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Table H-5
Annual Lighting Hours by Room Type - Stipulated

Room Type	Annual On-Hours
Bookstore	4,500
Breakroom	2,300
Classroom	3,500
Classroom - Auto Body	3,500
Classroom - Computer Lab	3,500
Classroom - Dance Studio	3,500
Classroom - Lecture Hall	3,500
Classroom - Recital Hall	3,500
Classroom - Storage	3,500
Classroom - Welding	3,500
Courtyard	4,000
Darkroom	1,000
Elevator	8,760
Gym	3,500
Hallway	4,500
Kitchen	4,000
Kitchen - Dishwashing	4,000
Kitchen - Serving Area	4,000
Kitchen - Staff Lounge	3,000
Lab	3,500
Lab - Chemical Storage	1,000
Lab - Storage	1,000
Lobby	4,500
Locker Room - Men	4,000
Locker Room - Wmn	4,000
Mechanical	1,000
Mechanical - Boiler	1,000
Mechanical - Chiller	1,000
Mechanical - Electric	1,000
Mechanical - Penthouse	1,000
Office	2,500
Office - Campus Police	7,000
Office - Conference Rm	1,500
Office - Copy	2,500
Office - Copy Room	2,500
Office - Mailroom	2,500
Office - Open	4,000
Open Area	4,000
Open Area - Auditorium	4,000
Open Area - Eating Area	4,000
Open Area - Math Tutoring	4,000
Open Area - Staging Area	4,000
Open Area - Tutoring Center	4,000
Open Area - Weight Room	2,500
Open Area - Writing Center	4,000
Pool	7,000
Restroom	2,300
Restroom - Family	2,300
Restroom - Men	4,500
Restroom - Staff	2,300
Restroom - Uni	2,300
Restroom - Women	4,500
Stairs	4,500
Storage	1,000
Storage - Kitchen	1,000
Storage - Office	1,000
Storage - Oxygen	1,000
Study Room	2,000
Under Canopy	4,500
Vault	2,500
Vestibule	4,500
Parking Lot Lights	4,745
Power Rebel	4,198

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2. Stipulated Savings: When the cost, complexity, or uncertainty of savings measurements are high as compared to the projected savings, the Customer and Chevron ES may agree to stipulate the projected Energy Unit Savings as being achieved, without any measurements being taken.
 - a. For the Stipulated Option, the Energy Unit Savings presented below will be agreed to occur each year of the Contract. During the Construction Period, the Energy Unit Savings will be calculated by adding the savings projected for the whole months between Substantial Completion or Beneficial Use of the EC Measure and the M&V Commencement Date.
 - b. Avoided Future Electric Use will be considered as Energy Unit Savings for the purpose of this Agreement. Avoided Future Electric Use is stipulated according to the table below.

ECM	Stipulated Savings		
	Electric (kWh)	Natural Gas (therms)	Domestic Water (ccf)
CP1 – Central Plant	305,401	0	0
C1 – Supervisory Controls	1,294,323	90,540	0
C2 – Recommissioning	121,328	5,153	0
C3 – Computer Power Management	355,000	0	0
M1 – Variable Speed Pool Pump	52,484	0	0
W1 – Irrigation Controls	0	0	32,110
Total Stipulated Savings	2,128,536	95,693	32,110

Avoided Future Electric Use		
Year	Improved Central Plant design (kWh)	Health & Science building chilled water pumps (kWh)
0	0	0
1	0	0
2	148,880	8,993
3	199,090	17,986
4	258,292	17,986
5	317,495	17,986
6	376,697	17,986
7	376,697	17,986
8	376,697	17,986
9	376,697	17,986
10	376,697	17,986
11	376,697	17,986
12	376,697	17,986
13	376,697	17,986
14	376,697	17,986
15	376,697	17,986
16	376,697	17,986
17	376,697	17,986
18	376,697	17,986
19	376,697	17,986

V. Base Energy Rates

EC Savings shall be calculated using the Base Energy Rates or actual energy rates for that meter, whichever results in greater EC Savings. Actual energy rates will be calculated at the end of each Contract year using utility billing information for that Contract Year and using the same methodology as was employed to determine the Base Energy Rate in the Comprehensive Energy Analysis Report.

The Base Energy Rates listed here are to be increased each year on a cumulative basis by 6.0 percent (6.0%) beginning on the first anniversary of the M&V Commencement Date and continuing on the first day of each Contract Year thereafter.

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ECM	Base Energy Rates		
	Blended Electric (kWh)	Natural Gas (therms)	Domestic Water (ccf)
CP1 – Central Plant	\$0.2051/kWh	N/A	N/A
L1 – Building Lighting Retrofits	\$0.1645/kWh	N/A	N/A
L2 – Parking Lot Lighting	\$0.0825/kWh	N/A	N/A
C1 – Supervisory Controls	\$0.0679/kWh	\$0.9756/th	N/A
C2 – Recommission Controls	\$0.1405/kWh	\$0.9756/th	N/A
C3 – Computer Power Management	\$0.0879/kWh	N/A	N/A
M1 – Variable Speed Pool Pump	\$0.0947/kWh	N/A	N/A
W1 – Irrigation Controls	N/A	N/A	0.981/ccf
Avoided Future Electricity Use	\$0.1355/kWh	N/A	N/A

VI. Stipulated Non-Energy \$ Savings

The following dollar savings have been calculated by Chevron ES from the installation of the EC measures and have been agreed to by the Customer and will not be measured. The sum of these savings each measurement year will be added to the EC savings for that Measurement Year.

Measurement Year	O & M Savings
0	\$0
1	\$39,231
2	\$40,408
3	\$41,620
4	\$42,868
5	\$44,155
6	\$45,479
7	\$46,844
8	\$48,249
9	\$49,696
10	\$51,187
11	\$52,723
12	\$54,305
13	\$55,934
14	\$57,612
15	\$59,340
16	\$61,120
17	\$62,954
18	\$64,842
19	\$66,788

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**ATTACHMENT I
GUARANTEED SAVINGS**

The Guaranteed Savings is identified below:

Measurement Year	Guaranteed savings
1	\$522,464
2	\$560,655
3	\$601,583
4	\$645,441
5	\$692,433
6	\$732,655
7	\$775,250
8	\$820,359
9	\$868,133
10	\$918,731
11	\$972,319
12	\$1,029,076
13	\$1,089,192
14	\$1,152,865
15	\$1,220,309

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**ATTACHMENT J
ADDITIONAL ON-GOING SCOPE OF WORK**

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**ATTACHMENT K
FINANCIAL PROFORMA**

Table I.2 - Project Cash Flow Analysis

Implementation Cost	\$13,219,863
CEA Fee	\$98,000
Total Project Fee	\$13,317,863
Cash Contribution to Project	\$7,000,000
CCC-IOU Incentive	\$658,599
Financed amount of Project	\$5,659,264
Construction Period Interest Financing Fees	\$396,148
Total Financing Costs during Construction	\$396,148
Total Amount Financed	\$6,055,412

