pass to Lessor, and Lessee shall have no further interest therein. In either of such events, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of legal title to such Equipment Group to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of the Equipment Group to Lessor in accordance with Section 8 or Section 22 (a) (ii), as applicable. Upon termination of this lease with respect to any Equipment Group through exercise of Lessee's option to purchase pursuant to Section 19 or through payment by Lessee of all Lease Payments relating thereto, Lessor's security or other interest in such Equipment Group shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security or other interest in such Equipment Group, without warranty, express or implied, except that the Lessor will warrant to Lessee that the Equipment constituting such Equipment Group is free and clear of any liens created by or through Lessor.

11. Security Interest. In order to secure all of its obligations hereunder, Lessee hereby (a) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions and substitutions thereto and replacements therefor; (b) agrees that this Lease may be filed at Lessor's expense as a financing statement evidencing such security interest; and (c) agrees to execute and deliver all financing statements, amendments to financing statements, continuation statements, certificates of title and other instruments necessary or appropriate to evidence such security interest, at Lessor's expense.

12. Personal Property. The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of any real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon by means of cement, plaster, nails, bolts, screws or otherwise.

13. Use; Repairs. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer for the Equipment and shall comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of its possession, use or maintenance. Lessee, at its expense, will keep the Equipment in good repair, working order and condition and will furnish all parts, mechanisms and devices required therefor.

14. Alterations; Installation of Lessee's Equipment. (a) Lessee shall, at its own expense, have the right to make repairs to the Equipment, and to make replacements, substitutions and modifications to or for all or any of the parts thereof. All such work and any part or component used or installed to make a repair or as a replacement, substitution or modification shall thereafter comprise part of the Equipment and be subject to the provisions of this Lease. Such work shall not in any way damage the Equipment or cause it to be used for purposes other than those authorized under the provisions of applicable state and federal law or those contemplated by this Lease; and the Equipment, upon completion of any such work, shall be of a value which is not less than the value of the Equipment immediately prior to the commencement of such work. In the event Lessee makes a substitution in whole for any item of Equipment in accordance with this Section 14, it shall provide prompt written notice of such substitution to Lessor and agrees to provide any information and to take any action necessary to amend the relevant Equipment Schedule to evidence such substitution.

(b) Notwithstanding the provisions of subsection (a) above, Lessee may at any time and from time to time, in its sole discretion and at its own expense, install other items of personal property in or upon the Equipment, which items shall be identified by tags or other symbols annexed thereto as the property of Lessee, shall remain the sole property of Lessee, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the Equipment resulting from the installation, modification or removal of any such items. Any such items of personal property shall not be deemed to constitute an item of Equipment or a portion of the Equipment.

15. Location; Inspection. Except as provided in Section 8 or Section 22 (a) (ii) of this Lease, Lessee shall not remove any item of Equipment from, or if any item of Equipment consists of rolling stock, Lessee will not change its permanent base from its Equipment Location without providing written notice of such relocation to Lessor within seven (7) days of the date of such relocation. Such place of relocation shall constitute the new Equipment Location of such item of Equipment for all purpose of this Lease. Lessor will be entitled to enter upon any Equipment Location during reasonable business hours to inspect the Equipment or observe its use and operation.

16. Liens and Taxes. During the Lease Term, Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state, and federal) which may now or hereafter be imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, excluding, however, any taxes on or measured by Lessor's income.

17. Risk of Loss; Damage; Destruction. Lessee assumes all risk of loss or of damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of its obligation to make the Lease Payments relating to the Equipment Group to which any such Equipment belongs or to perform any obligation under this Lease. If after delivery of any Equipment to Lessee all or any part of such Equipment is lost, stolen, condemned, destroyed or damaged beyond repair, Lessee shall as soon as practicable after such event either (a) replace the same at Lessee's sole cost and expense with equipment of equal or greater value to the Equipment immediately prior to the time of the loss occurrence, whereupon such replacement equipment shall be substituted as Equipment in this Lease by appropriate endorsement or amendment; or (b) on the next Payment Date pay the applicable Purchase Option Price of the Equipment Group to which such Equipment belongs as set forth in Exhibit B. Lessee shall notify Lessor of which course of action it will take within

