



## **RESOLUTION 08-06-2011**

### **A RESOLUTION TO ENTER INTO AN AGREEMENT WITH TRITEL NETWORKS FOR TELEPHONE EQUIPMENT AND SERVICES FOR SANTAQUIN CITY OFFICES.**

**WHEREAS**, Santaquin City is in the process of consolidating its Administrative, Community Development, and Utility Billing Offices into the current Santaquin City Public Safety Building with the Santaquin City Police, Fire and EMS Departments; and

**WHEREAS**, Santaquin City has previously installed fiber optic connections between the Public Safety Building, City Office Building, and City Library; and

**WHEREAS**, Santaquin City desires to save costs by upgrading its phone systems from analog phone lines to a voiceover IP communications system

**NOW THEREFORE, BE IT RESOLVED**, by the Santaquin City Council, that the agreement for the purchase and installation of telephone equipment with TriTel Networks be adopted as follows:

(See attached)


ADOPTED AND PASSED by the City Council of Santaquin City, Utah, this 24<sup>th</sup> day of August, 2011.



Attest

SANTAQUIN CITY

  
James E. DeGraffenried, Mayor

  
Linda Midgley, Deputy City Recorder



162 East 4500 South  
Salt Lake City, UT 84107  
801 265-9292  
801 265-9915 Fax

**COPY**

**EQUIPMENT PURCHASE AGREEMENT NR: CM22513**

Agreement between TriTel Networks, Inc. (Seller) and Customer shown below (Buyer).

Customer (Bill to)

Great America Leasing Corporation  
625 1st Street SE  
Cedar Rapids, IA 52401

Customer (Ship to)

Santaquin City  
275 West Main Street  
Santaquin, UT 84655

Seller hereby agrees to sell, and Buyer hereby agrees to purchase the following equipment ("Equipment") and services subject to the attached terms and conditions:

**Equipment and Features:**

Qty	Part Number	Model	Description
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SEE ATTACHED SCHEDULE A

TAG 5 Star Warranty does not cover headsets, music on hold device or battery back-up.  
Contract includes an ongoing labor rate of \$125.00 per hour with a \$100.00 trip charge for future work of either service or adds, moves and changes.

## Purchase Price

The purchase price of the Equipment shall be subject to adjustment in the event of any mutually agreeable changes to the equipment listed, including the addition or deletion of items of Equipment and any specifications, attachments, or features.

Purchase price of the equipment and  
services indicated above:

\$30,254.00

Applicable Taxes:

\$0.00 \*

Total:

\$30,254.00

\* Tax Exemption Number (if applicable): \_\_\_\_\_

\* If purchase is to be leased, taxes are calculated and added to the lease payments.

**Sale Type/Payment Terms:**     ☒ Lease    ☐ Cash Terms    ☐ CIA

\_\_\_\_\_ \$1,343.28 \_\_\_\_\_ first and last lease payments in advance.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the event system is to be leased through a third party leasing company, the deposit will be refunded to the Buyer upon funding by the leasing company.

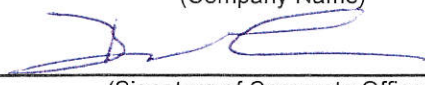
Because Seller incurs substantial costs and expenses during the term of the installation, TriTel Networks, Inc. requires progress payments to be made in a timely manner. Interest at the rate of two percent (2%) per month will be charged on any progress payment or final payment which is not paid by the Buyer when due.

**ADDITIONAL TERMS AND CONDITIONS ATTACHED ARE AN INTEGRAL PART OF THIS AGREEMENT.**

### Customer/Buyer

Great America Leasing Corporation

(Company Name)

  
(Signature of Corporate Officer)

BENJAMIN L. REEVES  
(Printed Name of Corporate Officer)

Sarasota City Manager  
(Title)

9/1/11  
(Date)

### TriTel Networks, Inc.

Kristine von Elm

(Representative)

\_\_\_\_\_  
(Signature of Corporate Officer)

\_\_\_\_\_  
(Date)

Contract not valid until executed by TriTel  
Corporate Officer

Seller acknowledges receipt of \_\_\_\_\_ \$1,343.28 \_\_\_\_\_ as deposit against the purchase price.