1	2	3	4	5	6	7	8	9
Year	Projected Current Year Utility Cost	Projected Utility Cost Post Project	Total Utility Cost Savings	Operational and Maintenance Savings	Total Program Savings	Payment to Lessor	Power Purchase Agreement Payments	Total Program Costs
0	\$1,282,511	\$1,199,660	\$82,851	\$0	\$82,851	\$0	\$0	\$0
1	\$1,359,462	\$636,353	\$723,109	\$39,231	\$762,339	\$349,077	\$298,813	\$647,890
2	\$1,887,731	\$1,114,996	\$772,735	\$40,408	\$813,143	\$387,268	\$313,754	\$701,022
3	\$2,000,995	\$1,175,268	\$825,727	\$41,620	\$867,347	\$428,196	\$329,441	\$757,638
4	\$2,439,824	\$1,557,514	\$882,310	\$42,868	\$925,179	\$472,054	\$345,913	\$817,967
5	\$3,262,003	\$2,319,278	\$942,725	\$44,155	\$986,879	\$519,046	\$363,209	\$882,255
6	\$3,457,723	\$2,460,620	\$997,104	\$45,479	\$1,042,583	\$559,268	\$381,369	\$940,637
7	\$3,665,187	\$2,610,557	\$1,054,630	\$46,844	\$1,101,474	\$601,863	\$400,438	\$1,002,301
8	\$3,885,098	\$2,769,611	\$1,115,487	\$48,249	\$1,163,736	\$646,972	\$420,460	\$1,067,432
9	\$4,118,204	\$2,938,335	\$1,179,869	\$49,696	\$1,229,565	\$694,746	\$441,483	\$1,136,229
10	\$4,365,296	\$3,117,317	\$1,247,979	\$51,187	\$1,299,166	\$745,344	\$463,557	\$1,208,901
11	\$4,627,214	\$3,307,179	\$1,320,035	\$52,723	\$1,372,758	\$798,932	\$486,735	\$1,285,667
12	\$4,904,847	\$3,508,581	\$1,396,266	\$54,305	\$1,450,570	\$855,689	\$511,072	\$1,366,761
13	\$5,199,137	\$3,722,223	\$1,476,914	\$55,934	\$1,532,848	\$915,805	\$536,625	\$1,452,430
14	\$5,511,086	\$3,948,849	\$1,562,237	\$57,612	\$1,619,849	\$979,478	\$563,456	\$1,542,935
15	\$5,841,751	\$4,189,244	\$1,652,506	\$59,340	\$1,711,846	\$1,046,922	\$591,629	\$1,638,551
16	\$6,192,256	\$4,444,246	\$1,748,010	\$61,120	\$1,809,130	\$0	\$621,211	\$621,211
17	\$6,563,791	\$4,714,740	\$1,849,051	\$62,954	\$1,912,005	\$0	\$652,271	\$652,271
18	\$6,957,619	\$5,001,665	\$1,955,953	\$64,842	\$2,020,796	\$0	\$684,885	\$684,885
19	\$7,375,076	\$5,306,019	\$2,069,057	\$66,788	\$2,135,845	\$0	\$719,129	\$719,129
20	\$7,817,580	\$5,628,857	\$2,188,724	\$68,791	\$2,257,515	\$0	\$755,085	\$755,085
21	\$8,286,635	\$5,971,300	\$2,315,335	\$70,855	\$2,386,190	\$0	\$0	\$0
22	\$8,783,833	\$6,334,538	\$2,449,295	\$72,981	\$2,522,276	\$0	\$0	\$0
23	\$9,310,863	\$6,719,832	\$2,591,032	\$75,170	\$2,666,202	\$0	\$0	\$0
24	\$9,869,515	\$7,128,517	\$2,740,998	\$77,425	\$2,818,423	\$0	\$0	\$0
25	\$10,461,686	\$7,562,012	\$2,899,674	\$79,748	\$2,979,422	\$0	\$0	\$0
Totals	\$139,426,925	\$99,387,311	\$40,039,614	\$1,430,324	\$41,469,937	\$10,000,661	\$9,880,535	\$19,881,197

Notes By Column:

- (1) Years after implementing retrofit changes.
- (2) Projected Current Year Utility Costs are escalated by 6% to account for inflation. These costs include the utility costs of future build.
- (3) Projected Utility Costs Post Project are the College's utility costs after implementation of the project.
- (4) Total Utility Cost Savings are Columns (2) - (3).
- (5) Operational and Maintenance Savings are escalated by 3.0% per year to account for inflation.
- (6) Total Program Savings are the sums of Columns (4) and (5).
- (7) Payment to Lessor is based on an annual interest rate of 6%, 15 year term. Actual rate will be determined at closing.
- (8) The Chevron Power Purchase Agreement (PPA) Payment with guaranteed solar production for the 1,144 kW solar project.
- (9) Total Program Costs are the sums of Columns (7) and (8).
- (10) Net Savings equals Total Program Savings less Total Program Costs, Columns (6) - (9).

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CLOSING INDEX

Master Equipment Lease-Purchase Agreement
between
Antelope Valley Community College District, CA (the "Lessee")
and
Bank of America, N.A. (the "Lessor")

Closing: August TBD, 2009

<u>Required Documents:</u>	<u>Person Preparing:</u>	<u>Status:</u>
1) Financing Proposal	Lessor	Executed
2) Master Lease Purchase Agreement	Lessor	
3) Schedule of Property	Lessor	
4) Rental Payment Schedule	Lessor	
5) Incumbency & Authorization Cert.	Lessor	
6) Acquisition Fund Agreement	Lessor	
7) UCC-1 Financing Statement	Lessor	
8) Legal Property Descriptions	Lessee	
9) UCC-1 Fixture Filing	Lessor	
10) Resolution of Governing Body	Lessee	8/10?
11) Tax & Arbitrage Certificate	Lessee	
12) IRS Form 8038-G	Lessee	
13) Opinion of Lessee's Counsel	Lessee	
14) Insurance Authorization Letter	Lessor	
15) Property Insurance Certificate	Lessee	
16) Liability Insurance Certificate	Lessee	
17) Sales / Use Tax Exemption Certificate	Lessee	

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18)Payment & Performance Bonds	Contractor
19)Dual Obligee Rider	Contractor
20)Energy Performance Contract	Contractor
21)Disbursement Payment Request # 1	Lessee
22)Contractor Invoice # 1	Contractor

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MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

This Master Equipment Lease/Purchase Agreement (the "*Agreement*") dated as of _____, and entered into between Banc of America Public Capital Corp, a Kansas corporation ("*Lessor*"), and _____, a body corporate and politic existing under the laws of the State of California ("*Lessee*").

WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment described in each Schedule (as each such term is defined herein), subject to the terms and conditions of and for the purposes set forth in each Lease; and in the event of a conflict the terms of a Schedule prevail; and

WHEREAS, the relationship between the parties shall be a continuing one and items of equipment may be added to the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the Schedules hereto for the purposes set forth herein;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"*Acquisition Amount*" means the amount specified in each Lease and represented by Lessee to be sufficient to acquire the Equipment listed in such Lease, which amount shall be not less than \$100,000 for each Lease.

["*Acquisition Fund*" means, with respect to any Lease, the fund established and held by the Acquisition Fund Custodian pursuant to the related Acquisition Fund Agreement, if any.]

