



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Request for Quotation

RFQ NUMBER
FAR960055

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
**KRISTA FERRELL
 304-558-2596**

**RFQ COPY
 TYPE NAME/ADDRESS HERE**

VENDOR

SHIP TO

**DEPARTMENT OF ADMINISTRATION
 FINANCIAL ACCOUNTING AND
 REPORTING SECTION
 2101 WASHINGTON ST E
 CHARLESTON, WV
 25305-1510 304-558-4083**

| DATE PRINTED | TERMS OF SALE | SHIP VIA | F.O.B. | FREIGHT TERMS |
|--------------|---------------|----------|--------|---------------|
| 02/03/2009 | | | | |

BID OPENING DATE: **02/18/2009** BID OPENING TIME **01:30PM**

| LINE | QUANTITY | UOP | CAT NO | ITEM NUMBER | UNIT PRICE | AMOUNT |
|--|----------|-----|--------|-------------|------------|--------|
| 0001 | 1 | EA | | 946-54 | | |
| <p>RFQ TO PROVIDE FINANCING FOR EQUIPMENT AND OTHER</p> <p>REQUEST FOR QUOTATION (RFQ)</p> <p>THE WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, THE WEST VIRGINIA DIVISION OF FINANCE, IS SOLICITING BIDS TO PROVIDE THE AGENCY WITH CAPITAL FINANCING SERVICES FOR VARIOUS STATE AGENCIES IN THE FORM OF A MASTER LEASE PURCHASE AGREEMENT PER THE ATTACHED SPECIFICATIONS.</p> <p>TECHNICAL QUESTIONS CONCERNING THIS PROCUREMENT MUST BE SUBMITTED IN WRITING TO KRISTA FERRELL IN THE WEST VIRGINIA STATE PURCHASING DIVISION VIA FAX AT 304-558-4115 OR VIA EMAIL AT KRISTA.S.FERRELL@WV.GOV. DEADLINE FOR ALL TECHNICAL QUESTIONS IS 02/12/2009 AT THE CLOSE OF BUSINESS. ALL TECHNICAL QUESTIONS RECEIVED, IF ANY, WILL BE ANSWERED BY ADDENDUM AFTER THIS DEADLINE.</p> <p>QUESTIONS CONCERNING THE ACTUAL PROCESS BY WHICH A VENDOR MAY SUBMIT A BID TO THE STATE OF WEST VIRGINIA ARE NOT CONSIDERED TO BE TECHNICAL QUESTIONS AND MAY BE SUBMITTED AT ANY TIME PRIOR TO THE BID OPENING AND IN ANY FORMAT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT MAY BE DEEMED NULL AND VOID, AND TERMINATED WITHOUT FURTHER</p> | | | | | | |

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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| SIGNATURE | TELEPHONE | DATE |
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WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

GENERAL TERMS & CONDITIONS
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
5. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this Contract may be deemed null and void, and terminated without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in case of discrepancy.
5. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130



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BID OPENING DATE: **02/18/2009** BID OPENING TIME **01:30PM**

| LINE | QUANTITY | UOP | CAT NO | ITEM NUMBER | UNIT PRICE | AMOUNT |
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| <p>ORDER.</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER: KRISTA FERRELL-FILE 21</p> <p>RFQ. NO.: FAR960055</p> <p>BID OPENING DATE: 02/18/2009</p> <p>BID OPENING TIME: 1:30 PM</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:</p> <p style="text-align: center;">-----</p> | | | | | | |

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|---|----------|-----|--------|-------------|------------|--------|
| CONTACT PERSON (PLEASE PRINT CLEARLY): | | | | | | |
| ----- | | | | | | |
| ***** THIS IS THE END OF RFQ FAR960055 ***** TOTAL: | | | | | | _____ |

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| SIGNATURE | TELEPHONE | DATE |
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RFQ #: FAR960055

Master Financing Services

Specifications:

Section 1: Operating Environment

1.1 Background:

The state of West Virginia has held a statewide financing contract since 1996. There have been (35) appendices from 2004-2008. The annual usage of the statewide financing contract since 2004 has varied from \$4 million to \$9.4 million. We anticipate using \$9 to \$11 million annually. The average finance package over the duration of the contract has been \$936,966.00. The financing contract will be available to all West Virginia State Agencies.

Section 2: Scope of Work

2.1 Terms of the Master Lease Purchase Financing Agreement:

The Master Lease Purchase Financing Agreement (MLPFA) will control each financing completed, contemplating that an appendix evidencing each financing will be issued through a separate purchase order for each user agency referencing the Agreement. As each agency has its own various accounts, a separate appendix and purchase order must be issued for each financing. The Lessor shall have the right to accept or reject an appendix to the MLPFA.

Each appendix will include the State Agency, source of funding, use of equipment, beginning date, term, list of equipment, payment schedule, essential use certificate, tax compliance agreement, no arbitrage certificate, and opinion of counsel, if needed. The payment schedule will specify the amount financed, rate, term payment due dates, and the principal balance, payment amount, and interest for each payment.

A representative of the Department of Administration will coordinate all efforts between Purchasing and the Bidder(s) in finalizing the Agreement and between the user agencies and the Bidder(s) in preparing appendices. The State Comptroller's Office will prepare all documents

necessary (the appendices and acceptance certificate and request for payment), and will submit documents to the Purchasing Division for final processing. All purchase orders released against the contract will be signed by the Director of Purchasing or designee.

The rate of interest will be based upon a percentage of an Index (defined in Section 2.2) and will be fixed on the date of execution of an appendix with payments to be made in arrears. The initial lease payment will be due on the first day of the month following the month in which the appendix was effective, with subsequent payments due on the first day of each following month for the term of the financing, unless otherwise agreed. Lease payments will be calculated on a level payment basis, using a single fixed rate of interest for either: three, four, five, or seven year terms. Interest will be calculated on a 360/365 day basis.

2.2 Equipment or Capital Expenditures to Be Purchased

The purchase will be obtained in accordance with Purchasing laws, regulations, and policies, and will consist of personal property and capital expenditures deemed essential. Each financing will be worth a minimum of \$100,000.00 in total purchased. Several items for an agency may be combined into one (1) appendix. In these instances, funds for the appendices need to be escrowed. Bidders must be able to provide escrowed funds or offer an alternative acceptable to the State.

Total purchases under the Agreement are not expected to exceed \$20,000,000.00 for the initial term of the Agreement. The State does not guarantee that any purchases will be made during the term of the Agreement. It is also not known how the lease amounts will be distributed among the three, four, five, and seven year terms. Furthermore, the exact equipment or capital expenditure needs of the agencies are not known and will not be surveyed for the purpose of this Request for Quotation (RFQ). However, a listing of equipment financed in the last four (4) years pursuant to the similar financing agreement is attached for the sole purpose of demonstrating past uses and is not to be construed as an indication of future uses.

The State plans to finance only essential needs and to finance such over a period not to exceed the equipment's useful life or seven years, whichever is less.

The State of West Virginia may opt to purchase aircraft under this contract. Attached is a copy of the Aircraft Addendum.

2.3 Rate

Each bidder is required to bid a percentage of the index for each of the three, four, five, and seven year lease terms for monthly payments in arrears, as indicated on the attached bid form. The percentage of the index will remain fixed during the term of the Agreement and any renewal or extension thereof. The index is defined as the interest rate SWAP, as reported by the Federal Reserve on a weekly average basis for the week preceding the date of execution of an appendix and as published weekly by the Federal Reserve in Publication H.15, a copy of which is attached for reference purposes.

Section 3: Compliance with Laws and Regulations

The contractor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State, or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use, or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, the equipment, or services delivered pursuant here to shall be borne by the contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

Section 4: Cost

Please see attached Cost Sheet. Bidders are asked to complete this sheet in its entirety and return with their bid.

Section 5: Attachments

Attachment A: State of West Virginia Master Lease Purchase Financing Agreement including Appendices and Attachments to Appendices

- Attachment B: State of West Virginia Master Lease Program
Submission Form
- Attachment C: Aircraft Addendum to Master Lease Purchase
Financing Agreement
- Attachment D: Listing of State Equipment Financed From 2004-
2008
- Attachment E: Selected Interest Rate Schedule (Federal Reserve in
Publication H.15)

**STATE OF WEST VIRGINIA MASTER LEASE PURCHASE FINANCING
AGREEMENT**

THIS MASTER LEASE PURCHASE FINANCING AGREEMENT, made this _____ day of _____, 20____, by and between _____ (“Lessor”), and the PURCHASING DIVISION OF THE DEPARTMENT OF ADMINISTRATION of the State of West Virginia (“Purchasing”), on behalf of the Lessees specified in the attached appendices (“Lessee” or “Lessees”).

The parties hereto do mutually covenant and agree as follows:

1. Lease

Pursuant to the provisions of Chapter 5A of the West Virginia Code, Purchasing, on behalf of the Lessees specified in the attached appendices, as body politics duly organized and existing under the laws of the State of West Virginia, agrees to lease from Lessor the various items of equipment specified in each appendix ("Equipment"), and Lessor, as specified above, agrees to lease to Lessees the Equipment in accordance with the terms and conditions of this Master Lease Purchase Financing Agreement ("Lease"). Upon execution, this Lease is binding on and enforceable against Lessor and Lessees in accordance with its terms.

This Lease will control each financing completed, and an appendix evidencing each financing will be issued through a separate purchase order for each user agency referencing the Lease (an “Appendix” or “Appendices”). As each agency has its own various accounts, a separate Appendix and purchase order must be issued for each financing. The Lessor shall have the sole right to accept or reject an Appendix to the Lease.

Several items for an agency may be combined into one Appendix. Therefore, funds for certain Appendices may need to be escrowed, while in other cases no escrow will be needed. Lessor must be able provide escrowed funds or offer an alternative acceptable to Purchasing and Lessee.

2. Covenants of Lessor

Lessor, and any assignee of Lessor, shall allow Lessees to quietly have, hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor during the term of this Lease, except as expressly set forth in this Lease.

3. Covenants of Lessees

Lessees are not prohibited by the Constitution or laws of the State of West Virginia from entering into this Lease. No approval, consent or withholding of objection is required from any

governmental authority not a signatory to this Lease with respect to the performance or obligations of Lessees under this Lease. This Lease will not violate any judgment, law or regulation applicable to Lessees or result in any breach of, or constitute a default under, or result in the creation of any lien or encumbrance upon the assets of the Lessees or on the Equipment pursuant to, any other instrument to which Lessees are a party.

4. Equipment Delivery and Acceptance

Lessees shall accept the Equipment when and if delivered and placed in good working order in accordance with the Purchase Order for such item of Equipment and hereby authorize the Lessor to add to the appropriate Appendix the serial number of each item of Equipment so delivered. Lessees shall have thirty (30) days from date of delivery to accept the Equipment and deliver an Equipment Acceptance Certificate or to have the Equipment returned. Notice of any Equipment defects shall be given to Lessor within thirty (30) days of delivery, unless not discovered at that time by reasonable efforts.

Lessor agrees to pay the invoices for the accepted Equipment within seven (7) days of receipt of the Equipment Acceptance Certificate and Request for Payment, but shall not be liable for the specific performance of the Lease or for damages, if for any reason, the supplier delays or fails to fill the order. Any delay in such delivery shall not affect the validity of this Lease.

In the event any portion of the Equipment is not accepted or the cost of the Equipment is less than the funding under an Appendix, then the amount of the funding remaining shall be applied as a partial prepayment on that Appendix.

5. Term

The Lease shall be for an original term of one (1) year, subject to renewal in accordance with Section 22 of this Lease. The term of each Appendix, evidencing each financing, shall commence on the date specified in each Appendix and shall terminate upon the first to occur:

- (a) The payment of the purchase option price;
- (b) the payment of all lease payments;
- (c) an event of non-appropriation; or
- (d) an event of default.

The terms and conditions contained in this Lease shall be the terms and conditions of each Appendix and the terms and conditions during any renewal of the financing available under this Lease.

6. Event of Non-Appropriation

If a Lessee is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this Lease by the West Virginia Legislature, the Lessee may terminate the Appendix at the end of the affected current fiscal period without further charge or penalty. An "Event of Non-appropriation" shall be deemed to have occurred if: (a) Sufficient funds are not appropriated for lease payments under an Appendix in any fiscal year; and (b) a Lessee shall have at such time no funds duly authorized or otherwise available for the lease payments. Lessee agrees to provide written notice of an Event of Non-appropriation to Lessor as soon as Lessee determines that such an event exists. No penalty shall accrue to the Lessee in the event this provision is exercised.