sixty (60) days after the loss occurrence. If Lessee fails or refuses to notify Lessor within the required period, Lessor, may, at its option, declare the applicable Purchase Option Price of the Equipment Group to which such Equipment belongs as set forth in Exhibit B due and payable on the next Payment Date and Lessee shall be obligated to pay the same. In the event Lessee elects or is required to pay the Purchase Option Price of the Equipment Group to which such Equipment belongs in accordance with this Section 17, Lessee shall not be required to give the written notice of such election provided for in Section 19 of this Lease. The Net Proceeds of all insurance payable with respect to such Equipment shall be available to Lessee and shall be used to discharge Lessee's obligation under this Section. Upon payment of the Purchase Option Price with respect to any Equipment Group, Lessor's security or other interest in such Equipment Group shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security or other interest in such Equipment Group, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment constituting such Equipment Group is free and clear of any liens created by Lessor

18. Insurance. (a) Upon ordering any Equipment and prior to receipt of possession of such Equipment, Lessee shall take such measures as may be necessary to ensure that any liability for injuries to or death of any person or damage to operation of such Equipment or any part thereof is covered by a blanket or other general liability insurance policy maintained by Lessee with a coverage limit in the amount as local governments in the State of Maryland then currently generally maintain for similar liabilities and occurrences under the Local Government Tort Claims Act (currently codified at Sections 5-401 to 5-404, inclusive, of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland), as replaced, supplemented, and amended. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

(b) Upon receipt of possession of any Equipment, Lessee shall have and assume the risk of loss with respect thereto. Lessee shall procure and maintain continually in effect during the Lease Term with respect to each Equipment Group all-risk insurance subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part of the Equipment constituting such Equipment Group damaged or destroyed and to pay the applicable Purchase Option Price of the Equipment constituting such Equipment Group. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts acceptable to Lessor. The Net Proceeds of insurance required by this subsection (b) shall be applied to the prompt repair, restoration or replacement of the applicable Equipment, or to the purchase of the Equipment, as provided in Section 17. Any Net Proceeds not needed for those purposes shall be paid to Lessee.

(c) All insurance policies (or riders) required by this Section 18 shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State of Maryland, and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten (10) days before the cancellation or revision becomes effective. Each insurance policy or rider required by this Section 18 shall name Lessor as an addition insured party and loss payee.

(d) Upon the acceptance of any Equipment and, at Lessor's written request, upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing that the insurance required to be maintained by Lessee pursuant to this Section 18 with respect to such equipment has been obtained.

(e) Notwithstanding the provisions of subsections (a) – (c) above, Lessee may elect to meet the requirements of subsection (a) or (b) through self-insurance, through the self-insurance program maintained by Montgomery County, Maryland or through an insurance pool established in accordance with Maryland law. If Lessee provides any of the insurance required by subsections (a) or (b) above through self insurance, through the self-insurance program maintained by Montgomery County, Maryland or through an insurance pool established in accordance with Maryland law, Lessee shall, upon the acceptance of the applicable Equipment, and at Lessor's written request, annually thereafter, deliver to Lessor a certificate (i) describing Lessee's, the Montgomery County, Maryland self-insurance program's or such insurance pool's reserves, and (ii) stating that the levels of such reserves are reasonable and adequate.

19. Purchase Option. (a) Lessee shall have the option to purchase Lessor's interest in any Equipment Group on any Payment Date relating thereto for Exhibit B relating thereto, but only if Lessee is not in default under this Lease with respect to such Equipment Group (as determined in accordance with Section 21), and only in the manner provided in this Section 19.

(b) Lessee shall give written notice to Lessor of its intention to exercise its purchase option with respect to any Equipment Group pursuant to this Section 19 not less than thirty (30) days prior to the Payment Date on which the option is to be exercised and shall deposit with Lessor on the date of exercise an amount equal to all Lease Payments relating to such Equipment Group then due or past due (including the Lease Payment relating thereto due on the Payment Date on which the option is to be exercised) and the applicable Purchase Option Price set forth in the Equipment Schedule relating thereto.

(c) Upon exercise of the purchase option with respect to any Equipment Group by Lessee pursuant to this Section 19, Lessor shall convey or release to Lessee all of its right, title and/or interest in and to such Equipment Group by delivering to Lessee such documents as Lessee deems necessary for this purpose. Upon satisfaction by Lessee of such purchase conditions, Equipment to Lessee as is, without warranty, express or implied, except that Lessor will warrant to Lessee that the Equipment constituting such Equipment Group is free and clear of any liens created by or through Lessor.