**Limited Warranty:**

- A. Subject to the provisions of this Paragraph and Seller's Warranty Service Policy, Seller warrants for a period of one (1) year from the date of the cutover of the Equipment for use by Buyer (unless otherwise stated on Page one of this document), that the new telephone and/or data equipment specified on page one of this document will be free from defects in material and workmanship. If any defects covered by this warranty appear within the above stated one (1) year period, seller shall have the option of repairing or replacing the Equipment at its expense. All of the replaced parts will become the property of Seller. Such repair or replacement shall be Buyer's exclusive remedy for breach of warranty or for negligence.
- B. Seller will not be obligated to repair or replace any item of equipment which has been repaired by others, abused or improperly handled, stored, altered or used with third party materials of equipment, which material or equipment is defective or of poor quality, and seller shall not be obligated to repair or replace equipment which has not been installed by seller. The obligation to replace parts as herein provided is conditional upon and inspection of any such parts which disclose defects which were inherent in the manufacture thereof. This warranty does not cover the wearing out of cords, damage caused to the equipment or any part thereof by buyer, its employees, invitees, licensees or agents, or any injury to parts for lightning, fire, foreign currents, exposure to excessive moisture, vandalism, theft, unauthorized alteration, or relocation of equipment by Buyer, or from any other cause not due to inherent defects or poor workmanship.
- C. Seller hereby assigns to Buyer (to the extent it has the right to do so) the benefit of any warranties or guarantees provided to seller via the manufacturer(s) of the equipment.
- D. SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR LOSS, DAMAGE OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM THE USE OF THE EQUIPMENT SOLD HEREUNDER, OR ARISING FROM BUYER'S INABILITY TO USE THE EQUIPMENT EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER EQUIPMENT OR FROM ANY OTHER CAUSE.
- E. THE WARRANTY STATED ABOVE SHALL BE IN LIEU OF AND EXCLUDES ALL OTHER EXPRESSED OR IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANT ABILITY OR FITNESS.
- F. Seller does not make any warranties of the equipment, either express or implied, except as provided in this Agreement, and any warranties which would extend beyond the description of the equipment are expressly denied.

**Interconnection with Utilities Facilities.** Seller's services shall be limited to the installation of the equipment on the Buyer's side of the equipment connecting to the telephone system operated by the local telephone utility or other carrier. Seller shall not be responsible in the event the utility or carrier fails to timely make available interconnect services nor shall seller be obligated to pay the interconnect tariff or other charges of the utility or carrier with respect to such services. Seller is not responsible for any advertising of the Buyer, whether associated with or external to, any carrier or their publications. In the event of telephone number or account changes, Buyer is advised to consult with and verify any advertising arrangements that have been, or need to be placed with the appropriate carrier or publisher.

**Third Party Leasing.** In the event Buyer elects to assign ownership of the equipment purchased, and lease it through a third party lessor, Buyer nevertheless shall continue to be liable for the payment of all amounts due under this agreement to seller. The Buyer warrants that the lessor shall pay the seller the same amounts at the same time as if the equipment had been sold directly to buyer under this contract.

**Buyer's Installation Obligations.** If so stated on page one, seller agrees to deliver and install equipment at Buyer's address ("Premises"). Buyer agrees to make the premises available and ready for installation of equipment and at its own expense: (a) Furnish commercial power for telephone switching equipment or data equipment as specified by Seller. (b) Furnish switchroom environment as specified by Seller. (c) Furnish access to all telephone equipment rooms, terminal rooms and any area necessary to install and maintain a complete telephone system or data network. (d) Furnish a secure area for the central switching equipment with access only by authorized persons. (e) Furnish any available documentation of existing telephone or data equipment and associated applications in order to assist in engineering the new system(s). (f) Meet any special requirements of the building owner. (g) Assume responsibility for meeting any requirements regarding raceways, conduits, or floor ducts. (h) Assume responsibility for costs of any special engineering, lines or trunks, or for any special applications such as data lines, tie lines, ring-down circuits, patching and conferencing, and all interface equipment. (i) All costs associated with premises restoration or repair in the event of removal of the equipment.