Upon the occurrence of an Event of Non-appropriation, that Appendix shall terminate without penalty at the end of the then current fiscal year and the Lease and other payments under that Appendix shall be canceled. Lessee agrees to return the Equipment to Lessor, together with a release of all Lessee's title and interest therein. It is the intention of the parties that any transfer of title to Lessor pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee agrees, nevertheless, to execute and deliver any such instruments as Lessor may reasonably request to evidence such transfer. An Event of Non-appropriation shall not be deemed an event of default. Furthermore, an Event of Non-Appropriation under one Appendix shall not be deemed an Event of Non-Appropriation under any other Appendix.

7. Lease Termination

The Lessor may not unilaterally terminate this Lease at any time; however, this Lease is subject to termination upon the occurrence of any one of the following events:

- (a) The Director of Purchasing terminates the Lease for any reason and at any time upon providing Lessor a thirty (30) day written notice thereof;
- (b) the expiration of the current term without any further action or notice by either party; or
- (c) the mutual written agreement of the parties prior to the expiration of the then current term.

Any such termination of the Lease shall not affect the financing under any Appendix executed prior to the effective Lease termination date.

8. Warranties/Guarantees

Each Lessee acknowledges that it has selected the Equipment financed under this Lease and that Lessor is not the manufacturer or dealer in the Equipment herein leased. As Lessor is not the manufacturer or dealer in the Equipment, Lessor makes, and has made, no representations or warranties whatsoever as to the existence or availability of warranties by the vendor of any item(s) of Equipment. Lessor hereby assigns to each Lessee for and during the lease term all

manufacturers' warranties or guarantees, expressed or implied, issued on or applicable to the Equipment acquired by that Lessee, if any.

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 WARRANTY WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEES' USE OF ANY ITEM(S) OF EQUIPMENT PROVIDED IN THIS LEASE. HOWEVER, LESSOR AGREES TO BE LIABLE FOR ANY LOSS TO TANGIBLE PERSONAL PROPERTY OR INJURY TO PERSONS CAUSED BY THE NEGLIGENCE OF LESSOR.

9. Lease Payments

Lessees agree to pay to Lessor monthly lease payments, comprised of the principal and accrued interest, in the amounts set forth in each payment schedule. The term of each Appendix shall not exceed the useful life of the Equipment financed under that Appendix. The Index is defined as the annualized interest on three-, four-, five- or seven-year interest rate SWAPS, shown below for the applicable term, as reported by the Federal Reserve weekly in Publication H.15 on a weekly average basis for the week preceding the date of execution of an Appendix, fixing as of such date adjusted by adding or subtracting the indicated index amounts, as follows:

- (a) 3-Year Financing Term= _____
- (b) 4-Year Financing Term= _____
- (c) 5-Year Financing Term= _____
- (d) 7-Year Financing Term= _____

The above Index amounts will remain fixed during the term of each Appendix, the term of this Lease, and any renewal or extension thereof.

All payments shall be made in arrears for the preceding period, and 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 to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances, except as expressly provided in Section 6 of this Lease, provided with respect to any item of Equipment Lessor has provided the funds to finance such item of Equipment and no payment with respect to such item of Equipment has been withheld from a vendor. Lessor shall provide invoices to Lessees in a timely manner. Interest for late payments shall be in accordance with West Virginia law.

The obligation of each Lessee to pay lease payments hereunder is a current expense of that Lessee and not a debt in contravention of any applicable constitutional or statutory limitation

or requirement, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies.

Lessees reasonably believe that sufficient funds can be obtained to make all lease payments during the term of this Lease and hereby covenant that they will use their best efforts to obtain, maintain and properly request funds from which the lease payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using their best efforts to have such portion of the budget approved. Lessees intend to make lease payments for the full term of this Lease and represent that the Equipment will be used for one or more authorized governmental or proprietary functions essential to their proper, efficient and economic operation.

10. Use and Maintenance

Lessees agree to comply with all federal, state and local laws, ordinances, and regulations applicable to the possession, use or maintenance of the Equipment.

Lessees will not use, operate or maintain the Equipment improperly, carelessly, or in violation of any applicable law. Lessees will, at their expense, maintain, preserve and keep the Equipment in good repair, working order and condition.

Material alterations, modifications, additions or attachments to the Equipment must have the written approval of the Lessor, which consent shall not be unreasonably withheld, and such action shall be performed at the sole expense of each Lessee. All alterations, modifications, additions or attachments shall not reduce the value or usefulness of the Equipment.

During the term of this Lease, Lessor and its officers, employees or agents shall have the right at all reasonable times during business hours of each Lessee to enter into and upon the property of such Lessee for the purpose of inspecting the Equipment.

11. Insurance and Loss of Equipment

Lessees are self-insured through the West Virginia Board of Risk and Insurance Management and will protect the interests of the Lessor and Lessee against Equipment losses or damage. Lessees are also self-insured against liability related to the Equipment. In the event of any loss, damage, injury or accident involving the Equipment, the appropriate Lessee shall promptly provide the Lessor with written notice thereof and make available to Lessor all information and documentation thereof.

If any Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or if title to, or the temporary use of, the Equipment or any part thereof is taken under the exercise of the power of eminent domain, Lessee and Lessor will cause the net proceeds of any insurance claim or condemnation award to be applied either to the prompt repair,

restoration, modification or replacement of the Equipment or, at Lessee's option, to the payment of the appropriate portion of the purchase option price.

Any balance of the net proceeds remaining after such work or purchase has been completed shall be paid to the appropriate Lessee. Net proceeds shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses incurred in the collection of such claims or award. If the net proceeds are insufficient to pay in full the cost of any repair, restoration, modification or replacement, Lessee shall either: (a) Complete the work and pay any cost in excess of the amount of net proceeds; or (b) pay to Lessor the purchase option price. The amount of the net proceeds in excess of the then applicable purchase option price, if any, may be retained by Lessee.

In the event the purchase option payment for any item(s) of Equipment is paid in accordance with this section, Lessor agrees to release any security interest on that item(s) of Equipment.

12. Title to Leased Equipment

During the term of this Lease, title to the Equipment listed in an Appendix shall vest in the related Lessee so long as such Lessee shall not be in default or this Lease shall not have been terminated as to such Equipment. To secure all obligations hereunder, the related Lessee hereby grants to Lessor a security interest in any and all right, title and interest of Lessee in the Equipment. Lessee shall promptly discharge any mechanics', materialmen's or other liens placed on the Equipment.

Lessor shall convey all of the Lessor's right and interest in and to the Equipment listed in an Appendix to Lessee upon payment of all the lease payments required in accordance with the related Appendix or the purchase option price set forth in the applicable payment schedule, if the Lessee is not on such date in default as to any terms of this Lease.

13. Taxes and Other Charges

Lessees represent that they are exempt from federal, state and local taxation, and as such, shall not be liable or responsible for the payment or reimbursement of any tax of any type incurred in connection with this Lease, nor will they file any tax returns or reports on behalf of Lessor or its assignees.

As title to the Equipment shall vest in the appropriate Lessees during the term of this Lease, the Equipment is exempt from personal property tax pursuant to West Virginia Code § 11-3-9(a)(27). Each Lessee also represents that, to the best of its knowledge, no licensing or titling fees based upon the use, possession or acquisition of the Equipment are due under the current laws of West Virginia.

It is the intention of the Lessor and Lessees that the interest portion of the lease payments made under this Lease be and remain exempt from federal income taxation. Lessees covenant that they will take any and all action reasonably necessary to maintain the exemption from federal income taxation of the interest portion of the lease payments, and that they will not perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that shall have the effect of terminating or denying the exemption from federal income taxation of the interest portion of the lease payments, including, without limitation, leasing all or any portion of the Equipment or contracting with a third party for the use or operation of all or any portion of the Equipment if entering into such lease or contract would have such effect.

14. Assignment

This Lease, the Appendices, and the obligations of Lessees to make payments thereunder, may not be sold, assigned or otherwise disposed of in whole or in part to one or more successors, grantors, holders, assignees or sub-assignees by Lessor, except upon the written consent of the Department of Administration and the appropriate Lessee, which consent will not be unreasonably withheld or delayed. Further, Lessor hereby covenants not to sell or offer to sell this Lease through, nor shall this Lease be sold through, (1) a certificate of participation program, whereby two or more interests are created in the Lease, the Equipment or the lease payments; or (2) other similar instruments, agreements and obligations through a pool, trust, limited partnership, or other entity, except with the express written consent of Lessee.

To request consent to assign Lessor's interest herein, in whole or in part, Lessor will cause a written request to assign to be sent to the Department of Administration and the appropriate Lessee, requesting approval. Upon submission of the request, Lessor shall provide the Department of Administration and the Lessee with a duplicate original counterpart of the documents effectuating the assignment, or a written notice signed by both Lessor and the assignee confirming the assignment of Lessor's interest in one or more Appendices, the name and address of the assignee, and stating that assignee accepts the assignment under the terms and conditions of this Lease.

Upon receipt of a request to assign, the Department of Administration will notify Lessor in writing of its decision. In the event the Department of Administration approves the request to assign, the Department of Administration shall (i) acknowledge its approval in writing to Lessor, and (ii) record the assignment in its book entry system as that term is defined in the Internal Revenue Code of 1986, as amended. Upon assignment of a Lessee's interest herein, such Lessee will cause written notice of such assignment to be sent to Lessor disclosing the name and address of an assignee. No further action will be required by Lessor or by Lessee to evidence an assignment.

Lessees agree to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, set-off or counterclaim whatsoever, whether arising from a breach of the purchase order for the Equipment or otherwise, that such Lessee may from time to

time have against any provider of the Equipment. Lessees agree to execute all documents, including notices of assignment, chattel mortgages or financing statements, which may be reasonably requested by Lessor or assignee to protect its interests in the Equipment and in this Lease.

During the term of this Lease, the Department of Administration and the Escrow Agent, if any, shall each keep a complete and accurate register of all such assignments in form necessary to comply with Section 148(a) of the Internal Revenue Code of 1986, as amended. The Department of Administration or the registrar named by the State may require the person requesting any transfer to reimburse it for any tax or other governmental charge payable in connection therewith.

This Lease and the interest of the Lessees in the Equipment may not be sold, assigned or encumbered by any Lessee without the prior written consent of Lessor, except that each Lessee shall have the right to assign or lease the Equipment, in whole or in part, to other agencies or the State of West Virginia for governmental use only.

15. Indemnification

The laws and Constitution of West Virginia prohibit the Lessees from protecting, holding harmless or indemnifying Lessor from and against any liability, obligations, losses, claims or damages whatsoever. Therefore, the Lessees only agree to be responsible for their own actions under this Lease.

16. Personal Property

The Equipment is and shall at all times during the lease term be and remain personal property.

17. Option to Purchase

Lessees shall be entitled to purchase the Equipment as follows:

- (a) upon payment of all lease and other payments required under an Appendix; or
- (b) upon written notice delivered to Lessor by the appropriate Lessee at least thirty (30) days before the proposed date for payment, and upon the payment on such date of the purchase option price for that Appendix.

As used herein, purchase option price means the amount equal to the outstanding principal, as set forth in the payment schedule, plus any unpaid interest that has accrued on such principal to the date of payment of the purchase option price, provided that any other sum due under this Lease has or is being paid, payable at the option of Lessee for the purpose of purchasing the Equipment.

A Lessee may, at Lessee's option, make partial prepayments of a portion of the purchase option price upon written notice delivered at least thirty (30) days in advance of the proposed date for payment and upon payment on such date of the partial prepayment, being an amount equal to a portion of the outstanding principal set forth in the payment schedule and any unpaid interest that has accrued on such portion of the outstanding principal to the date of payment of the partial prepayment. As provided herein, if any portion of the Equipment is not accepted or the cost of the Equipment is less than the funding under an Appendix, then the amount of the funding remaining shall be applied as a partial prepayment toward that Appendix.

A revised payment schedule reflecting all partial prepayments, consistent with the financing structure contemplated herein, to reflect such partial prepayment shall be attached to the related Appendix as a change order to the Appendix. Partial prepayments shall entitle Lessee to a release of any security interest on the item(s) of Equipment which have been prepaid in full.

18. Event of Default

The following constitute an "Event of Default" under this Lease:

- (a) failure by a Lessee to pay any lease payment or other payment required to be paid under an Appendix within forty-five (45) days of when due; or
- (b) failure by a Lessee to maintain insurance on the Equipment in accordance with this Lease; or
- (c) failure by a Lessee to observe and perform any other covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written notice is given to the Lessee by Lessor, specifying such failure and requesting that it be remedied, provided that if the failure stated in such notice cannot be corrected within such thirty (30) day period, the 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; or
- (d) initiation by or against a Lessee of a proceeding under any federal or state bankruptcy or insolvency laws.

An Event of Non-appropriation shall not be deemed an Event of Default. Furthermore, a default under one Appendix shall not be deemed an Event of Default under any other Appendix.