20. Assignment; Subleasing or Use. (a) Except as otherwise expressly provided in this Lease, this Lease and the interest of Lessee in any of the Equipment may not be sold (unless Lessee has obtained unencumbered title to such Equipment in accordance with Section 10, Section 17, or Section 19 hereof), hypothecated, pledged, assigned or otherwise encumbered by Lessee for any reason without the prior written consent of Lessor. This subsection (a) shall not preclude Lessee, upon receipt of an opinion of nationally-recognized bond counsel acceptable to and addressed to Lessor that such action shall not cause the interest portion of the Lease Payments to Become includible in the gross income of Lessor for federal income tax purposes under the Code, from leasing or permitting the use of any of the Equipment by others for public purposes or in furtherance of any governmental or proprietary functions of Lessee. Any such lease or use agreement shall expressly provide that it is (i) subject to Lessor's rights and interests under this Lease and (ii) subject to the provisions of this Lease, and any such lease or use agreement shall not relieve Lessee of the responsibility for all its rights, duties and obligations under this Lease including, without limitation, the obligation to make the Lease Payments.

(b) Without the prior written consent of Lessee, which consent shall be given or withheld in the sole and absolute discretion of Lessee, Lessor may not assign its interest in this Lease (including its obligations hereunder), the Equipment Schedules, the Equipment Groups or the Lease Payments. With the prior written consent of Lessee, which consent shall be given or withheld in the sole and absolute

discretion of Lessee, Lessor may assign its interest in this Lease (including its obligations hereunder), the Equipment Schedules, the Equipment Groups, and the Lease Payments in whole (but not in part) to any one assignee; provided, however, that any such assignment in whole made with the written consent of Lessee shall not be interpreted to allow Lessor's assignee to further assign its interest in or offer (either on its own or through an escrow agent, trustee or other third party) participation interests in this Lease (including the obligations of Lessor hereunder), the Equipment Schedules, the Equipment Groups or the Lease Payments. Notwithstanding anything to the contrary contained in this Lease, unless this Lease is amended by mutual agreement in a writing executed by Lessor and Lessee, Lessor shall not be permitted to offer (either on its own or through an escrow agent, trustee, or other third party) participation interests in this Lease (including its obligations hereunder), the Equipment Schedules, the Equipment Groups or the Lease Payments.

(c) Subject to the foregoing, this Lease inures to the benefit of and is binding upon the successors and permitted assigns of the parties hereto; upon any permitted assignment by the Lessor, the term "Lessor" shall be deemed to refer to such permitted assignee of Lessor for all purposes of this Lease, and upon any permitted assignment by Lessee, the term "Lessee" shall be deemed to refer to such permitted assignee of Lessee for all purposes of this Lease.

(d) In compliance with Section 149(a) of the Code, Lessee agrees to affix a copy of any assignment consented to by Lessee in accordance with this Section 20 to Lessee's counterpart of this Lease.

21. Events of Default. The following shall be "Events of Default" under this Lease with respect to any Equipment Group and the Equipment Schedule relating thereto, and the terms "Events of Default" and "default" shall mean, whenever they are used in this Lease, with respect to any Equipment Group, any one or more of the following events:

(a) Failure by Lessee to pay any Lease Payment required to be paid under this Lease with respect to such Equipment Group at the time specified herein and the continuation of said failure for a period of fifteen (15) days.

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed with respect to such Equipment Group, other than as referred to in subsection (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(c) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its government functions or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the United States Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

(d) The determination by Lessor that any representation made by Lessee was untrue in any material respect at the time this Lease was executed or at the time any Equipment Schedule hereto was executed.