**Force Majeure.** If the performance of any part of this Contract by Seller is prevented, hindered, delayed or otherwise made impracticable by reason of any strike, flood, riot, fire, explosion, war, unavailability of materials and/or supplies, or any other casualty or any other cause of whatever nature that is beyond the control of seller and which cannot be overcome by reasonable diligence and without unusual expense, seller shall be excused from such performance during the continuance of any such happening or event, and for so long as such event shall continue to prevent, hinder or delay such performance. This contract shall be deemed suspended, so long as and to the extent that any such cause shall operate to prevent, hinder or delay the performance by Seller of its obligations.

**Ownership, Personal Property.** Equipment is, and until Buyer has paid all of the agreed purchase price shall remain, the personal property of Seller notwithstanding its installation in the Premises or its attachment to real property. Buyer shall not sell, assign, transfer, hypothecate, mortgage or otherwise dispose of the above property until payment is made in full.

**Damages Upon Default.**

- a. Failure of the Buyer to perform any of its obligations under this Agreement or any supplemental schedule, or insolvency, or any warranty or statement of Buyer proving to be materially incorrect shall constitute a default.
- b. Should default by Buyer occur before delivery of the Equipment to Buyer's premises, the Buyer recognizes that Seller, in connection with the performance of this Agreement will have incurred costs and expenses to Seller's damage. Therefore, Buyer agrees to pay one-third (1/3) of the amount of the Contract price to Seller as liquidated damages upon a default occurring before delivery of the Equipment.
- c. Should default occur after delivery of the Equipment:
- (i) Seller may disable the Equipment; and
- (ii) Seller shall have the right to enter any premises, and may without breach of the peace, take possession of the Equipment and/or take any other legal right available to it and Buyer shall pay all reasonable costs incurred by Seller in repossessing the Equipment, plus the costs of resale, the costs of collection in the amount of thirty-three and one-third percent (33 1/3%), together with interest at the rate of one and one half percent (1 1/2%) per month on the full balance due of the purchase price; and
- (iii) Seller shall be entitled to receive damages actually incurred by it as a result of such default including loss of profits.
- d. The above remedies shall be cumulative and shall not preclude the exercise of any of Seller's rights available to it under law. Failure to enforce a breach shall not preclude later enforcement.

**Cutover, Acknowledgement of Acceptance and Completion.** Buyer agrees to witness cutover and to make a joint inspection with Seller's agent. After cutover and joint inspection, Buyer shall sign a Certificate of Delivery and Acceptance, acknowledging that the Equipment and system are properly functioning and are installed according to specifications required within this Agreement. If Buyer believes that certain aspects of the installation have not been completed according to this Agreement, Buyer shall list any exceptions on the Certificate of Delivery and Acceptance in the space provided therein. If, at the time of installation, Buyer fails or refuses to sign the Certificate with exceptions noted if applicable, after having been requested to do so by Seller's agent, Equipment and systems will be deemed accepted and job completed without exception.

**Attorney's Fees.** In the event of any legal action brought to enforce this Agreement, the prevailing party shall be reimbursed by the other party its reasonable attorney's fees related thereto.

**Waiver Amendment Termination.** Any change in the terms of this Agreement or to any of the Schedules attached hereto and made a part hereof, shall be effective only if in writing signed by an authorized representative of Buyer and authorized representative of Seller, and in such event, the price, work schedules and other terms and conditions as appropriate may be changed by the parties in a written amendment hereto. Furthermore, any waiver of rights existing under this Agreement or a termination hereof shall not be effective unless made in writing and signed by the party against whom it is sought to be enforced. Approvals Buyer shall be responsible for the timely and proper securing of all permits, licenses, consents and approvals in connection with the sale and installation of the Equipment if Buyer requests that Seller obtain such approvals on Buyer's behalf Seller shall use reasonable efforts to obtain approvals however, Seller shall have no obligation or liability in the event that Seller is unable to do so.