["*Acquisition Fund Agreement*" means, with respect to any Lease, an Acquisition Fund and Account Control Agreement in form and substance acceptable to and executed by Lessee, Lessor and the Acquisition Fund Custodian, pursuant to which an Acquisition Fund is established and administered.]

["*Acquisition Fund Custodian*" means the Acquisition Fund Custodian identified in any Acquisition Fund Agreement, and its successors and assigns.]

"Acquisition Period" means, with respect to each Lease, that period stated in the Schedule to such Lease during which the Lease Proceeds attributable to such Lease may be expended on Equipment Costs.

"Agreement" means this Master Equipment Lease/Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to the Agreement pursuant to Section 13.05.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder.

"Commencement Date" means, for each Lease, the date when Lessee's obligation to pay rent commences under such Lease, which date shall be the earlier of (i) the date on which the Equipment listed in such Lease is accepted by Lessee in the manner described in Section 5.01, [and (ii) the date on which sufficient moneys to purchase the Equipment listed in such Lease are deposited for that purpose with an Acquisition Fund Custodian.]

"Equipment" means the property listed in each of the Leases and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article V. Whenever reference is made in this Agreement to Equipment listed in a Lease, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

"Equipment Costs" means the total cost of the Equipment listed in each Lease, including all delivery charges, installation charges, capitalizable consulting and training fees approved by Lessor, legal fees, financing costs, and other costs necessary to vest full, clear legal title to the Equipment in Lessor, and otherwise incurred in connection with the financing provided by the lease-purchase of the Equipment as provided in each Lease; *provided* that in no event shall approved consulting and training fees or other non-capitalizable "soft" costs relating to the Equipment listed in any Lease which are to be financed by Lessor hereunder exceed 2% of the total cost of such Equipment as determined by Lessor; and *provided further*, that in no event shall capitalizable delivery charges, installation charges, taxes and similar capitalizable "soft costs" relating to such Equipment be included without Lessor's prior consent.

[*"Expense Fund"* means, with respect to any Lease, the fund established and held by the Acquisition Fund Custodian pursuant to the related Acquisition Fund Agreement, if any.]

"Event of Default" means an Event of Default described in Section 12.01.

"Lease" means a Schedule and the terms of this Agreement which are incorporated by reference into such Schedule. Each Schedule shall constitute a separate and independent Lease.

"Lease Proceeds" means, with respect to each Lease, the total amount of money to be paid by Lessor [to the Acquisition Fund Custodian for deposit and application in accordance with such Lease and the Acquisition Fund Agreement.]

"Lease Term" for each Lease shall begin on the Commencement Date thereof and continue as specified in the Schedule applicable thereto.

"Lessee" means the entity referred to as Lessee in the first paragraph of this Agreement.

"Lessor" means (a) the entity referred to as Lessor in the first paragraph of this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in and to the Equipment under a Lease or any Lease (including Rental Payments thereunder) pursuant to Section 11.01, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform under a Lease.

"Maximum Equipment Cost" means \$_____.

"Purchase Price" means, with respect to the Equipment listed on a Lease, the amount that Lessee may pay to Lessor to purchase such Equipment as provided in such Lease.

"Rental Payments" means the basic rental payments payable by Lessee under each Lease pursuant to Section 4.01, in each case consisting of a principal component and an interest component.

"Schedule" means each separately numbered Schedule of Property substantially in the form of Exhibit A hereto together with a Rental Payment Schedule attached thereto substantially in the form of Exhibit A-1 hereto.

"State" means the State of California.

"Utilization Period" means the date by which Lessee must deliver an Acceptance Certificate for the Equipment under such Lease as indicated in Section 3.05(b).

"Vendor" means the manufacturer or supplier of the Equipment or any other person as well as the agents or dealers of the manufacturer or supplier from whom Lessor arranged Lessee's acquisition and financing of the Equipment pursuant to the applicable Lease.

ARTICLE II

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof and as of the Commencement Date of each Lease as follows:

(a) Lessee is a state or a political subdivision thereof within the meaning of Section 103(c) of the Code, duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and each Lease and the transactions contemplated hereby and to perform all of its obligations hereunder and under each Lease.

(b) Lessee has duly authorized the execution and delivery of this Agreement and each Lease by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate

official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and each Lease.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

(e) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and each Lease and the acquisition by Lessee of the Equipment as provided in each Lease.

(f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last Rental Payment (including all Renewal Terms) scheduled to be paid under each Lease.

(g) Lessee shall keep its books and records in accordance with generally accepted accounting principles and practices consistently applied and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows and notes, and (4) schedules and attachments to the financial statements) within 180 days of its fiscal year end, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) its annual budget for the following fiscal year within 90 days of the current fiscal year end. Such statements shall be accompanied by an unqualified opinion of Lessee's auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has kept, and throughout the Lease Term of this Agreement will keep, its books and records in accordance with generally accepted accounting principles.

(i) Lessee has an immediate need for the Equipment listed on each Schedule and expects to make immediate use of the Equipment listed on each Schedule. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Lease Term to such item.

(j) The payment of the Rental Payments or any portion thereof is not (under the terms of any Lease or any underlying arrangement) directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit. No portion of the Equipment Costs for the Equipment will be used, directly or indirectly, to make or finance loans to any

person other than Lessee. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment.

(k) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations hereunder. Lessee will, at its expense, maintain its legal existence in good standing and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's interest in the Equipment and Lessor's rights and benefits under this Lease.

ARTICLE III

Section 3.01. Lease of Equipment. Subject to the terms of this Master Lease, Lessor agrees to provide the funds specified in each Lease to be provided by it to acquire the Equipment, up to an amount equal to the Maximum Equipment Cost. Upon the execution of each Lease, Lessor demises, leases, transfers and lets to Lessee, and Lessee acquires, rents and leases from Lessor, the Equipment as set forth in such Lease and in accordance with the terms thereof.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term of each Lease and to pay the Rental Payments thereunder. Lessee affirms that sufficient funds are available for the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments during the entire Lease Term of each Lease can be obtained from legally available funds of Lessee. Lessee further intends to do all things lawfully within its power to obtain and maintain funds sufficient and available to discharge its obligation to make Rental Payments due hereunder, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable provisions of law, to have such portion of the budget or appropriation request approved and to exhaust all available reviews and appeals in the event such portion of the budget or appropriation request is not approved.

Section 3.03. Abatement. During any period in which, by reason of material damage or destruction or taking under the power of eminent domain (or sale to any entity threatening the use of such power) or material title defect with respect to any Equipment, there is substantial interference with the use and possession by Lessee of such Equipment, the rent applicable to such Equipment shall be abated proportionately in whole or in part. Lessee shall immediately notify Lessor upon the occurrence of any event causing substantial interference with Lessee's use and possession of any Equipment, and such notice shall be provided prior to the abatement of any rent. The amount of abatement shall be such that the remaining rental obligation for each rental period represents fair consideration for the use and possession of the portions of the Equipment that are not affected by such interference. Such abatement shall commence on the date that Lessee's use and possession of the affected Equipment is restricted because of such interference and end on the earlier of (i) the date on which the use and possession thereof are restored to Lessee, or (ii) the date on which Lessee either (x) replaces the affected Equipment or (y) uses the proceeds of insurance or condemnation award to pay the applicable Purchase Price therefor. Notwithstanding any such interference with Lessee's use and possession of a portion of the Equipment, this Lease shall continue in full force and effect with respect to any remaining

Equipment. Lessee waives the benefits of Civil Code Sections 1932 and any and all other rights to terminate this Lease by virtue of any interference with the use and possession of any Equipment.