22. Remedies. (a) Whenever any Event of Default referred to in subsections (a) or (c) of Section 21 shall have happened and be continuing with respect to any Equipment Group, Lessor shall have the right, at its option and without any further demand or notice, except as expressly provided below, subject to the provisions of Section 8 hereof, to take one or any combination of the following remedial steps:

(i) by written notice to Lessee declare all remaining Lease Payments due with respect to such Equipment Group during the Lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable;

(ii) by written notice to Lessee, request Lessee to (and Lessee agrees that it shall), at Lessee's expense, promptly return to Lessor the Equipment belonging to such Equipment Group in good repair, working order and condition, and thereafter Lessor may be either (A) operate or (B) sell, lease or make other disposition of the Equipment belonging to such Equipment Group for the account of Lessee, holding Lessee liable for all Lease Payments payable with respect to such Equipment Group due to the effective date of any such sale, leasing or other disposition and for the difference between the purchase price, rental or other amounts paid by the purchaser(s), lessee(s) or other beneficiary(ies) of such disposition pursuant to such sale, leasing or other disposition and the Lease Payments payable by Lessee hereunder with respect to such Equipment Group; and

(iii) exercise any other right, remedy or privilege which may be available to it under the applicable laws of the State of Maryland or proceed by appropriate court action to enforce the terms of this Lease with respect to such Equipment Group or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment belonging to such Equipment Group.

(b) Whenever any event of Default referred to in subsections (b) or (d) of Section 21 shall have happened and be continuing with respect to any Equipment Group, Lessor shall have the right, at its option and without any further demand or notice, subject to the provisions of Section 8 hereof, to proceed by appropriate court action to enforce the terms of this Lease with respect to such Equipment Group or to recover damages for the breach of this Lease.

23. Late Charges. Whenever any Event of Default referred to in Section 21(a) shall have happened and be continuing with respect to any Equipment Group, Lessor shall have the right, at its option and without any further demand or notice, to require a late payment charge for each thirty (30) day period or part thereof during which such Event of Default occurs and continues (after the running of the applicable cure period provided for in section 21(a)) equal to four percent (4%) of the delinquent amount, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefor; provided, however, that this Section 23 shall not be applicable if or to the extent that the application thereof would affect the validity of this Lease.

24. Notices. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, or may be delivered by overnight delivery service or hand delivery (with an acknowledgment) to the other party at its address set forth below or at such address as the party may provide in writing from time to time. Any such notice delivered by certified mail, return receipt requested, shall be deemed to have been received five (5) days subsequent to mailing, and any such notice delivered by overnight delivery service or hand delivery shall be deemed to have been received when the acknowledgment therefore is executed.

If to Lessor:

If to Lessee:

25. Registration. Lessee hereby designates Lessor to be its agent for the purposes of maintaining a registration system identifying the ownership of interests in and to this Lease and Lessor hereby accepts its duties as agent hereunder.

26. Headings. All headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

27. Governing Law. This Lease shall be construed in accordance with, and governed by the laws of, the State of Maryland.

28. Financial Statements. At the written request of Lessor, Lessee will furnish Lessor annual financial statements of Lessee within one hundred and twenty (120) days after the end of Lessee's Fiscal Year.

29. Entire Agreement: Waiver. This Lease, together with the Exhibits hereto, as such Exhibits are completed, executed and delivered by Lessor and Lessee, constitutes the entire agreement between the parties with respect to the lease of the Equipment, and this Lease and the Exhibits hereto, except as expressly provided herein, shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

30. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

31. Further Assurance and Corrective instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease; provided, however, that the provisions of this Section 31 shall not require either party to this Lease to deliver an opinion of counsel as to the due, authorization or execution of this Lease, any Exhibit hereto, any Equipment Schedule hereto or any Acceptance Certificate relating hereto.

32. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Lessor and Lessee have executed and delivered this Equipment Lease/Purchase Agreement as of date written below.

ATTEST: _____,
as Lessor

Name: _____
Title: _____
(Authorized Signatory)

By: _____
Name: _____
Title: _____
(Authorized Signatory)

(SEAL)

ATTEST: _____,
as Lessee

Name: _____
Title: _____
(Authorized Signatory)

By: _____
Name: _____
Title: _____
(Authorized Signatory)

(SEAL)

(ADD ANY ADDITIONAL REQUIRED SIGNATORIES OR ACKNOWLEDGMENTS)

Execution Date: _____ (the date on which the second party to this Lease executes and delivers this Lease)

EXHIBIT A

SCHEDULE OF EQUIPMENT

The following Equipment comprises an Equipment Group which is the subject of the Equipment Lease/Purchase Agreement dated as of _____, 20____, between the undersigned Lessor and Lessee*:

Equipment Group #

Quantity

General Description

LESSOR:

LESSEE:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

(Authorized Signatory)

(Authorized Signatory)

Date: _____

Date: _____

* All Equipment belonging to the same Equipment Group shall be listed on like-numbered pages of Exhibit A. for example, the Equipment belonging to Equipment Group #1 will be listed on pages A-1-1, A-1-2, A-1-3 et seq.; the Equipment belonging to Equipment Group #2 will be listed on pages A-2-1, A-2-2, A-2-3 et seq., etc.