# Schedule A

Name: Santaquin City

Address: 275 West Main Street

City, State, Zip: Santaquin Utah 84655

Qty	Part Number	Model	Description
1	CIX100VMPRIPKG	<b>Package</b>	CIX100 Voice Mail PRI "Build-a-bundle" Flexible
1	ACTU3A	<b>Included</b>	CIX100 Common Control Processor Unit for R4.x
1	SD-1GB	<b>Included</b>	1 GB Secure Digital Media Card for CIX R4.0
1	CHSUB112A2	<b>Included</b>	CIX/CTX100 Base Cabinet with Power Supply.
1	ABCS1A	<b>Included</b>	Battery Charger Subassembly for CTX100.
1	ABTC1A-3M	<b>Included</b>	Reserve Power Cable - CTX100 Cabinet Power to
1	BPTU1A	<b>Included</b>	ISDN Primary Rate Interface Unit.
1	RPRI-CBL-KIT	<b>Included</b>	PRI INTERFACE CABLE
1	CHSUE112A2		CIX/CTX100 Expansion Cabinet with Power
1	AMDS1A		Remote Maintenance 33.6 kbps Modem
1	BSLU1A		8-circuit Standard Telephone Interface Unit
3	MIPU16-1A		16-channel IP Interface Unit
4	IP5132-SD-LIC		20-button IP Speakerphone 4-line Backlit LCD,
2	KM5020		20-button Key Expansion Module with Paper
36	IP5122-SD-LIC		10-button IP Speakerphone 4-line Backlit LCD,
25	LADP2000-3A		IP5000 Power Adapter
1	LIC-4 BASIC		4-port CO Line/Station License for Strata
1	MAS-MICRO-H-4P	<b>Package</b>	MicroMAS-H with 4-port VM license.
2	LIC-2P-VM-MAS-H	<b>Included</b>	Two Voice Mail Port License for MicroMAS with
1	LICMASSWB	<b>Package</b>	MAS UC Software Bundle B Promo, MAS and
1	LICMAS-NETPHSWB	<b>Included</b>	MAS Net Phone server and 10 client license
5	LICMAS-UM-1SEAT	<b>Included</b>	Single Seat Unified Messaging Upgrade for MAS.
1	LICMAS-FG-FAX	<b>Included</b>	MAS Fax Feature Group License
2	LICMASUM10SEATS		10 Seat Unified Messaging Upgrade for MAS.
2	SYS-FAXMODEM-1		Single port analog fax modem for MicroMAS
1	KVR667D2N5/1G		MicroMAS Revision 3 (ONLY) one gigabyte RAM
1	MOH-CPE		CUSTOMER PROVIDED MUSIC
2	SLT-CPE		CONNECT CPE STA. EQUIP. & LABEL
			<b>TAG 5 STAR WARRANTY*</b>
5	CS55		Plantronics CS55 Headset
1	OHP6000		Music On Hold Playback Machine
1	BR1500G		Back-UPS RS 1500 VA UPS System, 120V
			<b>ONE YEAR WARRANTY</b>

Signature

Title





COPY

AGREEMENT

GREATAMERICA LEASING CORPORATION®  
625 FIRST STREET SE, CEDAR RAPIDS IA 52401  
PO BOX 609, CEDAR RAPIDS IA 52406-0609

AGREEMENT NO.: 731675

CUSTOMER ("you" or "your")

FULL LEGAL NAME: Santaquin, City of

ADDRESS: 275 W Main St Santaquin, UT 84655-5509

VENDOR (Vendor is not Lessor's agent nor is Vendor authorized to waive or alter any term or condition of this Agreement)

Tri-Tel Networks

Salt Lake City

UT

EQUIPMENT AND PAYMENT TERMS

QTY	TYPE, MAKE, MODEL NUMBER AND INCLUDED ACCESSORIES	SERIAL NO.
1	CIX100VMPRIPKG Toshiba CIX100 System	
1	MAS-MICRO-H-4P Toshiba MicroMAS-H Voice Mail 4-port VM	
36	IP5122-SD-LIC Toshiba 10-button IP Speakerphone w/License	
4	IP5132-SD-LIC Toshiba 20-button IP Speakerphone w/License	