Section 3.04. Conditions to Lessor's Performance.

(a) As a prerequisite to the performance by Lessor of any of its obligations pursuant to any Lease, Lessee shall deliver to Lessor the following:

- (i) A fully completed Schedule, executed by Lessee;
- (ii) An Acquisition Fund Agreement, executed by Lessee and the Acquisition Fund Custodian, unless Lessor pays 100% of the Acquisition Amount directly to the Vendor upon execution of the Lease;
- (iii) A Certificate executed by the Clerk or Secretary or other comparable officer of Lessee, in substantially the form attached hereto as Exhibit C, completed to the satisfaction of Lessor;
- (iv) A certified copy of a resolution or other official action of Lessee's governing body authorizing the execution and delivery of this Lease and performance by Lessee of its obligations hereunder;
- (v) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit D respecting such Lease and otherwise satisfactory to Lessor;
- (vi) Evidence of insurance as required by Section 7.02 hereof;
- (vii) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.01 and 6.02;
- (viii) A copy of a fully completed and executed Form 8038;
- (ix) An Essential Use/Source of Funds Certificate in substantially the form attached as Exhibit E; and
- (x) Such other items, if any, as are set forth in such Lease or are reasonably required by Lessor.

(b) In addition, the performance by Lessor of any of its obligations pursuant to any Lease shall be subject to: (i) no material adverse change in the financial condition of Lessee since the date of this Lease, (ii) no Event of Default having occurred, and (iii) if no Acquisition Fund has been established, the Equipment must be accepted by Lessee no later than _____ (the "*Utilization Period*").

(c) Subject to satisfaction of the foregoing, Lessor will pay the Acquisition Amount for Equipment described in a Schedule to the Vendor upon receipt of the documents described in Sections 5.01(a) and (b); or if an Acquisition Fund has been established pursuant to an

Acquisition Fund Agreement, Lessor will deposit the Acquisition Amount for Equipment described in the Schedule with the Acquisition Fund Custodian.

(d) This Agreement is not a commitment by Lessor to enter into any Lease not currently in existence, and nothing in this Agreement shall be construed to impose any obligation upon Lessor to enter into any proposed Lease, it being understood that whether Lessor enters into any proposed Lease shall be a decision solely within Lessor's discretion.

(e) Lessee will cooperate with Lessor in Lessor's review of any proposed Lease. Without limiting the foregoing, Lessee will provide Lessor with any documentation or information Lessor may request in connection with Lessor's review of any proposed Lease. Such documentation may include, without limitation, documentation concerning the Equipment and its contemplated use and location and documentation or information concerning the financial status of Lessee and other matters related to Lessee.

ARTICLE IV

Section 4.01. Rental Payments. Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the dates and in such amounts as provided in each Lease. Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at the rate of 16% per annum or the maximum amount permitted by law, whichever is less, from such date. Lessee shall not permit the federal government to guarantee any Rental Payments under any Lease. Rental Payments consist of principal and interest payments as more fully detailed on each Schedule, the interest on which begins to accrue as of the Commencement Date for each such Schedule.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the Balance of each Rental Payment is paid as, and represents payment of, principal. Each Lease shall set forth the principal and interest components of each Rental Payment payable thereunder during the Lease Term.

Section 4.03. Rental Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments under each Lease shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein or in a Lease constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments to be Unconditional. Except as provided in Section 3.03, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in each Lease shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, after it has been accepted by lessee, any defects, malfunctions, breakdowns or infirmities in the equipment or any accident, condemnation or unforeseen circumstances. Lessee's obligations to make Rental Payments or pay other amounts

hereunder shall not be abated on account of obsolescence or failure of the Equipment to perform as desired.

Section 4.05. Tax Covenant. Lessee agrees that it will not take any action that would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for federal income tax purposes, nor will it omit to take or cause to be taken, in timely manner, any action, which omission would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for federal income tax purposes.

Section 4.06. Event of Taxability. Upon the occurrence of an Event of Taxability, the interest component shall be at a Taxable Rate retroactive to the date as of which the interest component is determined by the Internal Revenue Service to be includible in the gross income of the owner or owners thereof for federal income tax purposes, and Lessee will pay such additional amount as will result in the owner receiving the interest component at the Taxable Rate identified in the related Lease.

For purposes of this Section, "Event of Taxability" means a determination that the interest component is includible for federal income tax purposes in the gross income of the owner thereof due to Lessee's action or failure to take any action.

Section 4.07. Mandatory Prepayment. If the Lease Proceeds are deposited into an Acquisition Fund, any funds remaining in the Acquisition Fund on or after the Acquisition Period and not applied to Equipment Costs, shall be applied by Lessor on the next Rental Payment date, pro rata to the prepayment of the principal component of the outstanding Rental Payments due under the applicable Schedule.

ARTICLE V

Section 5.01. Delivery, Installation and Acceptance of Equipment.

(a) Lessee shall order the Equipment, cause the Equipment to be delivered and installed at the location specified in the Leases and pay any and all delivery and installation costs and other Equipment Costs in connection therewith. When the Equipment listed in any Lease has been delivered and installed, Lessee shall promptly accept such Equipment and evidence said acceptance by executing and delivering to Lessor an acceptance certificate in the form attached hereto as Exhibit B.

(b) Lessee shall deliver to Lessor original invoices and bills of sale (if title to such Equipment has passed to Lessee) relating to each item of Equipment accepted by Lessee. With respect to Equipment not purchased through an Acquisition Fund, Lessor shall, upon receipt of an Acceptance Certificate from Lessee, prepare a Schedule of Property and Rental Payment Schedule. Lessee shall execute and deliver such Schedules to Lessor within 5 business days of receipt.

Section 5.02. Enjoyment of Equipment. Lessor shall provide Lessee with quiet use and enjoyment of the Equipment during the Lease Term, and Lessee shall peaceably and quietly have,

hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in the related Lease. Lessor shall not interfere with such quiet use and enjoyment during the Lease Term so long as Lessee is not in default under the related Lease.

Section 5.03. Location; Inspection. Once installed, no item of the Equipment will be moved from the location specified for it in the Lease on which such item is listed without Lessor's consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

Section 5.04. Use and Maintenance of the Equipment. Lessee will not install, use, operate, or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by the related Lease. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body; provided that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest (including the reversionary interest) of Lessor in and to the Equipment or its interest or rights under the Lease.

Lessee agrees that it will maintain, preserve, and keep the Equipment in good repair and working order, in accordance with manufacturer's recommendations. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. If commercially available, Lessee will maintain in force a standard maintenance contract with the manufacturer of the Equipment, and upon request will provide Lessor with a copy of that contract. Upon the prior written consent of Lessor, which consent shall not be unreasonably withheld, Lessee may use another third party maintenance provider provided the maintenance contract between Lessee and such third party requires the third party to maintain the Equipment at the manufacturer's then current release, revision and engineering change levels, including hardware, software enhancements and microcode levels. In all cases, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Equipment as eligible for manufacturer's maintenance upon the return of the Equipment to Lessor as provided for herein.