19. Remedies on Default

Upon the occurrence of an Event of Default as specified in this Lease, Lessor shall provide written notification of default which that Lessee must remedy within thirty (30) days from the date of notice of default, or Lessor shall have the right, at its option, without any further demand or notice, to pursue any one or more of the following remedial steps:

- (a) Terminate this Lease and retake possession of the Equipment and sell, lease, sublease or make other disposition of the Equipment in a reasonable and commercial manner;
- (b) Declare an amount equal to all payments due during the fiscal year in which the default occurred to be immediately due and payable, whereupon the same shall become immediately due and payable; or
- (c) Proceed by appropriate court action to enforce performance by the Lessee of the applicable covenants of this Lease or to recover for the breach thereof.

All of Lessee's right, title and interest in any Equipment the possession of which is retaken by Lessor upon the occurrence of an Event of Default shall terminate immediately upon such repossession. Lessee agrees to return the Equipment to Lessor, together with a release all of Lessee's title and interest therein. It is the intent of the parties hereto that any transfer of title to Lessor shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee agrees, nevertheless, to execute and deliver any such instruments as Lessor may reasonably request to evidence such transfer.

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 this Lease or now hereafter existing at law or in equity.

20. Force Majeure

If by reason of force majeure, Lessor or a Lessee is unable, in whole or in part, to carry out its obligations under this Lease, other than payments of lease payments or other payments required hereunder, Lessor or Lessee, as the case may be, shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State of West Virginia or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; or explosions.

21. Escrow Agent

Lessor shall have the right to designate an entity to act as the Escrow Agent for the purpose of holding and administering special trust funds designated as Acquisition Funds for the benefit of Lessor and the appropriate Lessee. The appointment of _____ as Escrow Agent is hereby acknowledged.

Lessor shall deposit the amount specified in each Appendix in a separate Acquisition Fund. Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon order of a representative of the appropriate Lessee in Qualified Investments, as hereinafter defined, maturing or subject to redemption at the option of the holder thereof prior

to the date on which it is expected that such funds will be needed. Such investments shall be held by the Escrow Agent in the appropriate Acquisition Fund, and any interest earned on such investments shall be deposited in that Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

“Qualified Investments” means (a) direct general obligations of the United States of America; (b) obligations the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; or (c) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such is insured by the Federal Deposit Insurance Corporation.

Moneys in each Acquisition Fund shall be used to pay for the cost of acquisition of the Equipment specified in the appropriate Appendix. Payment shall be made from the appropriate Acquisition Fund for the cost of acquiring part or all of the Equipment upon presentation to the Escrow Agent of one or more Payment Request and Acceptance Certificates, properly executed by the appropriate Lessee and approved by Lessor, together with an invoice for the cost of the acquisition of the Equipment.

Each Acquisition Fund shall terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate designated "Final Acceptance Certificate" properly executed by that Lessee or a properly executed notice by the Lessee that no additional funds will be needed from that Acquisition Fund, or (b) the presentation of written notification by Lessor, or an assignee or sub-assignee of all of Lessor's interest in this Lease or an Agent on their behalf, that an Event of Default or Non-appropriation has occurred with respect to the appropriate Appendix or that such Lessee has terminated the Lease. Upon termination as described in clause (a) of this paragraph, any amount remaining in that Acquisition Fund shall be used to prepay the principal component of Rental Payments for that Appendix, unless otherwise directed by Lessor and Lessee, and the Payment Schedule shall be revised accordingly. Upon termination as described in clause (b) of this paragraph, any amount remaining in that Acquisition Fund shall be immediately paid to Lessor or, pro rata, to any assignee or sub-assignees of Lessor.

The Escrow Agent may resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligation as Escrow Agent under this Lease, and the

predecessor Escrow Agent shall deliver all moneys and securities held by it under this Lease to such successor Escrow Agent.

The Escrow Agent shall incur no liability to make any disbursements except from funds held in the appropriate Acquisition Fund. The Escrow Agent makes no representations or warranties as to the title to any Equipment or as to the performance of any obligations of Lessor or Lessee. In executing this Lease, the Escrow Agent agrees to be bound by the provisions of this Section.

22. Renewal

Upon written mutual agreement of the parties, this Lease may be renewed under the same terms and conditions for a maximum of two (2) additional terms of one (1) year each. A written renewal notice, as initiated by either party evidencing the intent to renew the Lease, shall be provided to the other party at least ninety (90) days prior to the expiration of the current term of the Lease. If no renewal notice is provided to one party by the other party prior to expiration, this Lease will terminate on the expiration date.

23. Notices

All notices to be given under this Lease shall be made in writing and mailed to the other party at its address set forth in the appropriate Appendix or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

24. Binding Effect

This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessees and their respective successors and assigns.

25. Severability

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

26. Amendments

All amendments, modifications, alterations or changes to this Lease shall be in writing and signed by both parties.

27. Execution in Counterparts

This Lease may be executed in several counterparts. The parties hereto agree that multiple originals of this Lease have been executed.

28. Section Headings

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

29. Governing Law

This Lease shall be governed by and construed in accordance with the laws of the State of West Virginia.

30. Delivery of Related Documents

Upon the request of the Lessor, a Lessee will provide all documentation reasonably requested by the Lessor. In the event an Internal Revenue Service Form 8038-G or 8038-GC needs to be filed in connection with this transaction, Lessor shall prepare such form and Lessee will execute and file the form. A copy of the form filed will be sent to Lessor for its records.

31. Entire Agreement; Waiver

This Lease, together with the Request for Quotations ("RFQ") dated _____, purchase order(s) and other attachments hereto, and other documents or instruments executed by Lessor, Purchasing and Lessees in connection herewith, constitute the entire agreement between the parties with respect to the Equipment. The waiver by one party of any breach of any term, covenant or condition hereto must be in writing and shall not operate as a waiver of any subsequent breach thereof.

WITNESS THE FOLLOWING SIGNATURES:

LESSOR: _____

PURCHASING DIVISION, DEPARTMENT OF
ADMINISTRATION, STATE OF WEST VIRGINIA

BY: _____

BY: _____

TITLE: _____

TITLE: _____

ESCROW AGENT: _____

APPROVED AS TO FORM THIS
_____ day of _____, 20_____

BY: _____

BY: _____
ASSISTANT ATTORNEY GENERAL

TITLE: _____

List of Potential Closing Documents for this Master Lease:

- Notice and Consent to Assignment, if necessary
- Opinion of Counsel Letter

Appendices (and Attachments to Appendices):

- Counterpart No. 1 – Lessor's Original
- Counterpart No. 2 – Lessee's Copy
- Equipment Schedule (Copies of Purchase Orders)
- Payment Schedule
- Certificate of Essential Use
- Acceptance Certificate and Request for Payment
- Tax Compliance Agreement and No Arbitrage Certificate and To Tax Compliance Agreement and No Arbitrage Certificate, Certificate of Lessor
- Instruments of title to Equipment, if necessary (MSOs, etc.)
- IRS Form 8038G, or 8038-GC
- Sales Tax Exemption, if necessary
- Opinion of Lessee's Counsel

**RFQ #: FAR
Cost Sheet**

Bidders are asked to completed the below Costing Table. Vendors failing to complete this section in its entirety may be disqualified as the submitted bid may not be able to be evaluated.

| Financing Period | Discount/Premium from H.15 |
|-----------------------|----------------------------|
| 3 Year Financing Term | _____ |
| 4 Year Financing Term | _____ |
| 5 Year Financing Term | _____ |
| 7 Year Financing Term | _____ |
| Total : | _____ |

The above Index amounts will remain fixed during the term of the Agreement and any renewal or extension thereof.

OPINION OF COUNSEL LETTER (FOR MASTER LEASE)

Lessor _____

RE: Master Lease Purchase Financing Agreement

Gentlemen:

As counsel for the _____, I have examined duly executed originals of the Master Lease Purchase Financing Agreement ("Lease") dated _____, between the _____ and _____, Lessor. Based upon the examination and upon such other examination as I have deemed appropriate, I am of the opinion that:

1. The Lease has been duly authorized, executed and delivered by the _____ and is a legal, valid and binding obligation, enforceable in accordance with its terms.
2. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way affecting the validity of the Lease.
3. The signatures of the officials of the _____ and _____, as they appear on the Lease, are true and genuine. I know said officials and know them to hold the positions set forth below their names.
4. West Virginia is a political subdivision within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings.

Very truly yours,

DAWN E. WARFIELD
DEPUTY ATTORNEY GENERAL

**MASTER LEASE PURCHASE FINANCING AGREEMENT
PURCHASE ORDER _____
APPENDIX # _____**

THIS APPENDIX ("Appendix"), made this _____ day of _____, 20____, by and between _____, ("Lessor") and the _____ ("Lessee"), to that MASTER LEASE PURCHASE FINANCING AGREEMENT ("Lease") dated _____ 20____, by and between Lessor and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing").

The parties hereto do mutually covenant and agree, as follows:

1. This Appendix is made a part of the Lease and hereby attached thereto and the terms and conditions of the Lease control this Appendix.
2. The term of this Appendix shall commence _____ 20____, and shall terminate in accordance with the Lease.
3. The Equipment financed by Lessor is listed in the attached Equipment Schedule.
4. Payments shall be made by Lessee in accordance with the attached Payment Schedule and the Lease.
5. Funds in the amount of \$ _____ will be deposited in an escrow account. If the dollar amount in this paragraph 5 is zero, then no funds have been deposited into escrow for this Appendix.

This is one of two serially numbered, manually executed counterparts of this document. To the extent that this Appendix constitutes chattel paper under the Uniform Commercial Code, a security interest in this Appendix may be created through the transfer and possession of Counterpart No. 1 only, without the need to transfer possession of any other original or counterpart or copy of this Appendix or any original or counterpart or copy of any exhibits, addenda, schedules, certificates, riders or other documents and instruments executed and delivered in connection with this Appendix.

WITNESS THE FOLLOWING SIGNATURES:

LESSOR: _____

LESSEE: _____

BY: _____ BY: _____

TITLE: _____

TITLE: _____

APPROVED: _____
Department of Administration

Counterpart No. 1 - Lessor's Original

**MASTER LEASE PURCHASE FINANCING AGREEMENT
PURCHASE ORDER _____
APPENDIX # _____**

THIS APPENDIX ("Appendix"), made this _____ day of _____, 20____, by and between _____, ("Lessor") and the _____ ("Lessee"), to that MASTER LEASE PURCHASE FINANCING AGREEMENT ("Lease") dated _____ 20____, by and between Lessor and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing").

The parties hereto do mutually covenant and agree, as follows:

- 6. This Appendix is made a part of the Lease and hereby attached thereto and the terms and conditions of the Lease control this Appendix.
- 7. The term of this Appendix shall commence _____ 20____, and shall terminate in accordance with the Lease.
- 8. The Equipment financed by Lessor is listed in the attached Equipment Schedule.
- 9. Payments shall be made by Lessee in accordance with the attached Payment Schedule and the Lease.
- 10. Funds in the amount of \$_____ will be deposited in an escrow account. If the dollar amount in this paragraph 5 is zero, then no funds have been deposited into escrow for this Appendix.

This is one of two serially numbered, manually executed counterparts of this document. To the extent that this Appendix constitutes chattel paper under the Uniform Commercial Code, a security interest in this Appendix may be created through the transfer and possession of Counterpart No. 1 only, without the need to transfer possession of any other original or counterpart or copy of this Appendix or any original or counterpart or copy of any exhibits, addenda, schedules, certificates, riders or other documents and instruments executed and delivered in connection with this Appendix.

WITNESS THE FOLLOWING SIGNATURES:

LESSOR: _____

LESSEE: _____

BY: _____

BY: _____

TITLE: _____

TITLE: _____

APPROVED: _____

Department of Administration

Counterpart No. 2 - Lessee's Copy

EQUIPMENT SCHEDULE TO APPENDIX NO. _____

See Attached Purchase Orders

CERTIFICATE OF ESSENTIAL USE

THE UNDERSIGNED, _____ of the State of West Virginia, on behalf of the named Lessee in that certain APPENDIX to the Lease Purchase Financing Agreement ("Appendix") dated _____, 20____, with _____, Lessor, hereby certifies as follows:

1. The Equipment will be used by the Lessee for the specific purpose of _____.
2. The Equipment is essential for the functioning of Lessee and is immediately needed by Lessee. Such need is neither temporary nor expected to diminish during the term of the Lease. The Equipment is expected to be used by Lessee for a period in excess of the term of the Appendix.
3. Funds for lease payments are expected to come from the _____.
4. The Appendix was issued under and pursuant to West Virginia law to finance the acquisition of the Equipment described therein.
5. Pursuant to the Appendix, Lessee is entitled to receive the Equipment in consideration for the obligation under the Appendix. The Equipment will be used in furtherance of the public purposes of Lessee. The Lessee does not intend to sell or to otherwise dispose of the Equipment during the term of the Appendix.
6. Lessee expects to make lease payments from its annual appropriation. The remaining funds of the Lessee are not reasonably expected to be used to make such payments and no other monies are pledged to the Appendix.
7. Lessee has not received notice that this Certificate may not be relied upon with respect to its own debt issues nor has it been advised that any adverse action by the Commissioner of the Internal Revenue Service is contemplated.
8. None of the proceeds of the Appendix or the investment earnings thereon will be used, directly or indirectly, in any trade or business carried on or by any person other than a "governmental unit" within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended ("Code").
9. Lessee hereby appoints the Escrow Agent as its agent for the purpose of maintaining a book entry system as required by the Code. In compliance with Section 148(a) of the Code, Lessee agrees to affix a copy of each notification of assignment to Lessee's counterpart of the Appendix.