EXHIBIT B

SCHEDULE OF LEASE PAYMENTS*

Equipment Group # _____

Amount financed: _____

Interest Rate: _____% (determined in accordance with the definition of interest Rate and Section 3 of the Lease)

<u>Payment Date</u>	<u>Principal Portion</u>	<u>Interest Portion</u>	<u>Lease Payment</u>	<u>Purchase Option Price**</u>
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LESSOR:

LESSEE:

By: _____

By: _____

Name: _____

Name: _____

Title: _____
(Authorized Signatory)

Title: _____
(Authorized Signatory)

Date: _____

Date: _____

*The Lease Payments payable with respect to all Equipment belonging to the same Equipment Group shall be listed on like-numbered pages of Exhibit B. For example, the Lease Payments with respect to the Equipment belonging to Equipment Group #1 will be listed on pages B-1-1, B-1-2, B-1-3 et seq.; the Lease Payments with respect to the Equipment belonging to Equipment Group #2 will be listed on pages B-2-1, B-2-2, B-2-3 et seq., etc.

** The Purchase Option Price payable on any Payment Date is the amount equal to the aggregate principal portion of the remaining Lease payments after payment of the Total Lease Payment payable on such Payment Date, without premium or penalty.

EXHIBIT C

ACCEPTANCE CERTIFICATE

With respect to an item of Equipment belonging to Equipment Group # _____:

I, the undersigned, hereby certify that I am the duly qualified and acting officer of the Lessee identified below; and with respect to the above-referenced Equipment Group financed or refinanced pursuant to the Equipment Lease/Purchase Agreement dated as of _____, 2000 (the "Lease") between the undersigned Lessor and _____, as Lessee, that:

1. The Equipment belonging to Equipment Group # _____ and described below has been delivered and installed in accordance with the applicable Acquisition Contract(s) and has been fully accepted by Lessee:

2. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Lease Payments required to be paid under the Lease during the current Fiscal Year of Lessee with respect to the Equipment described in paragraph 1 above, and such moneys will be applied in payment of all such Lease Payments due and payable during such current Fiscal Year.

3. During the Lease Term with respect to Equipment Group # _____, the Equipment described in paragraph 1 above will be used by Lessee to perform essential governmental functions. Such functions are: _____

4. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body that challenges the organization or existence of Lessee; the authority of Lessee or its officers or its employees to enter into the Lease; the proper authorization, approval and execution of the Lease and the Exhibits thereto; the appropriation of moneys, or any other action taken by Lessee to provide moneys, sufficient to make the Lease payments coming due under the Lease with respect to the Equipment described in paragraph 1 above in Lessee's current Fiscal Year; or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

5. Lease Payments with respect to the Equipment described in paragraph 1 above shall be due and payable by Lessee on the dates and in the amounts indicated on Exhibit B of the Equipment Schedule relating to Equipment Group # _____.

6. The date of acceptance of the Equipment described in paragraph 1 above is _____.

7. Terms used in this Acceptance Certificate and not defined herein shall have the meanings given to such terms in the lease.

LESSEE:

By: _____

Name: _____

Title: _____
(Authorized Signatory)

SAMPLE

APPENDIX 3

Mid-Atlantic Purchasing Team (MAPT) Cooperative Rider Clause



MAPT Cooperative Rider Clause

The Mid-Atlantic Purchasing Team (MAPT) is the agreement between the Metropolitan Washington Council of Governments (COG) and the Baltimore Metropolitan Council (BMC) to aggregate the public entity and non-profit purchasing volumes in the Maryland, Virginia and Washington, D.C. region (“Region”).

I. Format

A lead agency format is used to accomplish this work. This Participating Agency, serving as Lead Agency for this procurement, has included this MAPT Cooperative Rider Clause. This allows other public entities to participate pursuant to the following Cooperative Rider Clause Terms and Conditions:

A. Terms

1. Any public entity participating in this procurement (“Participating Agency”), through their use of this Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the Participating Agency.
2. A Participating Agency may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.