Lessee shall not alter any item of Equipment or install any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment, excluding temporary replacements, shall thereupon become subject to the interest of Lessor therein.

ARTICLE VI

Section 6.01. Title to the Equipment. During each Lease Term, and so long as Lessee is not in default under Article XII hereof, all right, title and interest in and to each item of the Equipment shall be vested in Lessor as security for the obligations of Lessee hereunder. Lessee shall at all times protect and defend, at its own cost and expense, Lessor's title in and to the Equipment from and against all claims, liens and legal processes of its creditors, and keep all

Equipment free and clear of all such claims, liens and processes. Upon purchase of the Equipment under a Lease by Lessee pursuant to Section 10.01, Lessor shall transfer to Lessee title to the Equipment, as-is, without warranty of any kind other than as to the absence of liens created by or through Lessor, and shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the transfer of Lessor's title and interest in the Equipment subject to the related Lease.

Section 6.02. Security Interest. As additional security for the payment of all of Lessee's obligations under each Lease, upon the execution of such Lease, Lessee grants to Lessor a security interest constituting a first lien on (a) the Equipment applicable to such Lease, (b) moneys and investments held from time to time in the Acquisition Fund and (c) any and all proceeds of any of the foregoing. Lessee agrees to execute and authorizes Lessor to file such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment, the Acquisition Fund and the proceeds thereof.

Section 6.03. Personal Property. The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Equipment free of all levies, liens, and encumbrances except those created by each Lease. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during each Lease Term.

Section 7.02. Insurance. Lessee shall during each Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as additional insured and loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the then applicable Purchase Price of the Equipment; (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor; (c) worker's compensation coverage as required by the laws of the State, and (d) rental interruption insurance in an amount which shall cover Rental Payments for no less than 24 months; *provided that*, with Lessor's prior written consent, Lessee may self-insure against the risks described in clause (a). Lessee shall furnish to Lessor evidence of such

insurance or self-insurance coverage throughout each Lease Term. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least 30 days in advance of such cancellation or modification.

Section 7.03. Advances. In the event Lessee shall fail to keep the Equipment in good repair and working order, Lessor may, but shall be under no obligation to, maintain and repair the Equipment and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the Lease Term and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the due date until paid at the rate of 16% per annum or the maximum amount permitted by law, whichever is less.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. Unless Lessee shall have exercised its option to purchase the Equipment by making payment of the Purchase Price as provided in the related Lease, if, prior to the termination of the applicable Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee.

If Lessee elects to replace any item of the Equipment (the "*Replaced Equipment*") pursuant to this Section, the replacement equipment (the "*Replacement Equipment*") shall be of similar type, utility and condition to the Replaced Equipment and shall be of equal or greater value than the Replaced Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's title in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Equipment" for purposes of this Master Equipment Lease and the related Lease. Lessee shall complete the documentation of Replacement Equipment on or before the next Rent Payment date after the occurrence of a casualty event, or be required to exercise the Purchase Option with respect to the damaged equipment.

For purposes of this Article, the term "*Net Proceeds*" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

Section 8.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Purchase Price for the Equipment, and, upon such payment, the applicable Lease Term shall terminate and Lessor's interest in the Equipment shall terminate as provided in Article VI hereof. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing such Equipment and such other Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

[Notwithstanding anything to the contrary herein, Lessee's obligations under Article VIII shall be limited to the Net Proceeds of insurance or condemnation and other legally available funds. If Lessee's obligations under Section 7.02 to maintain property insurance is covered by self insurance, then Lessee hereby certifies that its self insurance program guarantees payment of the interest of Lessor for any loss or damage to the Equipment leased hereunder.]

ARTICLE IX

Section 9.01. Disclaimer of Warranties. Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Equipment shall be on an "as is" Basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Master Equipment Lease, any Lease, the Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Master Equipment Lease or any Lease.

Section 9.02. Vendor's Warranties. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during each Lease Term, so long as Lessee shall not be in default under the related Lease, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights of Lessor with respect to any Lease, including the right to receive full and timely payments under a Lease. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties by Lessor of the Equipment.

ARTICLE X

Section 10.01. Purchase Option. Lessee shall have the option to purchase all of the Equipment listed in a Lease, upon giving written notice to Lessor at least 30, but not more than 120, days before the date of purchase, at the following times and upon the following terms:

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{(a) From and after the date specified in the related Schedule (the "*Purchase Option Commencement Date*"), on the Rental Payment dates specified in each Lease, upon payment in full of the Rental Payments then due under such Lease plus the then applicable Purchase Price, which may include a prepayment premium on the unpaid balance as set forth in the applicable Schedule; or}

(b) In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment listed in a Lease, on the day specified in Lessee's notice to Lessor of its exercise of the purchase option upon payment in full to Lessor of the Rental Payments then due under such Lease plus the then applicable Purchase Price; or

(c) Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing under the Lease, and the payment of \$1.00 to Lessor.

After payment of the applicable Purchase Price, Lessee will own the related Equipment, and Lessor's right, title and interests in and to such Equipment will be transferred and terminated in accordance with Section 6.01.

ARTICLE XI

Section 11.01. Assignment by Lessor. Lessor's right, title and interest in and to Rental Payments and any other amounts payable by Lessee under any and all of the Leases, its interest in the Equipment subject to each such Lease, and all proceeds therefrom may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor, without the necessity of obtaining the consent of Lessee; *provided, however,* that any such assignment, transfer or conveyance to a trustee for the benefit of owners of certificates of participation shall be made in a manner that conforms to any applicable State law. Nothing in this Section 11.01 shall be construed, however, to prevent Lessor from executing any such assignment, transfer or conveyance that does not involve funding through the use of certificates of participation within the meaning of applicable State law, including any such assignment, transfer or conveyance as part of a multiple asset pool to a partnership or trust, interests in which are offered and sold in a private placement or limited offering only to investors whom Lessor reasonably believes are qualified institutional buyers or accredited investors within the meaning of the applicable federal securities law; *provided further, however,* that in any event, Lessee shall not be required to make Rental Payments, to send notices or to otherwise deal with respect to matters arising under a Lease with or to more than one individual or entity. No assignment, transfer or conveyance permitted by this Section 11.01 shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided, however,* that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Rental Payments payable under a Lease, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During the term of each Lease, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee shall not have the right to and shall not assert against any

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assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. Assignments in part may include without limitation assignment of all of Lessor's interest in and to the Equipment listed in a particular Lease and all rights in, to and under the Lease related to such Equipment. The option granted in this Section may be separately exercised from time to time with respect to the Equipment listed in each Lease, but such option does not permit the assignment of less than all of Lessor's interests in the Equipment listed in a single Lease.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title, and interest in, to and under any Lease or any portion of the Equipment may be assigned or encumbered by Lessee for any reason.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an "Event of Default" under a Lease:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid under any Lease at the time specified herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided 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) Any statement, representation or warranty made by Lessee in or pursuant to any Lease or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money or receiving credit under which Lessee may be obligated as borrower, if such default consists of (i) the failure to pay any indebtedness when due or (ii) the failure to perform any other obligation thereunder and gives the holder of the indebtedness the right to accelerate the indebtedness;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator or Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may without terminating such Lease, collect each Rental Payment payable by Lessee pursuant to such Lease and other amounts payable by Lessee under such Lease as they become due and payable;