EQUIPMENT LOCATION: 275 W Main St Santaquin, UT 84655-5509

☐ SEE ATTACHED EQUIPMENT SCHEDULE

TERM IN MONTHS: 60

MONTHLY PAYMENT AMOUNT: \$671.64 \*

ADVANCE PAYMENT: \$1,343.28

PURCHASE OPTION: \$1.00

SECURITY DEPOSIT: \$ (PLUS TAX)

CONTRACT

THIS AGREEMENT IS NON-CANCELABLE AND IRREVOCABLE. IT CANNOT BE TERMINATED. PLEASE READ CAREFULLY BEFORE SIGNING. THIS AGREEMENT AND ANY CLAIM RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF IOWA. ANY DISPUTE WILL BE ADJUDICATED IN A FEDERAL OR STATE COURT IN LINN COUNTY, IOWA. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN SUCH COURTS AND WAIVE TRANSFER OF VENUE. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL.

CUSTOMER'S AUTHORIZED SIGNATURE

BY SIGNING THIS PAGE, YOU REPRESENT TO LESSOR THAT YOU HAVE RECEIVED AND READ THE ADDITIONAL TERMS AND CONDITIONS APPEARING ON THE SECOND PAGE OF THIS TWO-PAGE AGREEMENT. THIS AGREEMENT IS BINDING WHEN LESSOR PAYS FOR THE EQUIPMENT.

(As Stated Above)

X [Signature] SIGNATURE

Benjamin A. Reeves  
City Manager  
DATE: 9/1/11

GOVERNMENTAL CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT, AS OF THE DATE OF THE AGREEMENT, (A) THE INDIVIDUAL WHO EXECUTED THE AGREEMENT HAD FULL POWER AND AUTHORITY TO EXECUTE THE AGREEMENT AND (B) THE REPRESENTATIONS SET FORTH IN THE AGREEMENT IN THE PARAGRAPH TITLED "APPLICABLE TO GOVERNMENTAL ENTITIES ONLY" ARE TRUE AND ACCURATE IN ALL MATERIAL RESPECTS.

SIGNATURE: X [Signature]

NAME & TITLE: Benjamin A. Reeves  
Santaquin City Manager  
DATE: 9/1/11

LESSOR ("we", "us", "our")

GreatAmerica Leasing Corporation

OWNER

SIGNATURE

PRINT NAME & TITLE

DATE





PREFUND REQUEST  
AND AUTHORIZATION

GREATAMERICA LEASING CORPORATION®  
625 FIRST STREET SE, CEDAR RAPIDS IA 52401  
PO BOX 609, CEDAR RAPIDS IA 52406-0609

AGREEMENT NO.  
**731675**

**CUSTOMER** ("you" or "your")

FULL LEGAL NAME: **Santaquin, City of**

ADDRESS: **275 W Main St** **Santaquin, UT 84655-5509**

**VENDOR** (Vendor is not GreatAmerica's agent nor is Vendor authorized to waive or alter any term or condition of this document)

**Tri-Tel Networks**

**Salt Lake City**

**UT**

**AGREEMENT**

REFERS TO THE AGREEMENT BETWEEN CUSTOMER AND GREATAMERICA IDENTIFIED IN GREATAMERICA'S RECORDS BY THE AGREEMENT NO. ABOVE CALLING FOR **60** PAYMENTS OF **\$671.64** (PLUS TAX).