10. No more than 10% of the use of the Equipment in any month will be by persons or entities other than the Lessee or its employees on matters relating to such employment, and no more than 5% of use of the Equipment in any month will be unrelated to use by or for the Lessee. No management contract shall be entered into with respect to the Equipment unless (a) at least half of the compensation is on a periodic, fixed-fee basis; (b) no compensation is based on a share of net profits; and (c) Lessee is able to terminate the contract without penalty at the end of any three years.

11. The undersigned has the power and authority to execute this Certificate on behalf of Lessee.

To the best of my knowledge, information and belief, the expectations expressed herein are reasonable and there are no facts, estimates or circumstances other than those expressed herein that would materially affect the expectations herein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 20____.

LESSEE _____

ACCEPTANCE CERTIFICATE AND REQUEST FOR PAYMENT

APPENDIX NO. _____

The Lessee, _____, hereby accepts the Equipment described below and requests the Lessor, _____, to pay to the person or corporation designated below as Payee, the sum set forth below in payment of the acquisition and installation costs of the Equipment in accordance with the Appendix issued to that Lease between Lessor and the Purchasing Division, Department of Administration of the State of West Virginia, on behalf of Lessee, dated _____, 20____. The amount shown below is due and payable under the invoice of the Payee with respect to the Equipment and has not formed the basis of any prior request for payment. This Certificate is based upon facts, circumstances, estimates and expectations of Lessee as of the date on which the Appendix was executed, and to the best of my knowledge and belief, as of this date, such facts, circumstances and estimates are true and correct and such expectations are reasonable.

PAYEE:

AMOUNT: \$

DESCRIPTION OF EQUIPMENT: See Attached

DATED:

LESSEE:

BY: _____

NAME: _____

TITLE: _____

LESSOR:

BY: _____

NAME: _____

TITLE: _____

**TAX COMPLIANCE AGREEMENT
AND
NO ARBITRAGE CERTIFICATE**

THIS TAX COMPLIANCE AGREEMENT AND NO ARBITRAGE CERTIFICATE ("Certificate") is issued in connection with the Master Lease Purchase Financing Agreement dated as of _____, 2004 (the "Lease") by and between _____, ("Lessor") and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing"), on behalf of duly organized and existing agencies thereof that enter into Appendices pursuant thereto ("Lessees").

In connection with the execution and delivery of Appendix No. _____ and related documents (consisting of a Payment Schedule, Equipment Schedule to Appendix No. _____, Certificate of Essential Use, and Opinion of Lessee's Counsel), all dated as of _____, 20____, and constituting Appendix No. _____ under the Lease (collectively, the "Appendix"), Purchasing and the Lessee ("Lessee") that will be using the items of Equipment subject to the Appendix, by duly authorized officers, hereby certify as follows with respect to the financing of \$ _____ (the "Takedown Amount") of Equipment pursuant to the Appendix and the Lease:

1. In General.

1.1 This Certificate is executed for the purpose of establishing the reasonable expectations of Purchasing and the Lessee on the date hereof as to future events regarding the financing of certain equipment by Lessee as described in the Lease and all related documents executed pursuant thereto, including the Appendix.

1.2 The undersigned are duly authorized to, and are executing and delivering this Certificate with respect to Purchasing on behalf of Purchasing as an officer of Purchasing, and with respect to the Lessee on behalf of Lessee as an officer of Lessee, each delegated with the responsibility of reviewing, executing and administering the Lease and the Appendix. This Certificate may be relied upon as the certificate of Purchasing and the Lessee.

1.3 The undersigned are familiar with the facts, circumstances and estimates herein certified. To the best of the undersigned's knowledge, information and belief, the expectations contained in this Certificate are reasonable.

1.4 Neither Purchasing nor the Lessee has been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose certifications as to arbitrage and related matters may not be relied upon, or of any disqualification of Purchasing or the Lessee by the Internal Revenue Service because a certification made by Purchasing or the Lessee contains a material misrepresentation.

2. Purpose of the Appendix.

The Appendix has been entered into by the Lessee for the purpose of financing the cost of acquiring, equipping and installing certain equipment which is essential to the governmental functions of the Lessee (the "Equipment"), which Equipment is or will be more specifically described in the Acceptance Certificates and Requests for Payment executed or to be executed by the Lessee and made a part of the Appendix. The Appendix was executed and delivered by the Lessee pursuant to the Lease for the purpose of obtaining funds to be paid to the vendors of the Equipment. Included as part of the Appendix is a Payment Schedule which sets forth the principal and interest components of each Lease Payment to be made by the Lessee under the financing transaction evidenced by the Appendix and the Lease. The aggregate principal amount of the financing shown on the Payment Schedule, being the Takedown Amount, is expected to be used to pay the acquisition cost of the Equipment to vendors of the Equipment within six months of the date hereof, with the acquisition cost of each item of Equipment to be paid to the vendor thereof upon execution and delivery by the Lessee to the Lessor of an Acceptance Certificate and Request for Payment with respect thereto.

3. Proceeds of Appendix.

3.1 Of the total Takedown Amount of \$ _____, \$ _____ is to be paid to Lessee or the vendors of the Equipment by the Lessor on the date hereof pursuant to Acceptance Certificate(s) and Request(s) for Payment executed by Lessee and attached to the Appendix. The remaining balance of the Takedown Amount, or \$ _____, plus interest earnings thereon (the "Acquisition Fund") is expected to be used to pay the remaining acquisition costs of the Equipment on or before the six-month anniversary of the date hereof as a result of the Lessee submitting Acceptance Certificate(s) and Request(s) for Payment with respect thereto by such date. Pending use of the Acquisition Fund to pay Equipment acquisition costs, such amount will be held by the Escrow Agent in escrow, with interest earnings thereon being credited to the account of the Lessee. In the event that the full Acquisition Fund, plus interest earnings thereon, has not been used to pay acquisition costs of Equipment on or before the six-month anniversary of the date hereof, the Lessee hereby agrees that such failure shall constitute notice that no additional funds are needed from the Acquisition Fund created with the proceeds of the Appendix and directs the Lessor to apply such remaining amount, less expenses, on such date first against the lease payment due on that date or, if no lease payment, with any amount remaining after such application to be applied to prepayment of Lessee's lease payment obligation under the Appendix.

3.2 To the extent that the Acquisition Fund is invested in certificates of deposit, time deposits or demand deposits with a bank or savings institution provided that such is insured by the Federal Deposit Insurance Corporation, the Lessee will insure that the certificates of deposit are traded on an active secondary market or the financial institution accepting such deposits has certified that the deposits produce a market yield equal to or in excess of the yield on Treasury securities or comparable obligations traded on an active secondary market.

3.3 Payments due under the Payment Schedule included as part of the Appendix will be made from funds of Lessee with monies appropriated to it. Lessee does not expect that any sinking or other similar fund for the payment of the principal of and interest on the amount financed pursuant to the Appendix will be created or established.

3.4 The Lessee does not expect to sell or otherwise dispose of the Equipment being financed pursuant to the Appendix, in whole or in part, at a date which is significantly earlier than the due date of the final lease payment due under the Payment Schedule included as part of the Appendix.

3.5 The Takedown Amount represents and equals the purchase price of Appendix. By a Certificate attached hereto as Exhibit A, the Lessor has set out information regarding the fair market value at which the Lessor could transfer its interest in the lease of Equipment pursuant to the Appendix.

4. Exempt Use.

4.1 None of the proceeds of the financing pursuant to the Appendix, or the Equipment, will be used in any "private business use" within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended (the "Code").

4.2 None of the proceeds of the financing pursuant to the Appendix will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

5. No Federal Guarantee.

5.1 Payment of the principal or interest due under the Payment Schedule included as part of the financing pursuant to the Appendix is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.

5.2 No portion of the proceeds of the financing pursuant to the Appendix shall be (i) used in making loans the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured

deposits or accounts if such investment would cause the financing pursuant to the Appendix to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

6. Miscellaneous.

6.1 The Lessee agrees to comply with the rebate requirement set forth in Section 148(f) of the Code in the event that for any reason the entire proceeds of the Appendix are not expended, and the Acquisition Fund fully depleted, within six months from the date hereof such that Section 148(f)(4)(B) is applicable to the financing pursuant to the Appendix.

6.2 The Lessee shall keep a complete and accurate record of all owners or assignees of the Lease and the financing of Equipment pursuant to the Appendix in form and substance satisfactory to comply with Section 149(a) of the Code.

6.3 The Lessor or the Escrow Agent, as applicable shall maintain complete and accurate records establishing the expenditure of the proceeds of the financing pursuant to the Appendix and interest earning thereon.

IN WITNESS WHEREOF, We have executed this Tax Compliance Agreement and No Arbitrage Certificate on behalf of the Purchasing Division of the Department of Administration of the State of West Virginia and the Lessee named below, as of the _____ day of _____, 20__.

ATTEST:

STATE OF WEST VIRGINIA
Purchasing Division of the Department
Of Administration

By: _____

ATTEST:

Lessee:

By: _____

**TO TAX COMPLIANCE AGREEMENT
AND NO ARBITRAGE CERTIFICATE**

CERTIFICATE OF LESSOR

_____, as Lessor ("Lessor"), under the Master Lease Purchase Financing Agreement dated as of _____, 20__ (the "Lease") between the Lessor and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing"), on behalf of the agencies of the State specified as lessees on the Appendices attached to the Lease ("Lessees") and under the Appendix and related documents constituting Appendix No. _____ under the Lease (the "Appendix"), which Appendix relates to the financing of \$ _____ of Equipment and was executed and delivered by _____, as the Lessee (the "Lessee") to the Lessor on the date hereof, hereby certifies as follows in connection with the Lessee's execution of the Appendix.

1. On the date hereof, the Lessor has acquired its interest in the Appendix for the aggregate purchase price of \$ _____. No payment was made in respect to accrued interest on the Appendix.
2. The Lessor acknowledges that any assignment of the Appendix must comply with the terms of Article 14 of the Lease.
3. As of the date hereof the fair market value of the Appendix is not greater than \$ _____.

IN WITNESS WHEREOF, this Certificate is executed on behalf of the Lessor as of the _____ day of _____, 20__.

ATTEST/WITNESS:

LESSOR:

By: _____

Form **8038-G**
(Rev. November 2000)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

| | | | |
|--|--|---|----------------------|
| Part I Reporting Authority | | If Amended Return, check here <input type="checkbox"/> | |
| 1 Issuer's name | | 2 Issuer's employer identification number | |
| 3 Number and street (or P.O. box if mail is not delivered to street address) | | Room/suite | 4 Report number 3 |
| 5 City, town, or post office, state, and ZIP code | | 6 Date of issue | |
| 7 Name of issue | | 8 CUSIP number | |
| 9 Name and title of officer or legal representative whom the IRS may call for more information | | 10 Telephone number of officer or legal representative () | |

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

| | |
|--|----|
| 11 <input type="checkbox"/> Education | 11 |
| 12 <input type="checkbox"/> Health and hospital | 12 |
| 13 <input type="checkbox"/> Transportation | 13 |
| 14 <input type="checkbox"/> Public safety | 14 |
| 15 <input type="checkbox"/> Environment (including sewage bonds) | 15 |
| 16 <input type="checkbox"/> Housing | 16 |
| 17 <input type="checkbox"/> Utilities | 17 |
| 18 <input type="checkbox"/> Other. Describe ► | 18 |
| 19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/> | |
| 20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/> | |

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

| | (a) Final maturity date | (b) Issue price | (c) Stated redemption price at maturity | (d) Weighted average maturity | (e) Yield |
|----|-------------------------|-----------------|---|-------------------------------|-----------|
| 21 | | \$ | \$ | years | % |

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

| | |
|---|----|
| 22 Proceeds used for accrued interest | 22 |
| 23 Issue price of entire issue (enter amount from line 21, column (b)) | 23 |
| 24 Proceeds used for bond issuance costs (including underwriters' discount) | 24 |
| 25 Proceeds used for credit enhancement | 25 |
| 26 Proceeds allocated to reasonably required reserve or replacement fund | 26 |
| 27 Proceeds used to currently refund prior issues | 27 |
| 28 Proceeds used to advance refund prior issues | 28 |
| 29 Total (add lines 24 through 28) | 29 |
| 30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here) | 30 |