(b) With or without terminating the Lease Term under such Lease, Lessor may enter the premises where the Equipment listed in such Lease is located and retake possession of such Equipment or require Lessee at Lessee's expense to promptly return any or all of such Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee pursuant to such Lease and other amounts related to such Lease or the Equipment listed therein that are payable by Lessee to the end of the Lease Term, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies under such Lease, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities under any other Lease or the Equipment listed therein;

(c) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under such Lease or as a secured party in any or all of the Equipment subject to such Lease; and

(d) by action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, obtain the issuance of a writ of mandamus enforcing, for the entire balance of the remaining Lease Term, the duty of Lessee to appropriate and take all other administrative steps necessary for the payment of rents, and other amounts due hereunder.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under a Lease now or hereafter existing at law or in equity, provided that Lessor shall have no right to accelerate any Rental Payment or otherwise declare any Rental Payment or other amount payable not then in default to be immediately due and payable. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice other than such notice as may be required in this Article.

Section 12.04. Application of Moneys. Any net proceeds from the exercise of any remedy under this Agreement, including the application specified in Section 12.02(b)(ii) (after deducting all expenses of Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing Equipment and all brokerage, auctioneer's or attorney's fees), shall be applied as follows:

(a) If such remedy is exercised solely with respect to a single Lease, Equipment listed in such Lease or rights thereunder, then to amounts due pursuant to such Lease and other amounts related to such Lease or such Equipment.

(b) If such remedy is exercised with respect to more than one Lease, Equipment listed in more than one Lease or rights under more than one Lease, then to amounts due pursuant to such Leases pro rata.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under any Lease shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Release and Indemnification. To the extent permitted by law, but only from legally available funds, Lessee shall indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liability, obligation, loss, claim, tax and damage whatsoever, regardless of cause thereof, and all expenses in connection therewith (including, without limitation, counsel fees and expenses, penalties connected therewith imposed on interest received) arising out of or as a result of (a) the entering into of this Agreement or any Lease, (b) the ownership of any item of the Equipment, (c) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (e) the breach of any covenant in a Lease or any material misrepresentation contained in a Lease. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under all Leases or the termination of the Lease Term under all Leases for any reason.

Section 13.03. Binding Effect. Each Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.04. Severability. In the event any provision of any 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.

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Section 13.05. Amendments, Changes and Modifications. Each Lease may only be amended by Lessor and Lessee in writing.

Section 13.06. Execution in Counterparts. Each 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.

Section 13.07. Applicable Law. Each Lease shall be governed by and construed in accordance with the laws of the State.

Section 13.08. Captions. The captions or headings in this Agreement and in each Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement or any Lease.

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IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:
Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

LESSEE:

By _____
Title _____

By _____
Title _____

(Seal)

Attest:
By _____
Title _____

EXHIBIT A

SCHEDULE OF PROPERTY NO. _____

Re: Master Equipment Lease/Purchase Agreement, dated as of _____, between Banc of America Public Capital Corp, as Lessor, and _____, as Lessee

1. *Defined Terms.* All terms used herein have the meanings ascribed to them in the above-referenced Master Equipment Lease/Purchase Agreement (the "*Master Equipment Lease*").

2. *Equipment.* The following items of Equipment are hereby included under this Schedule of the Master Equipment Lease.

Quantity	Description	Serial No.	Model No.	Location

3. *Payment Schedule.*

(a) *Rental Payments.* The Rental Payments shall be in such amounts and payable on such dates as set forth in the Rental Payment Schedule attached to this Schedule as Exhibit A-1. Rental Payments shall commence on the date on which the Equipment listed in this Schedule is accepted by Lessee, as indicated in an Acceptance Certificate substantially in the form of Exhibit B to the Master Equipment Lease or the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an Acquisition Fund Custodian, whichever is earlier.

(b) *Purchase Price Schedule.* The Purchase Price on each Rental Payment date for the Term Estate in the Equipment listed in this Schedule shall be the amount set forth for such Rental Payment date in the "Purchase Price" column of the Rental Payment Schedule attached to this Schedule. The Purchase Price is in addition to all Rental Payments then due under this Schedule (including the Rental Payment shown on the same line in the Rental Payment Schedule).

4. *Representations, Warranties and Covenants.* Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Master Equipment Lease are true and correct as though made on the date of commencement of Rental Payments on this Schedule. Lessee further represents and warrants that no material adverse change in Lessee's financial condition has occurred since the date of the Master Equipment Lease.

5. *The Lease.* The terms and provisions of the Master Equipment Lease (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated into this Schedule by reference and made a part hereof.

[OPTION: IF ACQUISITION FUND AGREEMENT IS USED:

6. *Lease Proceeds.* The Lease Proceeds which Lessor shall pay to the Acquisition Fund Custodian in connection with this Schedule is \$ _____, of which \$ _____ is for deposit to the Expense Fund and the balance is for deposit to the Acquisition Fund.

OR IF VENDOR PAID DIRECTLY USE:

6. *Acquisition Amount.* The Acquisition Amount for the Equipment described in this Schedule to be paid to the Vendor is \$ _____.]

[OPTION: IF ACQUISITION FUND AGREEMENT IS USED:

7. *Acquisition Period.* The Acquisition Period applicable to this Schedule shall end at the conclusion of the ____ month following the date hereof.]

[7][8]. *Lease Term.* The Lease Term shall consist of ____ months, ending on _____.

[8][9]. *Purchase Option Commencement Date.* For purposes of Section 10.01 of the Lease, the Purchase Option Commencement Date is _____.

Dated: _____

LESSOR:
Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

LESSEE:

By _____
Title _____

By _____
Title _____

(Seal)

Attest:
By _____
Title _____

Counterpart No. ____ of ____ manually executed and serially numbered counterparts. To the extent that this Lease constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

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EXHIBIT A-1

RENTAL PAYMENT SCHEDULE

Rental Payment Date	Rental Payment Amount	Interest Portion	Principal Portion	Purchase Price

Prepayment Premium for purposes of Section 10.01(a) is _____.

For purposes of this Lease, "Taxable Rate," with respect to the interest component of Rental Payments, means an annual rate of interest equal to ____%.

LESSEE:

By _____

Title _____

DRAFT

EXHIBIT B

ACCEPTANCE CERTIFICATE

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. _____, dated _____,
to Master Equipment Lease/Purchase Agreement, dated as of
_____, between Banc of America Public Capital Corp, as
Lessor, and _____, as Lessee.

Ladies and Gentlemen:

In accordance with the Master Equipment Lease/Purchase Agreement (the "*Agreement*"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment (as such term is defined in the Agreement) listed in the above-referenced Schedule of Property (the "*Schedule*") has been delivered, installed and accepted on the date hereof.

2. Lessee has conducted such inspection and/or testing of the Equipment listed in the Schedule as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.

3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.