**FUNDING PRIOR TO COMPLETION OF DELIVERY, INSTALLATION AND ACCEPTANCE**

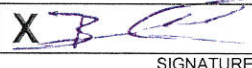
By your execution of this Prefund Request and Authorization (the "Prefund Request"), you hereby request that we pay to your Vendor fifty percent (50%) of the amount of Vendor's invoice(s) to us for the projected cost of the Equipment (as defined in the Agreement) and related installation and implementation charges (the "Advance Funding Amount"), notwithstanding that the Equipment has not yet been delivered, installed, and/or accepted by you. We understand that you have an arrangement with your Vendor under which the Vendor is to deliver and install the Equipment within a certain amount of time after we pay the Advance Funding Amount to Vendor. You agree to timely make the periodic payments called for under the Agreement, notwithstanding that the Equipment has not yet been delivered to you and/or installed. Once the Equipment is fully delivered and installed by your Vendor, and accepted by you, your payment obligations under the Agreement shall become fixed for the entire term of the Agreement. **However, if the Equipment is, for any reason, not fully delivered and installed by Vendor and unconditionally accepted by you within six (6) months after the date we pay the Advance Funding Amount to Vendor (the "Advance Funding Period"), then you shall repay to us, upon our request: (a) the Advance Funding Amount, plus (b) interest on the Advance Funding Amount in an amount equal to one percent (1%) per month from the date we paid the Advance Funding Amount to Vendor, plus (c) any other amounts then currently payable under the Agreement, minus (d) a credit equal to the equipment financing portion of the payments actually paid by you during the Advance Funding Period.** Upon our receipt of such amount in full, your obligations under this Prefund Request and the Agreement will be deemed satisfied. You agree that any issues you may have concerning delivery, installation, implementation and/or the quality or fitness of the Equipment and any related services will be resolved exclusively between you and Vendor. Our willingness to pay the Advance Funding Amount to your Vendor in advance of your receipt and acceptance of the Equipment is expressly conditioned upon your agreement to the terms of this Prefund Request, and you agree that our reliance on your promises in this Prefund Request is reasonable. You agree to pay all of the costs and expenses we incur in enforcing this Prefund Request, including any attorney fees we incur.

Customer agrees that in addition to all other remedies available to GreatAmerica under this Prefund Request or applicable law, if Customer fails to make any payment required by the terms of this Prefund Request, GreatAmerica shall be entitled to exercise any rights and remedies available to GreatAmerica under the Agreement. The parties agree that a photocopy of this Prefund Request bearing your facsimile or original signature may be treated as an original for purposes of enforcement. THIS PREFUND REQUEST SHALL BE GOVERNED BY THE LAWS OF THE STATE OF IOWA. THE PARTIES AGREE THAT ANY DISPUTE ARISING UNDER OR RELATED TO THIS PREFUND REQUEST WILL BE ADJUDICATED IN THE FEDERAL OR STATE COURT LOCATED IN CEDAR RAPIDS, IOWA, AND THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN THAT COURT. EACH PARTY WAIVES ANY RIGHT TO A TRIAL BY JURY AND ANY RIGHT TO TRANSFER VENUE.

**CUSTOMER'S AUTHORIZED SIGNATURE**

THIS PREFUND REQUEST WILL BE BINDING AFTER YOU SIGN BELOW AND WE PAY THE ADVANCE FUNDING AMOUNT TO YOUR VENDOR.

(As Stated Above)

**X** 

**Benjamin A. Reeves**  
**City Manager**

**9/1/11**

CUSTOMER

SIGNATURE

PRINT NAME & TITLE

DATE

**GREATAMERICA** ("we", "us", "our")

**GreatAmerica Leasing Corporation**

SIGNATURE

PRINT NAME & TITLE

DATE

**UNCONDITIONAL GUARANTY**

The undersigned, jointly and severally if more than one, unconditionally guarantee(s) that the Customer will timely perform all obligations under the above Prefund Request and Authorization Agreement ("Prefund Request"). The undersigned also waive(s) any notification if the Customer is in default and consent(s) to any extensions or modifications granted to the Customer. In the event of default, the undersigned will immediately pay all sums due under the terms of the Prefund Request without requiring GreatAmerica to proceed against Customer or any other party or exercise any rights in the Equipment. The undersigned, as to this guaranty, agree(s) to the designated forum and consent(s) to personal jurisdiction, venue, and choice of law as stated in the Prefund Request, agree(s) to pay all costs and expenses, including attorney fees, incurred by GreatAmerica related to this guaranty and the Prefund Request, waive(s) a jury trial and transfer of venue, and authorize(s) obtaining credit reports.