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31 Enter the remaining weighted average maturity of the bonds to be currently refunded . . . ► _____ years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded . . . ► _____ years

33 Enter the last date on which the refunded bonds will be called . . . ► _____

34 Enter the date(s) the refunded bonds were issued ► _____

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . 35

36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions) 36a

b Enter the final maturity date of the guaranteed investment contract ► _____

37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units 37a

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer ► _____ and the date of the issue ► _____

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(iii) (small issuer exception), check box . . . ►

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . ►

40 If the issuer has identified a hedge, check box . . . ►

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

► _____ Date _____ Type or print name and title _____

Signature of issuer's authorized representative



WEST VIRGINIA CONSUMERS SALES AND SERVICE TAX AND USE TAX

EXEMPTION CERTIFICATE

CANNOT BE USED TO PURCHASE GASOLINE OR SPECIAL FUEL



WV/CST-280
(Rev. 905)

All sales of tangible personal property or taxable services are presumed to be subject to tax unless a properly completed Exemption Certificate or a Direct Pay Permit number is provided. Read instructions on reverse side before completing this certificate.

| | | | |
|----------------|------|--|--|
| NAME OF VENDOR | DATE | CHECK APPLICABLE BOX: | |
| | | <input type="checkbox"/> SINGLE PURCHASE CERTIFICATE | <input type="checkbox"/> BLANKET CERTIFICATE |
| STREET ADDRESS | CITY | STATE | ZIP CODE |

TO BE COMPLETED BY PURCHASER: I, the undersigned, hereby certify that I am making an exempt purchase and hold a valid Business Registration Certificate:

Enter Tax Identification Number

| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|

My principle business activity is _____

I claim an exemption for the following reason (Check applicable box or boxes):

PURCHASE FOR RESALE

Purchase of tangible personal property or taxable services for resale or for use in performing taxable services where such property becomes a component part of the property upon which the services are performed and will be actually transferred to the purchaser. WV Code § 11-15-9(a)(9)

PURCHASE BY AN EXEMPT COMMERCIAL AGRICULTURAL PRODUCER

- A. Purchase of tangible personal property or taxable services for use or consumption in the commercial production of an agricultural product. But not purchases for the construction of, or permanent improvement to real property or purchases of gasoline or fuel. WV Code § 11-15-9(a)(8)
- B. Purchase of propane for use in poultry houses for heating purposes. WV Code § 11-15-9(a)(18)

TAX EXEMPT ORGANIZATIONS

- A. **GOVERNMENT** - Purchases by governmental agencies and institutions of (1) the United States; (2) this State (including its local governments); and (3) any other State (and its local governments) which provides this same exemption to this State. Such purchases by government employees are not exempt unless they are on government business and are billed to and paid for directly by the government. Private persons doing business with government may not claim this exemption. WV Code § 11-15-9(a)(3)
- B. **CERTAIN NONPROFIT ORGANIZATIONS** - Purchases by a corporation or organization which has a current registration certificate and which is exempt from federal income taxes under section § 501(c)(3) or (c)(4) of the Internal Revenue Code. These organizations must meet all of the requirements set forth in WV Code § 11-15-9(a)(6). For information concerning these requirements refer to publication TSD-320. WV Code § 11-15-9(a)(6)
- C. **SCHOOLS** - Purchases by a school with its principal campus in this State which is approved by the State of West Virginia to award degrees and which is exempt from federal and state income taxes under section § 501(c)(3) of the Internal Revenue Code. WV Code § 11-15-9(a)(15)
- D. **CHURCHES** - Purchases of services, equipment, supplies, food for meals and materials directly used or consumed by churches which make no charge whatsoever for the services they render. The purchase must be paid for directly out of the church treasury. WV Code § 11-15-9(a)(5)

PURCHASES OF CERTAIN SPECIFIC SERVICES AND TANGIBLE PERSONAL PROPERTY

- A. Purchases of electronic data processing services and related software but not data processing equipment, materials and supplies. WV Code § 11-15-9(a)(21)
- B. Purchases of services by one corporation, partnership or limited liability company from another corporation, partnership or limited liability company but only when the entities are members of the same controlled group or related taxpayers as defined in Section 267 of the Internal Revenue Code. WV Code § 11-15-9(a)(23)
- C. Purchases of computer hardware and software directly incorporated into manufactured products; certain leases; electronic data processing service; computer hardware and software directly used in communication; educational software; internet advertising; high technology business services directly used in fulfillment of a government contract. WV Code § 11-15-9h
- D. Purchases of motion picture films, coin-operated video arcade machines and other video arcade games for any use upon which there will be a charge subject to sales tax. WV Code § 11-15-9(a)(32)
- E. Purchases by a licensed carrier of persons or property, or by a government entity, of aircraft repair, remodeling and maintenance services for an aircraft, engine or other component part of an aircraft, or purchases of tangible personal property that is permanently affixed as a component part of an aircraft as part of the repair, remodeling or maintenance of aircraft, aircraft engines or aircraft component parts, and purchases by a licensed carrier of persons or property, or by a government entity, of machinery, tools or equipment, directly used or consumed exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or aircraft component parts. WV Code § 11-15-9(a)(33)

REVERSE SIDE OF EXEMPTION CERTIFICATE MUST BE COMPLETED TO BE CONSIDERED VALID

I understand that this certificate may not be used to make tax free purchases of items or services which are not for an exempt purpose and that I will pay the Consumers Sales or Use Tax on tangible personal property or services purchased pursuant to this certificate and subsequently used or consumed in a taxable manner. In addition, I understand that I will be liable for the tax due, plus substantial penalties and interest, for any erroneous or false use of this certificate.

| | | |
|---|----------------|----------|
| NAME OF PURCHASER | STREET ADDRESS | |
| SIGNATURE OF OWNER, PARTNER, OFFICER OF CORPORATION, ETC. | CITY | |
| TITLE | STATE | ZIP CODE |

GENERAL INSTRUCTIONS

An Exemption Certificate may be used only to claim exemption from tax upon a purchase of tangible personal property or services which will be used for an exempt purpose as stated on the front of this form.

A purchaser may file a blanket Exemption Certificate with the vendor to cover additional purchases of the same general type of property or service. However, each subsequent sales slip or purchase invoice evidencing a transaction covered by a blanket Exemption Certificate must show the purchaser's name, address and Business Registration Certificate Number for purposes of certification.

INSTRUCTIONS FOR PURCHASER

To purchase tangible personal property or services tax exempt, you must possess a valid Business Registration Certificate and you must properly complete this Exemption Certificate and present it to your supplier. To be properly completed, all entries on this Exemption Certificate must be filled in.

Your Business Registration Certificate (and any duplicates) may be suspended or revoked if you or someone acting on your behalf willfully issues this certificate for the purpose of making a tax exempt purchase of tangible personal property and/or services that is not used in a tax exempt manner (as stated on the front of this form).

When property or services are purchased tax exempt with an Exemption Certificate, but later used or consumed in a non exempt manner, the purchaser must pay Sales or Use Tax on the purchase price.

The willful issuance of a false or fraudulent Exemption Certificate with the intent to evade Sales or Use Tax is a misdemeanor.

Your misuse of this Certificate with intent to evade the Sales or Use Tax shall also result in your being subject to:

**A penalty of fifty percent of the tax that would have been due
had there not been a misuse of such certificate.**

This is in addition to any other penalty imposed by the Law.

In the event you make false or fraudulent use of this Certificate with intent to evade the tax, you may be assessed for the tax at any time subsequent to such use.

INSTRUCTIONS FOR VENDOR

At the time the property is sold or the service is rendered, you must obtain from your customer this Certificate, properly completed, (or a Direct Pay Permit number issued by the West Virginia Department of Tax and Revenue), or the sale will be deemed a taxable sale, unless the property or service sold is exempt per se from Sales Tax. Your failure to collect tax on such taxable sale will make you personally liable for the tax, plus penalties and interest.

Additional information may be required to substantiate that the sale was for exempt purposes. In order for this Certificate to be properly completed, it must be issued by a purchaser who has a valid Business Registration Certificate and must have all entries completed by the purchaser.

A timely received certificate which contains a material deficiency will be considered satisfactory if such deficiency is subsequently corrected.

You must keep this certificate for at least three years after the due date of the last return to which it relates, or the date when such return was filed, if later.

You must maintain a reasonable method of associating a particular exempt sale to a customer with the Exemption Certificate you have on file for such customer.

INSTRUCTIONS FOR VENDOR AND PURCHASER

If you, as vendor or as a purchaser, engage in any business activity in West Virginia without possessing a valid Business Registration Certificate (and you do not clearly qualify for an exemption), you shall be subject to a penalty in an amount not exceeding \$100 for the first day on which such sales or purchases are made, plus an amount not exceeding \$100 for each subsequent day on which such sales or purchases are made.

Please begin using this Certificate immediately.

OPINION OF LESSEE'S COUNSEL (FOR EACH APPENDIX)

RE: Appendix No. _____ to Master Lease Purchase
 Financing Agreement with Purchasing Division of the
 Department of Administration, State of West Virginia

Gentlemen:

As counsel for _____, Lessee, I have examined a duly executed original of the Master Lease Purchase Financing Agreement ("Lease") and the duly executed original of the Appendix to the Lease Purchase Financing Agreement ("Appendix") dated _____ between Lessee and _____, Lessor. Based upon the examination and upon such other examination as I have deemed appropriate, I am of the opinion that:

1. Lessee is a public body corporate and politic, legally existing under the laws of the State of West Virginia.
2. The Appendix has been duly authorized, executed and delivered by Lessee and is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms.
3. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way affecting the validity of the Appendix.
4. The signature of the official of Lessee, as it appears on the Appendix, is true and genuine. I know said official and know him/her to hold the position set forth below his/her name.
5. The Equipment leased pursuant to the Appendix constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.
6. West Virginia is a political subdivision within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings.

Very truly yours,

DAWN E. WARFIELD
 DEPUTY ATTORNEY GENERAL

STATE OF WEST VIRGINIA
MASTER LEASE PROGRAM
SUBMISSION FORM

Date: _____

Appendix Number 200x-XX

State Unit Requiring Equipment: _____

Contact (Name & Title): _____

Phone Number: _____ Fax Number: _____

Contact Address: _____

Invoicing Address: _____

Description of Equipment Usage:

Nature of State Unit's Operation: _____

Equipment Description: _____

How is this equipment essential to operation? _____

Is this replacement or additional equipment? _____

If replacement, how old is current equipment and how often is equipment normally replaced? _____

What is the expected useful life of this equipment? _____

Equipment Cost: _____ Term Requested: _____

Down Payment: _____ Anticipated Delivery Date: _____

Amount Financed: _____

Is the agency a subunit of the State's General Revenue Fund? _____

If yes, we do not need financial statements.

If no, please submit financial statements and current fiscal year operating budget.

** Attach a copy of the purchasing requisition

We have reviewed the above request and certify that the request complies with the standards for the State Master Lease Program and certify that as of the request, it is our reasonable belief that funds will be available to make lease payments throughout the lease term.

Department of Administration

Date

FINANCING VENDOR

Date

**AIRCRAFT ADDENDUM TO
MASTER LEASE PURCHASE FINANCING AGREEMENT**

AIRCRAFT ADDENDUM ("Aircraft Addendum") to Master Lease Purchase Financing Agreement dated the 16th day of August 2004, by and between ("Lessor"), and the PURCHASING DIVISION of the Department of Administration of the State of West Virginia, on behalf of the Lessees specified in the appendices attached thereto ("Purchasing") hereinafter (the "Agreement").

Capitalized terms used in this Aircraft Addendum, but not otherwise defined herein, shall have the meanings ascribed to them in Annex A attached hereto and made a part hereof. Execution of an Aircraft Appendix, by Lessor and a Lessee shall be deemed to constitute execution and acceptance of the terms and conditions of this Aircraft Addendum, and it shall supplement and be a part of the Agreement.