4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

Date: _____

LESSEE:

By _____
Title _____

(Seal)

EXHIBIT C

CERTIFICATE

The undersigned, a duly elected and acting _____ Secretary of _____ (“Lessee”) certifies as follows:

A. The following listed persons are duly elected and acting officials of Lessee (the “Officials”) in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Master Equipment Lease/Purchase Agreement dated as of _____ and the Schedule(s) thereunder and all future Schedule(s) (the “Agreements”) by and between Lessee and Banc of America Public Capital Corp and these Agreements are binding and authorized Agreements of Lessee, enforceable in all respects in accordance with their terms.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated _____ By _____
Title _____

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

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EXHIBIT D

OPINION OF COUNSEL TO LESSEE

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. _____, dated _____,
to Master Equipment Lease/Purchase Agreement, dated as of
_____, between Banc of America Public Capital Corp, as
Lessor, and _____, as Lessee

Ladies and Gentlemen:

As legal counsel to _____ ("*Lessee*"), I have examined (a) an executed counterpart of a certain Master Equipment Lease/Purchase Agreement, dated as of _____, and Exhibits thereto by and between Banc of America Public Capital Corp ("*Lessor*") and Lessee (the "*Agreement*"), [and] an executed counterpart of Schedule of Property No. _____, dated _____, by and between Lessor and Lessee (the "*Schedule*"), which, among other things, provides for the lease of certain property listed in the Schedule (the "*Equipment*"), [and an executed counterpart of that certain Acquisition Fund and Account Control Agreement dated _____ by and among Lessee, Lessor and the Custodian named therein (the "*Acquisition Fund Agreement*")]; (b) an executed counterpart of the ordinances or resolutions of Lessee which, among other things, authorize Lessee to execute the Agreement and the Schedule and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. The Schedule and the terms and provisions of the Agreement incorporated therein by reference together with the Rental Payment Schedule attached to the Schedule are herein referred to collectively as the "*Lease*". [The Lease and the Acquisition Fund Agreement are referred to herein collectively as the "*Lease Documents*"].

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and [has a substantial amount of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power] [is a political subdivision of a state within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "*Code*") and the obligations of Lessee under the Agreement will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code];

2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Lease [Documents] and to perform its obligations under the Lease [Documents];

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3. The Lease [Documents] has [have] been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Lease [Documents are] [is] a valid and binding obligation of Lessee enforceable in accordance with its [their] terms;

4. The authorization, approval, execution and delivery of the Lease [Documents] and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws; and

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Lease Documents or the interest of Lessor or its assigns, as the case may be, in the Equipment thereunder.

[6. The portion of rentals designated as and constituting interest paid by Lessee and received by Lessor is excluded from Lessor's gross income for federal income tax purposes under Section 103 of the Code and is exempt from State of _____ personal income taxes; and such interest is not a specific item for purposes of the federal individual or corporate alternative minimum taxes.]

All capitalized terms herein shall have the same meanings as in the Lease unless otherwise provided herein. Lessor and its successors and assigns, and any counsel rendering an opinion on the tax-exempt status of the interest components of the Rental Payments, are entitled to rely on this opinion.

Printed Name _____
Firm _____
Address _____
Telephone No. _____

Signature _____
Dated _____

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EXHIBIT E

ESSENTIAL USE/SOURCE OF FUNDS CERTIFICATE

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

Re: Master Equipment Lease/Purchase Agreement dated _____,
between Banc of America Public Capital Corp and
_____ ("*Lessee*") and Schedule of Property No.
_____ dated _____

This certificate confirms and affirms that the Equipment described in the Agreement referenced above is essential to the functions of Lessee or to the services Lessee provides its citizens. Further, Lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority.

Lessee expects and anticipates adequate funds to be available for all future payments or rent due after the current budgetary period.

Signature _____

Name _____

Title _____

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ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

This Acquisition Fund and Account Control Agreement (this "Agreement"), dated as of _____, by and among Banc of America Public Capital Corp, a Kansas corporation (hereinafter referred to as "Lessor"), _____, a political subdivision of the state of _____ (hereinafter referred to as "Lessee") and Bank of America, N.A., a national banking association (hereinafter referred to as "Acquisition Fund Custodian").

Reference is made to that certain Master Equipment Lease/Purchase Agreement dated as of _____, 20__ between Lessor and Lessee (hereinafter referred to as the "Lease"), covering the acquisition and lease of certain Equipment described therein (the "Equipment"). It is a requirement of the Lease that the Equipment Cost of the Equipment (an amount not to exceed \$ _____) be deposited into an escrow under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

The parties agree as follows:

1. Creation of Acquisition Fund.

(a) There is hereby created a special trust fund to be known as the "[_____] Acquisition Fund" (the "Acquisition Fund") to be held in trust by the Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) The Acquisition Fund Custodian shall invest and reinvest moneys on deposit in the Acquisition Fund in Qualified Investments in accordance with written instructions received from Lessee. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Acquisition Fund Custodian for the reinvestment of any maturing investment. Accordingly, neither the Acquisition Fund Custodian nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Acquisition Fund, and Lessee agrees to and does hereby release the Acquisition Fund Custodian and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Acquisition Fund shall become part of the Acquisition Fund, and gains and losses on the investment of the moneys on deposit in the Acquisition Fund shall be borne by the Acquisition Fund. For purposes of this agreement, "Qualified Investments" means any investments which meet the requirements of [state law citation].

(c) Unless the Acquisition Fund is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Acquisition Fund shall be disbursed by the Acquisition Fund Custodian in payment of amounts described in Section 2 hereof upon receipt of written authorization(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Acquisition Fund are insufficient to pay such amounts, Lessee shall provide any

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balance of the funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Acquisition Fund after _____ (the "Acquisition Period") shall be applied as provided in Section 4 hereof.

(d) The Acquisition Fund shall be terminated at the earliest of (i) the final distribution of amounts in the Acquisition Fund or (ii) written notice given by Lessor of the occurrence of a default or termination of the Lease due to non-appropriation.

(e) The Acquisition Fund Custodian may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Acquisition Fund Custodian shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Acquisition Fund Custodian, and for the disposition of the same in accordance herewith.

(f) Unless the Acquisition Fund Custodian is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Acquisition Fund Custodian and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Acquisition Fund Custodian under this agreement; and in connection therewith, does to the extent permitted by law indemnify the Acquisition Fund Custodian against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(g) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Acquisition Fund Custodian hereunder, the Acquisition Fund Custodian may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Acquisition Fund Custodian shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(h) The Acquisition Fund Custodian may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Acquisition Fund Custodian shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(i) Lessee shall reimburse the Acquisition Fund Custodian for all reasonable costs and expenses, including those of the Acquisition Fund Custodian's attorneys, agents and employees incurred for extra-ordinary administration of the Acquisition Fund and the performance of the Acquisition Fund Custodian's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Acquisition Fund.

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2. Acquisition of Property.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Acquisition Fund. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof.

(b) Authorized Acquisition Fund Disbursements. Disbursements from the Acquisition Fund shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Equipment.