B. Other Conditions - Contract and Reporting

1. The resulting contract shall be governed by and "construed" in accordance with the laws of the State/jurisdiction in which the Participating Agency is officially located;
2. To provide to MAPT contract usage reporting information, including but not limited to quantity, unit pricing and total volume of sales by entity, as well as reporting any Participating Agency added on the contract, on demand and without further approval of Participating Agency;
3. Contract obligations rest solely with the Participating Agency only; and
4. Significant changes in total contract value may result in further negotiations of contract pricing with the Lead Agency and any Participating Agency.

In pricing and other conditions, contractors are urged to consider the broad reach and appeal of MAPT with public and non-profit entities in this Region.

II. Participating Members

COG MEMBER GOVERNMENTS

District of Columbia

Maryland

- Town of Bladensburg
- City of Bowie
- City of College Park
- Charles County
- City of Frederick
- Frederick County
- City of Gaithersburg
- City of Greenbelt
- City of Hyattsville
- Montgomery County
- Prince George's County
- City of Rockville
- City of Takoma Park

Virginia

- City of Alexandria
- Arlington County
- City of Fairfax
- Fairfax County
- City of Falls Church
- Loudoun County
- City of Manassas
- City of Manassas Park
- Prince William County

Other Local Governments

- Town of Herndon
- Spotsylvania County
- Stafford County
- Town of Vienna

Public Authorities/Agencies

- Alexandria Renew Enterprises
- District of Columbia Water and Sewer Authority
- Metropolitan Washington Airports Authority
- Metropolitan Washington Council of Governments
- Montgomery County Housing Opportunities Commission
- Potomac & Rappahannock Transportation Commission
- Prince William County Service Authority

- Upper Occoquan Service Authority
- Washington Metropolitan Area Transit Authority
- Washington Suburban Sanitary Commission

School Systems

- Alexandria Public Schools
- Arlington County Public Schools
- Charles County Public Schools
- District of Columbia Public Schools
- Frederick County Public Schools
- Loudoun County Public Schools
- City of Manassas Public Schools
- Montgomery College
- Montgomery County Public Schools
- Prince George's County Public Schools
- Prince William County Public Schools
- Spotsylvania County Schools
- Winchester Public Schools

BALTIMORE METROPOLITAN COUNCIL AGENCIES

- City of Annapolis
- Anne Arundel County
- Anne Arundel County Public Schools
- Anne Arundel Community College
- City of Baltimore
- Baltimore City Public Schools
- Baltimore County
- Baltimore County Public Schools
- Community College of Baltimore County
- Carroll County
- Harford County
- Harford County Public Schools
- Harford Community College
- Howard County
- Howard County Public Schools System
- Howard Community College
- Queen Anne's County
- Queen Anne's County Public Schools

Acknowledge:

Initial _____

Date _____

**Appendix 4
Schedule of Lease Payments**

SCHEDULE OF LEASE PAYMENTS

Equipment Group # 38

Amount financed: \$13,960,000.00

Interest Rate: 3.0580% (determined in accordance with the definition of interest Rate and Section 3 of the Lease)

Payment Date	Payment Number	Principal Portion	Interest Portion 3.0580%	Lease Payment	Balance	Purchase Option Price
6/24/2022	1	\$3,649,234.28	\$0.00	\$3,649,234.28	\$10,310,765.72	N/A
6/24/2023	2	\$3,333,931.07	\$315,303.21	\$3,649,234.28	\$6,976,834.65	\$7,046,603.00
6/24/2024	3	\$3,435,882.68	\$213,351.60	\$3,649,234.28	\$3,540,951.97	\$3,576,361.49
6/24/2025	4	\$3,540,951.97	\$108,282.31	\$3,649,234.28	\$0.00	\$0.00
Total		\$13,960,000.00	\$636,937.12	\$14,596,937.12		



June 24, 2022

LESSOR:



By: _____ (Seal)
Name: _____
Title: Authorized Agent

LESSEE:

**BOARD OF EDUCATION OF
MONTGOMERY COUNTY, as Lessee**

By: _____ (Seal)
Name: _____
Title: Chief of Finance and Operations