The parties hereto do mutually covenant and agree as follows:

1. **Conditions Precedent.** In addition to any conditions described in the Agreement, Lessee hereby agrees that Lessor's obligation to advance funds for the purchase of an Aircraft shall be both subject to and conditioned upon the satisfaction of all of the conditions specified on Annex B attached hereto and made a part hereof.
2. **Grant of Security Interest.** Notwithstanding any provision to the contrary in the Agreement, as collateral security for the prompt and complete payment and performance as and when due of all of the Obligations, Lessee hereby grants to Lessor a continuing first priority security interest in and lien on, and collaterally assigns to Lessor, all of Lessee's right, title and interest in, to and under all of the following collateral (collectively, the "Collateral"): (i) the Aircraft, (ii) the Airframe, (iii) each of the Engines, (iv) the Parts, (v) the Records; (vi) all present and future Third Party Agreements; (vii) any and all Associated Rights; and (viii) all Proceeds of the foregoing. The foregoing shall not be deemed in any way whatsoever as an agreement by Lessor to permit or allow Lessee to enter into any Third Party Agreements, and Lessee shall only be allowed to enter into any of the foregoing in accordance with the express terms of the Agreement.
3. **Consent to Registration of International Interest.** Lessee hereby consents to the registration of any International Interest arising in connection with any Operative Document in favor of Lessor and hereby authorizes its Professional User Entity to consent to the registration (including all Final Consents thereto) of any International Interest with the International Registry upon request therefor by Lessor. On the Closing Date, Lessee hereby agrees to authorize its Professional User Entity to consent to the registration(s) of any International Interest(s).
4. **No Disposition of Collateral or Liens.** Notwithstanding any provision to the contrary in the Agreement, Lessee shall not sell, assign, charter, lease, timeshare, pool, interchange, convey, mortgage, exchange or otherwise transfer or relinquish possession of or dispose of the Aircraft, any part thereof or any of the other Collateral or attempt or offer to do any of the foregoing. In addition, Lessee shall not relinquish possession of the Airframe, any APU, Engine or Part or install any APU, Engine or Part, or permit any APU, any Engine or Part to be installed, on any airframe other than the Airframe except as expressly permitted herein. The foregoing shall not be deemed to prohibit the delivery of possession of the Aircraft, any APU, Engine or Part to another Person for testing, service, repair, maintenance, overhaul or, to the extent permitted hereby, for alteration or modification. Lessee will not create, assume or suffer to exist any Liens on or with respect to the Aircraft, any APU, Engine, Part or any of the other Collateral, or Lessee's interest therein other than Permitted Liens. Lessee will promptly take such action as directed by Lessor to duly discharge any such Lien. If Lessee fails to remove a Lien, Lessor may take such action as it deems appropriate to remove such Lien, but without waiving its other rights hereunder. Lessee will warrant and defend its good and marketable title to the Aircraft and Lessor's first and only perfected security interest in the Collateral, against all claims and demands whatsoever.

5. Use of Aircraft; Maintenance; Modifications; Loaner Engines; Identification; Security.

- (a) Lessee will operate the Aircraft under and in compliance with Part 91 of the FARs; shall retain operational control of the Aircraft at all times; and shall base the Aircraft at the primary hangar location set forth in the Aircraft Appendix. The Aircraft shall be used solely in a passenger configuration for which Lessee is duly authorized by the FAA, and shall at all times will be operated by duly qualified pilots having satisfied all requirements established and specified by the FAA, the Transportation Security Administration, any other applicable governmental authority and the insurance policies required under this Aircraft Addendum.
- (b) Lessee will operate the Aircraft in a careful and proper manner in compliance with all Applicable Standards, including, without limitation, its operation, maintenance and security. The Aircraft shall not be operated, used or located outside the continental United States, except that it may be flown temporarily to any country in the world for any purpose expressly permitted under the Agreement. Notwithstanding the foregoing, the Aircraft shall not be flown, operated, used or located in, to or over any such country or area (temporarily or otherwise), (i) with which the U.S. does not maintain favorable diplomatic relations, (ii) in any area of recognized or threatened hostilities, or (iii) in violation of the Agreement or any Applicable Standards, including any U.S. law or United Nations Security Council Directive.
- (c) Lessee will, at its own expense, (i) maintain, inspect, service, repair, overhaul and test the Airframe, each Engine, any APU and each Part in accordance with Applicable Standards; (ii) make any alteration or modification to the Aircraft that may at any time be required to comply with Applicable Standards, to cause the Aircraft to remain airworthy or to maintain the Aircraft's airworthiness certification; (iii) furnish all parts, replacements, mechanisms, devices and servicing required therefor so that the condition and operating efficiency of the applicable Airframe, Engine, APU or Part will at all times be no less than its condition and operating efficiency as and when delivered to Lessee, ordinary wear and tear from proper use alone excepted; (iv) promptly replace all Parts that become worn out, lost, stolen, taken, destroyed, damaged beyond repair or permanently rendered or declared unfit for use for any reason whatsoever; (v) maintain (in English) all Records in accordance with Applicable Standards; and (vi) enroll and maintain the Airframe in a Computerized Maintenance Monitoring Program and the Engines in the Engine Maintenance Program. All repairs, parts, replacements, mechanisms and devices so furnished shall immediately, without further act, become part of the Aircraft and subject to the security interest created by this Aircraft Addendum. All maintenance procedures shall be performed by properly trained, licensed, and certified maintenance sources and maintenance personnel utilizing replacement parts approved by the FAA and the manufacturer of the applicable Airframe, Engine, APU or Part. Without limiting the foregoing, Lessee shall comply with all mandatory service bulletins and airworthiness directives by causing compliance to such bulletins and/or directives to be completed through corrective modification in lieu of operating manual restrictions.
- (d) Lessee will not make or authorize any improvement, change, addition or alteration to the Aircraft that will impair the originally intended function or use of the Aircraft, diminish the value of the Aircraft as it existed immediately prior thereto, or violate any Applicable Standard; and any Part, mechanism, device or replacement added to the Aircraft in connection therewith shall immediately, without further act, become part of the Aircraft and subject to the security interest created by the Operative Documents.
- (e) Lessee shall prominently display on each Aircraft the FAA Registration number specified on the Aircraft Appendix covering such Aircraft.
- (f) In the event any Engine is damaged, being inspected, repaired or overhauled, Lessee, at its option, may temporarily substitute another engine of the same make and model as the Engine being repaired or overhauled (any such substitute engine being hereinafter referred to as a "Loaner Engine") during

the period of such repair or overhaul; provided no Event of Default or Default has occurred and is continuing and (i) installation of the Loaner Engine is performed by a maintenance facility certified by the FAA and manufacturer with respect to an aircraft of this type, (ii) the Loaner Engine is removed and the repaired or overhauled original Engine is reinstalled on the Airframe promptly upon completion of the repair or overhaul but in no event later than the earlier of ninety (90) days after removal or the occurrence of an Event of Default, and (iii) the Loaner Engine is free and clear of any Lien that might impair Lessor's rights or interests in the Aircraft and is maintained in accordance herewith.

(g) Lessee shall implement all security measures and systems necessary or appropriate for the proper protection of the Aircraft (whether on the ground or in flight) against theft, vandalism, hijacking, destruction, bombing, terrorism or similar acts. Upon Lessor's request (but without Lessor having any obligation with respect to Lessee's compliance with the provisions of this Section 5(g)), Lessee shall provide Lessor with evidence of Lessee's compliance with its obligations under this Section 5(g).

6. **Condition Upon Return.** If returned to Lessor for any reason under the Agreement, including but not limited to: an Event of Default, an event of Non-Appropriation, or repossession; the Aircraft (i) shall have a currently effective FAA airworthiness certificate; (ii) shall be free and clear of all Liens; (iii) shall be in the same configuration, coloring and appearance and in the same operating condition (ordinary wear and tear excepted) as when accepted by Lessee on the Closing Date or, at Lessor's option, Lessee shall pay to Lessor an amount equal to the actual cost of such restoration; (iv) shall be in good operating condition, physical condition and appearance (ordinary wear and tear excepted), with all systems operating normally; (v) shall have no damage history, unless such damage has been repaired in accordance with the Lease; and (vi) shall otherwise be in compliance with all Applicable Standards.

7. **Miscellaneous.** Notwithstanding any provisions to the contrary in the Agreement regarding the limitation of Lessee's actions following an Event of Non-Appropriation, an Assignment, or Lessor's exercise of Remedies on Default; Lessee agrees to deliver all such documentation required by the FAA and the Cape Town Convention that are necessary to effect the transfers contemplated in Sections 6, 14 and 19 of the Agreement.

ANNEX A**DEFINITIONS**

The following terms shall have the following meanings for all purposes of this Aircraft Addendum:

Administrator shall have the meaning ascribed thereto in the International Registry Regulations and shall, with respect to Lessee, be the Person designated as such on the Security Agreement.

Aircraft with respect to each separate Aircraft Appendix, shall mean (i) the Airframe, (ii) the Engines, (iii) the Parts, (iv) any APU, and (v) the Records, and all accessories, additions, accessions, alterations, modifications, Parts, repairs and attachments now or hereafter affixed thereto or used in connection therewith, and all replacements, substitutions and exchanges (including trade-ins) for any of the foregoing.

Aircraft Appendix shall mean an appendix, as described in Section 5 of the Agreement, with an Aircraft Information Annex.

Aircraft Information Annex shall be in the form attached hereto as Annex C.

Aircraft Protocol shall mean the official English language text of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, adopted on 16 November 2001 at a diplomatic conference held in Cape Town, as the same may be amended or modified from time to time.

Airframe with respect to an airframe described in an Aircraft Appendix, shall mean (i) the Aircraft described in the Security Agreement and shall not include the Engines or any APU, and (ii) any and all Parts from time to time incorporated in, installed on or attached to the Aircraft and any and all Parts removed therefrom so long as Lessor shall retain an interest therein in accordance with the applicable terms of this Aircraft Addendum after removal from the Aircraft.

Applicable Law shall mean all applicable laws, statutes, treaties, conventions, judgments, decrees, injunctions, writs and orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority as amended and revised, and any judicial or administrative interpretation, of any of the same, including the airworthiness certificate issued with respect to the Aircraft, the Cape Town Convention, all FARs and Special FARs, airworthiness directives, and/or any of the same relating to noise, the environment, national security, public safety, exports or imports or contraband.

Applicable Standards shall mean (i) Applicable Law, and (ii), with respect to the Airframe or any Engine, APU or Part, all compliance requirements set forth in or under (A) all maintenance manuals initially furnished with respect thereto, including any subsequent amendments or supplements to such manuals issued by the manufacturer or supplier thereof from time to time, (B) all mandatory service bulletins issued, supplied, or available by or through the applicable manufacturer with respect thereto, (C) all applicable airworthiness directives issued by the FAA or similar regulatory agency having jurisdictional authority, (D) all conditions to the enforcement of any warranties pertaining thereto, (E) Lessee's FAA approved maintenance program with respect to the Airframe, the Engines, any APU or Part, and (F) any Computerized Maintenance Monitoring Program or Engine Maintenance Program.

APU shall mean (i) any auxiliary power unit described in an Aircraft Appendix and installed on an Airframe as of the Closing Date, whether or not hereafter installed on such Airframe or any other airframe from time to time; (ii) any auxiliary power unit that may from time to time be substituted, pursuant to the applicable terms of this Aircraft Addendum, for an APU; and (iii) any and all Parts incorporated in or installed on or attached to such auxiliary power unit or any and all Parts removed therefrom so long as Lessor shall retain an interest therein in accordance with the applicable terms of this Aircraft Addendum after such removal.

Assignment shall have the meaning set forth in Section 14 of the Agreement.

Associated Rights shall have the meaning ascribed thereto in the Cape Town Convention, including all rights to payment or other performance by Lessee under any Loan Document which are secured by or associated with the Collateral.

Business Day shall mean any day other than a Saturday, Sunday or other day on which banks located in Baltimore, Maryland are closed or are authorized to close.

Cape Town Convention shall mean, collectively, the Aircraft Protocol, the Convention, the International Registry Procedures and the International Registry Regulations.

Closing Date shall mean the date on which funds are transferred from escrow to the Seller.

Collateral shall have the meaning set forth in Section 2 hereof.

Computerized Maintenance Monitoring Program shall mean any automated on-line maintenance tracking program with respect to the Airframe provided by the manufacturer of the Airframe or by a third party, such as CAMP, that is approved by Lessor and which makes data with respect to the Aircraft available to Lessor.

Convention shall mean the official English language text of the Convention on International Interests in Mobile Equipment, adopted on 16 November 2001 at a diplomatic conference held in Cape Town, South Africa, as the same may be amended or modified from time to time.

Default shall mean an event or circumstance that, after the giving of notice or lapse of time, or both, would become an Event of Default.

Engine shall mean (i) each of the engines described in an Aircraft Appendix and installed on the Airframe as of the Closing Date, whether or not hereafter installed on the Airframe or any other airframe from time to time; (ii) any engine that may from time to time be substituted, pursuant to the applicable terms of this Aircraft Addendum, for an Engine; and (iii) any and all Parts incorporated in or installed on or attached to such engine or any and all Parts removed therefrom so long as Lessor shall retain an interest therein in accordance with the applicable terms of this Aircraft Addendum after such removal.

Engine Maintenance Program shall mean the Engines' power by the hour engine maintenance program provided by the Engines' manufacturer.

Event of Default shall have the meaning set forth in Section 18 of the Agreement.

Event of Non-Appropriation shall have the meaning set forth in Section 6 of the Agreement.