(c) Requisition Procedure. No disbursement from the Acquisition Fund shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Acquisition Fund there shall be filed with the Acquisition Fund Custodian a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due. Each such requisition shall be signed by an authorized representative of Lessee (an "Authorized Representative") and by Lessor, and shall be subject to the following:

1. Delivery to Lessor of a certificate of Lessee to the effect that:
 - (i) an obligation in the stated amount has been incurred by Lessee, and that the same is a proper charge against the Acquisition Fund for costs relating to the Equipment identified in the Lease, and has not been paid; (ii) the Authorized Representative has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made; (iii) such requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date of such certificate, entitled to retain; and (iv) the Equipment is insured in accordance with the Lease.
2. Delivery to Lessor of an Acceptance Certificate executed by Lessee, together with any Purchase Agreement Assignment or bill of sale and invoice therefor as required by Section 3.04 of the Lease;
3. The disbursement shall occur during the Acquisition Period set forth in the Schedule applicable to such Equipment;
4. There shall exist no Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default); and

5. No material adverse change in Lessee's or any guarantor's financial condition shall have occurred since the date of the Lease.

3. Deposit to Acquisition Fund. Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Lease Proceeds to be deposited in the Acquisition Fund. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Acquisition Fund.

4. Excessive Acquisition Fund. Following the final disbursement from the Acquisition Fund at the end of the Acquisition Period, or termination of the Acquisition Fund as otherwise provided herein, the Acquisition Fund Custodian shall transfer any remainder from the Acquisition Fund to Lessor for application to amounts owed under the Lease in accordance with Section 4.07 of the Lease.

5. Security Interest. The Acquisition Fund Custodian and Lessee acknowledge and agree that the Acquisition Fund and all proceeds thereof are being held by Acquisition Fund Custodian for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Acquisition Fund, and all proceeds thereof, and all investments made with any amounts in the Acquisition Fund. If the Acquisition Fund, or any part thereof, is converted to investments as set forth in this agreement, such investments shall be made in the name of Acquisition Fund Custodian and the Acquisition Fund Custodian hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

6. Control of Acquisition Account. In order to perfect Lessor's security interest by means of control in (i) the Acquisition Fund established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Acquisition Fund, (iii) all of Lessee's rights in respect of the Acquisition Fund, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Acquisition Fund Custodian further agree as follows:

(a) All terms used in this Section 6 which are defined in the Commercial Code of the state of _____ ("Commercial Code") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Acquisition Fund Custodian will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Acquisition Fund Custodian hereby represents and warrants (a) that the records of Acquisition Fund Custodian show that Lessee is the sole owner of the Collateral, (b) that Acquisition Fund Custodian has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Acquisition Fund Custodian is not presently obligated to accept any entitlement order from any person with respect to the

Collateral, except for entitlement orders that Acquisition Fund Custodian is obligated to accept from Lessor under this Agreement and entitlement orders that Acquisition Fund Custodian, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Acquisition Fund Custodian will not enter into any agreement by which Acquisition Fund Custodian agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Acquisition Fund Custodian shall promptly notify Lessor if any person requests Acquisition Fund Custodian to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Acquisition Fund Custodian may allow Lessee to effect sales, trades, transfers and exchanges of Collateral within the Acquisition Fund, but will not, without the prior written consent of Lessor, allow Lessee to withdraw any Collateral from the Acquisition Fund. Acquisition Fund Custodian acknowledges that Lessor reserves the right, by delivery of written notice to Acquisition Fund Custodian, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Acquisition Fund. Further, Acquisition Fund Custodian hereby agrees to comply with any and all written instructions delivered by Lessor to Acquisition Fund Custodian (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Acquisition Fund Custodian to comply with all instructions and entitlement orders delivered by Lessor to Acquisition Fund Custodian.

(g) Acquisition Fund Custodian will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Acquisition Fund Custodian will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever. [The Acquisition Fund Custodian shall be vested with a lien on and is hereby granted a security interest in the Collateral, for indemnification, for reasonable attorneys' fees, court costs, for any suit, interpleader or otherwise, or any other expense, fees or charges of any character or nature, which may be incurred by the Acquisition Fund Custodian by reason of disputes arising between Lessee and Lessor as to the correct interpretation of the Lease and instructions given to the Acquisition Fund Custodian hereunder, or otherwise, with the right of Acquisition Fund Custodian, regardless of the instructions aforesaid, to hold the Collateral until and unless said additional expenses, fees and charges shall be fully paid.]¹

(h) Acquisition Fund Custodian and Lessee hereby agree that any property held in the Acquisition Fund shall be treated as a financial asset under such section of the

¹ It is preferable that the Acquisition Fund Custodian have no lien on the Collateral.

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Commercial Code as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Acquisition Fund Custodian may be a party.

(i) Acquisition Fund Custodian is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 7 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Acquisition Fund statements or reports issued or sent to Lessee with respect to the Acquisition Fund.

7. Miscellaneous. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This agreement may not be amended except in writing signed by all parties hereto. This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below:

If to Lessor: Banc of America Public Capital Corp
555 California Street, 4th Floor
Mail Code: CA5-705-04-01
San Francisco, CA 94104
Attn: Contract Administration
Fax: (415) 765-7373

If to Lessee: _____

Attn: _____
Fax: _____

If to Acquisition Fund Custodian: Bank of America, N.A.

Attn: _____
Phone: _____
Fax: _____

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In Witness Whereof, the parties have executed this Acquisition Fund and Account Control Agreement as of the date first above written.

Banc of America Public Capital Corp,
as Lessor

as Lessee

By: _____

By: _____

Title: _____

Title: _____

Bank of America, N.A.
As Acquisition Fund Custodian

By: _____

Title: _____

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SCHEDULE 1

FORM OF DISBURSEMENT REQUEST

Re: Master Equipment Lease/Purchase Agreement dated as of [] by and between Banc of America Public Capital Corp, as Lessor and [], as Lessee (the "Lease")

In accordance with the terms of the Acquisition Fund and Account Control Agreement, dated as of [] (the "Acquisition Fund and Account Control Agreement") by and among Banc of America Public Capital Corp ("Lessor"), [] ("Lessee") and Bank of America, N.A., _____ branch (the "Acquisition Fund Custodian"), the undersigned hereby requests the Acquisition Fund Custodian pay the following persons the following amounts from the Acquisition Fund created under the Acquisition Fund and Account Control Agreement (the "Acquisition Fund") for the following purposes.

Payee's Name and Address	Invoice Number	Dollar Amount	Purpose

The undersigned hereby certifies as follows:

(i) An obligation in the stated amount has been incurred by Lessee, and the same is a proper charge against the Acquisition Fund for costs relating to the Equipment identified in the Lease, and has not been paid. Attached hereto is the original invoice with respect to such obligation.

(ii) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iii) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain.

(iv) The Equipment is insured in accordance with the Lease.

(v) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof.

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(vi) The disbursement shall occur during the Acquisition Period set forth in the Schedule applicable to such Equipment.

(vii) No material adverse change in Lessee's or any guarantor's financial condition shall have occurred since the date of the Lease.

Dated: _____

_____]

By: _____
Authorized Representative

Disbursement of funds from the Acquisition Fund in accordance with the foregoing Disbursement Request hereby is authorized

_____]
as Lessor under the Lease

By: _____
Title: Vice President