SIGNATURE:	<b>X</b>	INDIVIDUAL:	DATE:
SIGNATURE:	<b>X</b>	INDIVIDUAL:	DATE:



## ADDITIONAL TERMS AND CONDITIONS

**AGREEMENT.** You want us, GreatAmerica Leasing Corporation, to pay your Vendor for the equipment referenced herein ("Equipment") and you agree to pay us the amounts payable under the terms of this agreement ("Agreement") each period by the due date. This Agreement will begin on the date the Equipment is delivered to you or any later date we designate. We may charge you a reasonable fee to cover documentation and investigation costs. If any amount payable to us is not paid when due, you will pay a late charge equal to: 1) the greater of ten (10) cents for each dollar overdue or twenty-six (\$26.00) dollars; or 2) the highest lawful charge, if less. Any security deposit will be commingled with our assets, will not earn interest, and will be returned at the end of the term, provided you are not in default. If an advance payment is required, the amount exceeding one payment shall be applied to the last payment(s) during the term or any renewal term.

**NET AGREEMENT. THIS AGREEMENT IS NON-CANCELABLE FOR THE ENTIRE AGREEMENT TERM. YOU UNDERSTAND WE ARE PAYING FOR THE EQUIPMENT BASED ON YOUR UNCONDITIONAL ACCEPTANCE OF IT AND YOUR PROMISE TO PAY US UNDER THE TERMS OF THIS AGREEMENT, WITHOUT SET-OFFS FOR ANY REASON, EVEN IF THE EQUIPMENT DOES NOT WORK OR IS DAMAGED, EVEN IF IT IS NOT YOUR FAULT.**

**EQUIPMENT USE.** You will keep the Equipment in good working order, use it for business purposes only, not modify or move it from its initial location without our consent, and bear the risk of its non-compliance with applicable laws. You agree that you will not take the Equipment out of service and have a third party pay (or provide funds to pay) the amounts due hereunder. You must resolve any dispute you may have concerning the Equipment with the manufacturer or Vendor. You will comply with all laws, ordinances, regulations, requirements and rules relating to the use and operation of the Equipment.

**VENDOR SERVICES.** Payments under this Agreement may include amounts you owe your Vendor under a separate arrangement (for maintenance, service, supplies, etc.), which amounts may be invoiced by us on your Vendor's behalf for your convenience. You will look solely to your Vendor for performance under any such arrangement or to address any disputes arising thereunder.

**SOFTWARE/DATA.** Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software or the obligations of you or the licensor under any license agreement. You are solely responsible for protecting and removing any confidential data/images stored on the Equipment prior to its return for any reason.

**NO WARRANTY. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU HAVE ACCEPTED THE EQUIPMENT "AS-IS". YOU CHOSE THE EQUIPMENT, THE VENDOR AND ANY/ALL SERVICE PROVIDER(S) BASED ON YOUR JUDGMENT. YOU MAY CONTACT YOUR VENDOR FOR A STATEMENT OF THE WARRANTIES, IF ANY, THAT THE MANUFACTURER OR VENDOR IS PROVIDING. WE ASSIGN TO YOU ANY WARRANTIES GIVEN TO US.**

**ASSIGNMENT.** You may not sell, assign or sublease the Equipment or this Agreement without our written consent. We may sell or assign this Agreement or our rights in the Equipment, in whole or in part, to a third party without notice to you. You agree that if we do so, the assignee will have our rights but will not be subject to any claim, defense, or set-off assertable against us or anyone else.

**LOSS OR DAMAGE.** You are responsible for any damage to or loss of the Equipment. No such loss or damage will relieve you from your payment obligations hereunder. We are not responsible for, and you will indemnify us against, any claims, losses or damages, including attorney fees, in any way relating to the Equipment. In no event will we be liable for any consequential or indirect damages.

**INSURANCE.** You agree to maintain comprehensive liability insurance acceptable to us. You also agree to: 1) keep the Equipment fully insured against loss at its replacement cost, with us named as loss payee; and 2) provide proof of insurance satisfactory to us no later than 30 days following the commencement of this Agreement, and thereafter upon our written request. If you fail to maintain property loss insurance satisfactory to us and/or you fail to timely provide proof of such insurance, we have the option, but not the obligation, to secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we secure insurance on the Equipment, we will not name you as an insured party, your interests may not be fully protected, and you will reimburse us the premium which may be higher than the premium you would pay if you obtained insurance, and which may result in a profit to us through an investment in reinsurance. If you are current in all of your obligations under the Agreement at the time of loss, any insurance proceeds received will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under this Agreement, plus our booked residual, both discounted at 3% per annum.