FAA shall mean the United States Federal Aviation Administration and/or the Administrator of the Federal Aviation Administration and the Department of Transportation, or any Person, governmental department, bureau, authority, commission or agency succeeding the functions of any of the foregoing, including, where applicable, the Transportation Security Administration.

FAA Counsel shall mean such counsel as Lessor may designate from time to time to assist it with FAA matters.

FARs shall mean the Federal Aviation Regulations, any special Federal Aviation Regulations and all successor regulations thereto.

Final Consent shall have the meaning ascribed thereto in the International Registry Procedures.

International Interest shall have the meaning ascribed thereto in the Cape Town Convention.

International Registry shall mean the International Registry of Mobile Assets located in Dublin, Ireland and established pursuant to the Cape Town Convention, along with any successor registry thereto.

International Registry Procedures shall mean the official English language text of the procedures for the International Registry issued by the supervisory authority thereof pursuant to the Convention and the Aircraft Protocol, as the same may be amended or modified from time to time.

International Registry Regulations shall mean the official English language text of the regulations for the International Registry issued by the supervisory authority thereof pursuant to the Convention and the Aircraft Protocol, as the same may be amended or modified from time to time.

Lessee shall have the meaning set forth in Section 1 of the Agreement.

Liens shall mean all liens, charges, security interests, leaseholds, International Interests and encumbrances of every nature and description whatever, including, without limitation, and rights of third parties under Third Party Agreements.

Obligations shall mean: (i) the unpaid principal amount of, and accrued interest described in, the Agreement; and (ii) all other indebtedness, obligations or liabilities of Lessee owing to Lessor, or to any Affiliate of Lessor, of every kind and description, direct or indirect, secured or unsecured, joint or several, absolute or contingent, due or to become due, whether for payment or performance, now existing or hereafter arising, including, but not limited to, all indebtedness, obligations or liabilities under, arising out of or in connection with the Operative Documents.

Operative Documents shall mean the Agreement as supplemented by this Aircraft Addendum, any Aircraft Appendix, any Security Agreement and any other documents, agreements or instruments securing, evidencing or relating to the Obligations.

Parts shall mean all appliances, avionics, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature (other than complete Engines) that may from time to time be incorporated or installed in or attached to the Airframe, any Engine or any APU, and any and all such appliances, avionics, parts, instruments, appurtenances, accessories, furnishings and other equipment removed therefrom so long as Lessor shall retain a security interest therein in accordance with the applicable terms of this Aircraft Addendum after such removal.

Permitted Liens shall mean (a) the respective rights of others under Third Party Agreements, if any, to the extent expressly provided and permitted by the terms of this Aircraft Addendum, (b) Liens for taxes either not yet due or being contested by Lessee in good faith with due diligence and by appropriate proceedings, so long as such proceedings do not involve, in Lessor's sole judgment, any material danger of the sale, foreclosure, transfer, forfeiture or loss of the Collateral, or title thereto, the rights of Lessor hereunder or Lessor's interest therein, and (c) inchoate materialmen's, mechanic's, workmen's, repairmen's, employee's, or other like Liens arising in the ordinary course of business of Lessee for sums not yet delinquent or being contested in good faith with due diligence and by appropriate proceedings, so long as such proceedings do not involve, in Lessor's sole judgment, any material danger of the sale, foreclosure, transfer, forfeiture or loss of the Collateral.

Priority Search Certificate shall have the meaning ascribed thereto in the International Registry Procedures.

Proceeds shall have the meaning assigned to it in the UCC, and in any event, shall include, but not be limited to, all goods, accounts, chattel paper, documents, instruments, general intangibles, investment property, deposit accounts, letter of credit rights, investment property, deposit accounts and supporting obligations (to the extent any of the foregoing terms are defined in the UCC, any such foregoing terms shall have the meanings given to the same in the UCC), and all of Lessee's rights in and to any of the foregoing, and any and all rents, payments, charter hire and other amounts of any kind whatsoever due or payable under or in connection with the Aircraft, including, without limitation, (A) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Lessee from time to time with respect to the Aircraft, (B) any and all payments (in any form whatsoever) made or due and payable to Lessee from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of the

Aircraft by any governmental body, authority, bureau or agency or any other Person (whether or not acting under color of governmental authority), and (C) any and all other rents or profits or other amounts from time to time paid or payable under or in connection with the Aircraft.

Professional User Entity shall have the meaning ascribed thereto in the International Registry Regulations and shall, with respect to Lessee, be the Person designated as such on in the appropriate Aircraft Appendix.

Records shall mean any and all logs, manuals, certificates and data and inspection, modification, maintenance, engineering, technical, and overhaul records (whether in written or electronic form) with respect to the Aircraft, including, without limitation, all records (i) required to be maintained by the FAA or any other governmental agency or authority having jurisdiction with respect to the Aircraft or by any manufacturer or supplier of the Aircraft (or any part thereof) with respect to the enforcement of warranties or otherwise, all records (ii) evidencing Lessee's compliance with Applicable Standards, and (iii) with respect to any manufacturer's maintenance service program for the Airframe or Engines, including, without limitation, any Computerized Maintenance Monitoring Program or Engine Maintenance Program.

Remedies on Default shall have the meaning set forth in Section 19 of the Agreement

Security Agreement with respect to each separate Aircraft Appendix, shall mean an aircraft security agreement substantially in the form attached hereto as Annex D.

Seller shall mean Raytheon Aircraft Company.

Third Party Agreements shall mean any and all leases, subleases, management agreements, interchange agreements, charter agreements, pooling agreements, timeshare agreements, overhaul agreements, repair agreements and any other similar agreements or arrangements of any kind whatsoever relating to the Aircraft or any part thereof.

Transacting User Entity shall have the meaning ascribed thereto in the International Registry Regulations.

Transportation Code shall mean Subtitle VII of Title 49 of the United States Code, as amended and recodified.

UCC shall mean the applicable Uniform Commercial Code as then in effect in the applicable jurisdiction.

ANNEX B**CONDITIONS PRECEDENT**

1. At least five full Business Days prior to the Closing Date, Lessor shall have received all of the following in form and substance satisfactory to Lessor:
 - a. the Aircraft Appendix and the Security Agreement duly executed by Lessee;
 - b. if required by Lessor, an inspection report and/or appraisal satisfactory to Lessor with respect to the Aircraft prepared by inspector(s) or appraiser(s) acceptable to Lessor;
 - c. copies of: (i) any purchase agreements entered into by Lessee in connection with the acquisition of the Aircraft, (ii) the warranty bill of sale conveying title to the Aircraft from Seller to Lessee; (iii) invoices for the purchase of the Aircraft, and (iv) such other documents relating to the purchase or conveyance of title as Lessor may request, including, without limitation, evidence that the seller of the Aircraft is a Transacting User Entity and has designated a Professional User Entity acceptable to Lessor;
 - d. copies of the executed FAA Aircraft Registration Application (AC Form 8050-1), the executed FAA Bill of Sale (AC Form 8050-2), and a copy of the FAA Standard Airworthiness Certificate (AC Form 8100-2) for the Aircraft;
 - e. a copy of Lessee's Engine Maintenance Program for the Engines, if applicable;
 - f. a copy of Lessee's Maintenance and/or Maintenance Monitoring Program for the Airframe, if applicable;
 - g. fully executed and authorized discharges of any International Interests in form and substance satisfactory to FAA Counsel, Lessor's counsel and/or Lessor, along with the consent(s) (including Final Consent(s)) of the applicable parties thereto, necessary for the Aircraft to be conveyed to Lessee free and clear of Liens;
 - h. such other documents, certificates and opinions, and evidence of such other matters, as Lessor, Lessor's counsel or FAA Counsel, may reasonably request and as are necessary, in the opinion of FAA Counsel, to (1) perfect with the FAA Lessor's security interest in the Aircraft, free and clear of Liens, (2) register Lessee's purchase of the Aircraft free and clear of Liens (other than Permitted Liens), and (3) register Lessor's International Interest in the Aircraft and any Associated Rights thereto pursuant to the Cape Town Convention, free and clear of Liens;
2. On or prior to the Closing Date, Lessor shall have received evidence that FAA Counsel has received in escrow: (i) if the Aircraft is not then owned by Lessee, the executed FAA Aircraft Bill of Sale (AC Form 8050-2) in the name of Lessee the executed FAA Aircraft Registration Application (AC Form 8050-1) in the name of Lessee (except for the pink copy, which shall be available to be placed on the Aircraft upon acceptance thereof); (ii) executed releases (including, without limitation, any discharges of International Interests) in form and substance satisfactory to FAA Counsel of any Liens on the Aircraft; (iii) such other documents as are necessary, in the opinion of Lessor's counsel and/or FAA Counsel to vest good title to the Aircraft in the name of Lessee and to perfect Lessor's first priority security interest in the Aircraft; and (iv) the executed original of the Agreement, all the foregoing being in proper form for filing with the FAA; and
3. On the Closing Date, Lessor shall have received assurances from FAA Counsel satisfactory to Lessor, in form and substance satisfactory to Lessor, that (i) the Aircraft (including the Airframe and Engines) is free and clear of all other Liens of record with the FAA, (ii) title to the Airframe is vested in Lessee or that, upon filing of the FAA Aircraft Bill of Sale (AC Form 8050-2) in the name of Lessee, title to the Airframe will be vested in Lessee, (iii) Lessor, upon filing of the Agreement with the FAA, will have a valid and perfected security interest in the Aircraft (including the Airframe and the Engines); and (iv) the filing of the Agreement with the FAA has been effected.

ANNEX C**AIRCRAFT INFORMATION ANNEX**
to Equipment Schedule to APPENDIX # _____**PRIMARY HANGAR and INTERNATIONAL REGISTRY INFORMATION**

| | |
|---|--|
| Primary Hangar Location of Aircraft Described Below | |
| Seller's International Registry Administrator | |
| Seller's International Registry Administrator's Email Address | |
| Seller's Professional User Entity (if any) | |
| Lessee's International Registry Administrator | |
| Lessee's International Registry Administrator's Email Address | |
| Lessee's Professional User Entity (if any) | |

AIRCRAFT DESCRIPTION

[Aircraft Model Year] [Aircraft Manufacturer] [Aircraft Model] aircraft that consists of the following components:

- (a) Airframe bearing FAA Registration Mark [FAA Registration Number] and manufacturer's serial number [Aircraft Serial Number].
- (b) Two (2) [Engine Manufacturer] [Engine Model] aircraft engines bearing manufacturer's serial numbers [Left Engine Serial Number] and [Right Engine Serial Number] (each of which has [[1,750 pounds of thrust or its equivalent (for jets)] otherwise [550 rated takeoff shaft horsepower]] or the equivalent of such horsepower).
- (c) One (1) [APU Manufacturer] model [APU Model Number] auxiliary power unit bearing manufacturer's serial number [APU Serial Number].
- (d) Standard avionics and equipment, all other accessories, additions, modifications and attachments to, and all replacements and substitutions for, any of the foregoing, all as more particularly described on Schedule A attached hereto and made a part hereof.

ANNEX C - continued

Schedule A to AIRCRAFT INFORMATION ANNEX
to Equipment Schedule to APPENDIX # _____

AVIONICS & EQUIPMENT

Avionics:

Additional Equipment:

Exterior:

Interior:

ANNEX D

FORM OF FAA SECURITY AGREEMENT

AIRCRAFT SECURITY AGREEMENT
DATED _____

| | |
|---------------------------------|--|
| NAME & ADDRESS OF DEBTOR | |
| NAME & ADDRESS OF SECURED PARTY | |

A security interest is hereby granted to the secured party on the following described collateral:

[Aircraft Model Year] [Aircraft Manufacturer] [Aircraft Model] aircraft that consists of the following components:

- (a) Airframe bearing FAA Registration Mark [FAA Registration Number] and manufacturer's serial number [Aircraft Serial Number].
- (b) Two (2) [Engine Manufacturer] [Engine Model] aircraft engines bearing manufacturer's serial numbers [Left Engine Serial Number] and [Right Engine Serial Number] (each of which has [1,750 pounds of thrust or its equivalent (for jets)] otherwise [550 rated takeoff shaft horsepower]) or the equivalent of such horsepower).
- (c) One (1) [APU Manufacturer] model [APU Model Number] auxiliary power unit bearing manufacturer's serial number [APU Serial Number].
- (d) Standard avionics and equipment, all other accessories, additions, modifications and attachments to, and all replacements and substitutions for, any of the foregoing, all as more particularly described on Schedule A attached hereto and made a part hereof.

Debtor hereby declares and hereby warrants to the said secured party that they are the absolute owner of the legal and beneficial title to the said aircraft and in possession thereof, and that the same is free and clear of all liens, encumbrances, and adverse claims whatsoever.

For good and valuable consideration, the receipt of which is hereby acknowledged, the above described aircraft is hereby mortgaged to the secured party for the purpose of securing the payment of the indebtedness and performance of the obligations evidenced by that certain Appendix # _____ dated as of _____ by and among the parties hereto.

In witness whereof, the debtor has hereunto set hand and seal on the day and year first above:

DEBTOR: _____

BY: _____

TITLE: _____

APPROVED: _____

ANNEX D - Continued**SCHEDULE A TO
AIRCRAFT SECURITY AGREEMENT
DATED _____****AVIONICS & EQUIPMENT**Avionics:Additional Equipment:Exterior:Interior:

TOGETHER WITH ALL ADDITIONS, ACCESSIONS, MODIFICATIONS, IMPROVEMENTS, REPLACEMENTS, SUBSTITUTIONS, AND ACCESSORIES THERETO AND THEREFOR, ALL AVIONICS, ONBOARD EQUIPMENT, LOOSE EQUIPMENT, MANUALS, DOCUMENTATION AND TECHNICAL PUBLICATIONS, NOW OWNED OR HEREAFTER ACQUIRED, AND ALL RECORDS AND LOGBOOKS (IN WRITTEN FORM OR AS COMPUTER DATA, DISCS OR TAPES, WHETHER NOW EXISTING OR HEREAFTER ACQUIRED OR CREATED, AND WHETHER IN THE POSSESSION OF BORROWER OR HELD ON BEHALF OF BORROWER BY OTHERS).

State of West Virginia
 Equipment Financed from
 2004 - 2008

| Appendix | Description |
|-----------------|---|
| 2004-1 | Computer equipment |
| 2004-2 | Computer equipment |
| 2004-3 | Computer equipment |
| 2004-4 | Computer equipment |
| 2004-5 | Computer equipment |
| 2004-5 | Computer equipment |
| 2004-6 | Computer equipment |
| 2004-7 | Computer equipment |
| 2004-8 | Computer equipment |
| 2004-9 | Vehicles |
| 2004-10 | Vehicles and Lawn equipment |
| 2004-11 | Shuttle buses |
| 2004-12 | Computer equipment |
| 2004-13 | Roadside maintenance vehicles |
| 2004-14 | Grounds keeping equipment |
| 2004-15 | Roadside maintenance vehicles |
| 2004-16 | Roadside maintenance vehicles |
| 2004-17 | Vehicles |
| 2004-18 | Printing press |
| 2004-19 | Grounds keeping equipment |
| 2004-20 | Roadside maintenance vehicles |
| 2004-21 | Network infrastructure |
| 2004-22 | Vehicles |
| 2004-23 | Vehicles |
| 2004-24 | Aircraft |
| 2004-25 | Mall inserter |
| 2004-26 | Vehicles |
| 2004-27 | Cancelled |
| 2004-28 | Computer and technical equipment |
| 2004-29 | Telephone system |
| 2004-30 | Interoperable radio system |
| 2004-31 | Interoperable radio system |
| 2004-32 | Multi sports software equipment |
| 2004-33 | Interoperable radio system and office furniture |
| 2004-34 | Athletic field turf |
| 2004-35 | Vehicles |
| 2004-36 | Computer equipment |

Federal Reserve Statistical Release

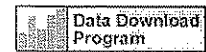


H.15

Selected Interest Rates

Release Date: January 26, 2009

[Release dates](#) | [Daily update](#) | [Historical data](#) | [Data Download Program \(DDP\)](#) | [About](#) | [Announcements](#)

 Current release *Other formats:* [Screen reader](#) | [ASCII](#) | [PDF \(17 KB\)](#)


FEDERAL RESERVE STATISTICAL RELEASE

 H.15 (519) SELECTED INTEREST RATES
 For use at 2:30 p.m. Eastern Time

| Yields in percent per annum Instruments | January 26, 2009 | | | | | | | |
|---|------------------|------|------|------|------|------|--------|------|
| | 2009 | 2009 | 2009 | 2009 | 2009 | Week | Ending | 2008 |
| | Jan | Jan | Jan | Jan | Jan | Jan | Jan | Dec |
| | 19* | 20 | 21 | 22 | 23 | 23 | 16 | |
| Federal funds (effective) 1 2 3 | 0.19 | 0.20 | 0.23 | 0.21 | 0.18 | 0.20 | 0.10 | 0.16 |
| Commercial Paper 3 4 5 6 | | | | | | | | |
| Nonfinancial | | | | | | | | |
| 1-month | | 0.15 | 0.25 | 0.17 | 0.24 | 0.20 | 0.13 | 0.25 |
| 2-month | | 0.25 | 0.28 | 0.30 | 0.22 | 0.26 | 0.24 | 0.71 |
| 3-month | | 0.34 | 0.35 | 0.29 | 0.27 | 0.31 | 0.29 | 0.97 |
| Financial | | | | | | | | |
| 1-month | | 0.32 | 0.40 | 0.43 | 0.52 | 0.42 | 0.30 | 0.60 |
| 2-month | | 0.58 | 0.41 | 0.67 | 0.92 | 0.65 | 0.53 | 0.83 |
| 3-month | | 0.62 | n.a. | n.a. | 1.04 | 0.83 | 0.57 | 1.09 |
| 3-month nonfinancial or financial posted by CPFF 7 | | | | | | | | |
| Without surcharge | | 1.18 | 1.19 | 1.21 | 1.23 | 1.20 | 1.17 | 1.26 |
| With surcharge | | 2.18 | 2.19 | 2.21 | 2.23 | 2.20 | 2.17 | 2.26 |
| CDs (secondary market) 3 8 | | | | | | | | |
| 1-month | | 0.35 | 0.38 | 0.43 | 0.42 | 0.40 | 0.29 | 1.04 |
| 3-month | | 1.03 | 1.05 | 1.07 | 1.03 | 1.05 | 0.85 | 1.77 |
| 6-month | | 1.52 | 1.58 | 1.57 | 1.62 | 1.57 | 1.39 | 2.18 |
| Eurodollar deposits (London) 3 9 | | | | | | | | |
| 1-month | | 1.00 | 1.00 | 1.00 | 1.00 | 1.00 | 0.90 | 1.75 |
| 3-month | | 1.75 | 1.75 | 1.80 | 1.80 | 1.78 | 1.75 | 2.47 |
| 6-month | | 2.30 | 2.30 | 2.35 | 2.35 | 2.33 | 2.34 | 2.97 |
| Bank prime loan 2 3 10 | 3.25 | 3.25 | 3.25 | 3.25 | 3.25 | 3.25 | 3.25 | 3.61 |
| Discount window primary credit 2 11 | 0.50 | 0.50 | 0.50 | 0.50 | 0.50 | 0.50 | 0.50 | 0.86 |
| U.S. government securities | | | | | | | | |
| Treasury bills (secondary market) 3 4 | | | | | | | | |
| 4-week | | 0.03 | 0.03 | 0.03 | 0.03 | 0.03 | 0.04 | 0.03 |
| 3-month | | 0.13 | 0.11 | 0.10 | 0.11 | 0.11 | 0.12 | 0.03 |
| 6-month | | 0.30 | 0.30 | 0.29 | 0.30 | 0.30 | 0.29 | 0.26 |
| 1-year | | 0.41 | 0.42 | 0.41 | 0.44 | 0.42 | 0.41 | 0.47 |
| Treasury constant maturities | | | | | | | | |
| Nominal 12 | | | | | | | | |
| 1-month | | 0.04 | 0.03 | 0.03 | 0.03 | 0.03 | 0.04 | 0.03 |
| 3-month | | 0.13 | 0.11 | 0.10 | 0.11 | 0.11 | 0.12 | 0.03 |
| 6-month | | 0.30 | 0.30 | 0.29 | 0.30 | 0.30 | 0.29 | 0.26 |
| 1-year | | 0.42 | 0.43 | 0.42 | 0.46 | 0.43 | 0.43 | 0.49 |
| 2-year | | 0.73 | 0.78 | 0.75 | 0.83 | 0.77 | 0.74 | 0.82 |
| 3-year | | 1.06 | 1.12 | 1.11 | 1.16 | 1.11 | 1.05 | 1.07 |
| 5-year | | 1.48 | 1.60 | 1.61 | 1.64 | 1.58 | 1.42 | 1.52 |
| 7-year | | 1.85 | 1.99 | 2.02 | 2.05 | 1.98 | 1.77 | 1.89 |
| 10-year | | 2.40 | 2.56 | 2.62 | 2.65 | 2.56 | 2.30 | 2.42 |
| 20-year | | 3.30 | 3.51 | 3.61 | 3.65 | 3.52 | 3.23 | 3.18 |
| 30-year | | 2.97 | 3.15 | 3.25 | 3.32 | 3.17 | 2.93 | 2.87 |
| Inflation indexed 13 | | | | | | | | |
| 5-year | | 1.45 | 1.56 | 1.52 | 1.55 | 1.52 | 1.49 | 1.76 |
| 7-year | | 1.60 | 1.72 | 1.71 | 1.70 | 1.68 | 1.60 | 1.96 |
| 10-year | | 1.82 | 1.98 | 1.97 | 1.93 | 1.93 | 1.77 | 2.17 |
| 20-year | | 2.35 | 2.65 | 2.60 | 2.57 | 2.54 | 2.29 | 2.32 |
| Inflation-indexed long-term average 14 | | 2.39 | 2.68 | 2.63 | 2.61 | 2.58 | 2.33 | 2.43 |
| Interest rate swaps 15 | | | | | | | | |
| 1-year | | 1.07 | 1.11 | 1.16 | 1.22 | 1.14 | 1.03 | 1.62 |
| 2-year | | 1.37 | 1.37 | 1.42 | 1.47 | 1.41 | 1.31 | 1.76 |

15. International Swaps and Derivatives Association (ISDA(R)) mid-market par swap rates. Rates are for a Fixed Rate Payer in return for receiving three month LIBOR, and are based on rates collected at 11:00 a.m. Eastern time by Garban InterCapital plc and published on Reuters Page ISDAFIX(R)1. ISDAFIX is a registered service mark of ISDA. Source: Reuters Limited.

16. Moody's Aaa rates through December 6, 2001, are averages of Aaa utility and Aaa industrial bond rates. As of December 7, 2001, these rates are averages of Aaa industrial bonds only.

17. Bond Buyer Index, general obligation, 20 years to maturity, mixed quality; Thursday quotations.

18. Contract interest rates on commitments for fixed-rate first mortgages. Source: Primary Mortgage Market Survey(R) data provided by Freddie Mac.

Note: Weekly and monthly figures on this release, as well as annual figures available on the Board's historical H.15 web site (see below), are averages of business days unless otherwise noted.

Current and historical H.15 data are available on the Federal Reserve Board's web site (www.federalreserve.gov/). For information about individual copies or subscriptions, contact Publications Services at the Federal Reserve Board (phone 202-452-3244, fax 202-728-5886). For paid electronic access to current and historical data, call STAT-USA at 1-800-782-8872 or 202-482-1986.

Description of the Treasury Nominal and Inflation-Indexed Constant Maturity Series

Yields on Treasury nominal securities at "constant maturity" are interpolated by the U.S. Treasury from the daily yield curve for non-inflation-indexed Treasury securities. This curve, which relates the yield on a security to its time to maturity, is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market. These market yields are calculated from composites of quotations obtained by the Federal Reserve Bank of New York. The constant maturity yield values are read from the yield curve at fixed maturities, currently 1, 3, and 6 months and 1, 2, 3, 5, 7, 10, 20, and 30 years. This method provides a yield for a 10-year maturity, for example, even if no outstanding security has exactly 10 years remaining to maturity. Similarly, yields on inflation-indexed securities at "constant maturity" are interpolated from the daily yield curve for Treasury inflation protected securities in the over-the-counter market. The inflation-indexed constant maturity yields are read from this yield curve at fixed maturities, currently 5, 7, 10, and 20 years.

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Last update: January 26, 2009

State of West Virginia
VENDOR PREFERENCE CERTIFICATE

Certification and application* is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. **Application is made for 2.5% resident vendor preference for the reason checked:**
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,
- 2. **Application is made for 2.5% resident vendor preference for the reason checked:**
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,
- 3. **Application is made for 2.5% resident vendor preference for the reason checked:**
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,
- 4. **Application is made for 5% resident vendor preference for the reason checked:**
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or**,
- 5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or**,
- 6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: _____ Signed: _____

Date: _____ Title: _____

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

RFQ No. _____

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE:

West Virginia Code §5A-3-10a provides that: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code**. The vendor **must** make said affirmation with its bid submission. Further, public improvement construction contract may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code** and who has not submitted that plan to the appropriate contracting authority in timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the **West Virginia Code** may take place before their work on the public improvement is begun.

ANTITRUST:

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the state of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

LICENSING:

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

Under penalty of law for false swearing (**West Virginia Code** §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

Vendor's Name: _____

Authorized Signature: _____ Date: _____