**OWNERSHIP/SECURITY INTEREST.** You own the Equipment, including any software license rights granted to you, if any, by your Vendor or third party supplier(s). You hereby grant us a security interest in such Equipment to secure your performance under this Agreement, to be released at the end of the term provided you have performed all of your obligations under this Agreement.

**TAXES.** You will pay when due, either directly or by reimbursing us, all taxes and fees relating to the Equipment and this Agreement. You agree to file any required personal property tax returns (except in OR, CO or CT). Sales or use tax due upfront will be payable over the term with a finance charge.

**DEFAULT AND REMEDIES.** If you do not pay any sum within 10 days after its due date, or if you breach any other term of this Agreement or any other agreement with us, you will be in default, and we may require that you return the Equipment to us at your expense and pay us: 1) all past due amounts and 2) all remaining payments for the unexpired term, plus our booked residual, both discounted at 4% per annum. We may also use all other legal remedies available to us, including disabling or repossessing the Equipment. You agree to pay all our costs and expenses, including reasonable attorney fees, incurred in enforcing this Agreement. You also agree to pay interest on all past due amounts, from the due date, at 1.5% per month.

**UCC.** You agree that this Agreement is (and/or shall be treated as) a "Finance Lease" as that term is defined in Article 2A of the Uniform Commercial Code ("UCC"). You agree to forgo the rights and remedies provided under sections 507-522 of Article 2A of the UCC.

**MISCELLANEOUS.** This Agreement is the entire agreement between you and us and supersedes any prior representations or agreements, including any purchase orders. Amounts payable under this Agreement may include a profit to us. The original of this Agreement shall be that copy which bears your facsimile or original signature, and which bears our original signature. If a court finds any provision of this Agreement unenforceable, the remaining terms of this Agreement shall remain in effect. You authorize us to either insert or correct the Agreement number, serial numbers, model numbers, beginning date, and signature date. All other modifications to the Agreement must be in writing signed by each party.

## APPLICABLE TO GOVERNMENTAL ENTITIES ONLY

You hereby represent and warrant to us that as of the date of the Agreement: (a) the individual who executed the Agreement had full power and authority to execute the Agreement on your behalf; (b) all required procedures necessary to make the Agreement a legal and binding obligation against you have been followed; (c) the Equipment will be operated and controlled by you and will be used for essential government purposes for the entire term of the Agreement; (d) that all payments due and payable for the current fiscal year are within the current budget and are within an available, unexhausted, and unencumbered appropriation; (e) you intend to pay all amounts payable under the terms of the Agreement when due, if funds are legally available to do so; (f) your obligations to remit amounts under the Agreement constitute a current expense and not a debt under applicable state law; (g) no provision of the Agreement constitutes a pledge of your tax or general revenues; and (h) you will comply with any applicable information reporting requirements of the tax code, which may include 8038-G or 8038-GC Information Returns. If funds are not appropriated to pay amounts due under the Agreement for any future fiscal period, you shall have the right to return the Equipment and terminate the Agreement on the last day of the fiscal period for which funds were available, without penalty or additional expense to you (other than the expense of returning the Equipment to the location designated by us), provided that at least thirty (30) days prior to the start of the fiscal period for which funds were not appropriated, your Chief Executive Officer (or Legal Counsel) delivers to us a certificate (or opinion) certifying that (a) you are a state or a fully constituted political subdivision or agency of the state in which you are located; (b) funds have not been appropriated for the applicable fiscal period to pay amounts due under the Agreement; (c) such non-appropriation did not result from any act or failure to act by you; and (d) you have exhausted all funds legally available for the payment of amounts due under the Agreement. You agree that this paragraph shall only apply if, and to the extent that, state law precludes you from entering into the Agreement if the Agreement constitutes a multi-year unconditional payment obligation.