



STATE OF MISSOURI  
 OFFICE OF ADMINISTRATION  
 DIVISION OF PURCHASING AND MATERIALS MANAGEMENT

**NOTIFICATION OF STATEWIDE CONTRACT**

Date: April 23, 2012

**CONTRACT TITLE: MASTER LEASE PROGRAM SERVICES**

**CURRENT CONTRACT PERIOD: NOVEMBER 6, 2009 THROUGH JUNE 30, 2012**

**BUYER INFORMATION:**

Name: Gary Eggen  
 Phone: (573) 751-2497  
 Email address: [gary.eggen@oa.mo.gov](mailto:gary.eggen@oa.mo.gov)

	<b>Original Contract Period</b>	<b>Potential Final Expiration</b>
<b>RENEWAL INFORMATION</b>	November 6, 2009 through June 30, 2012	June 30, 2012 plus extensions to accommodate completion of lease commitments

ALL PURCHASES MADE UNDER THIS CONTRACT MUST BE FOR **PUBLIC USE ONLY**.  
 PURCHASES FOR PERSONAL USE BY PUBLIC EMPLOYEES OR OFFICIALS ARE PROHIBITED.

THE USE OF THIS CONTRACT IS **PREFERRED** FOR ALL STATE AGENCIES.

**Local Purchase Authority shall not be used** to purchase lease services included in this contract – agencies do not have procurement authority for financing requirements.

In the event agencies want to utilize other financing alternatives outside of this contract, prior approval of the buyer of record for the Master Lease Services Contract is required.

The entire contract document may be viewed and printed from the Division of Purchasing & Materials Management's **Contract Document Search and Retrieval System** located on the Internet at <http://www.oa.mo.gov/purch>.

*~ Instructions for use of the contract, specifications, requirements, and pricing are attached ~.*

<b>CONTRACT NUMBER</b>	<b>VENDOR NUMBER</b>	<b>VENDOR INFORMATION</b>	<b>MBE/WBE</b>	<b>COOP PROCUREMENT</b>
C209084001	4309750020 F	CENTRAL BANK 238 MADISON STREET JEFFERSON CITY, MO 65101  CONTACT INFORMATION: Lauren Reinsch Phone: (573) 634-1250 Fax: (573) 634-7466 E-MAIL: lauren_reinsch@centralbank.net	NO	NO

## STATEWIDE CONTRACT HISTORY

The following summarizes actions related to this Notification of Statewide Contract since its initial issuance. Any and all revisions have been incorporated into the attached document.

<b>Contract Period</b>	<b>Issue Date</b>	<b>Summary of Changes</b>
11/6/09 – 9/30/12	4/23/12	Contract extension through September 30, 2012
11/6/09 – 6/30/12	11/6/09	Initial issuance of new statewide contract

**1. GENERAL INFORMATION AND PURPOSE:**

- 1.1 The State of Missouri has established a Master Lease Financing Contract to enable state agencies to make purchases from normal sources and finance them through a leasing contractor able to provide more competitive financing rates. The Master Lease Financing Contract shall only be used by agencies with intent to own the financed property at the end of the lease term.
- 1.2 Lease/Purchase Financing may be acquired through this contract for the following eligible property:
  - Computer hardware;
  - Perpetually licensed software;
  - Office machines and equipment;
  - Telecommunications or telephone systems;
  - Printing and typesetting equipment;
  - Motor vehicles, including tractors, non-road use vehicles, material handling equipment and agricultural equipment;
  - Laboratory equipment, medical equipment, airplanes and portable structures;
  - Other tangible personal property;
  - Refinancing of current lease/purchase obligations held by state agencies.
- 1.3 The contractor shall have the right of review and refusal of lease requests for funding the purchase of items that do not fall within the categories listed above. The contractor shall also have the right of refusal for requests from agencies who have defaulted on previous leases or exercised cancellation due to non-appropriation.
- 1.4 Each agency financing under the contract must be for at least \$10,000 of eligible property. The \$10,000 threshold may be met by multiple units of items individually valued at less than \$10,000 (e.g. five personal computers, each priced at \$2,000).
- 1.5 The lease term requested by the agency shall not exceed five years or the weighted average useful life of the eligible property financed, whichever is shorter.
- 1.6 The total amount of financing under the contract is \$20,000,000 in total over the life of the contract unless mutually agreed to by the contractor and the state to increase the maximum amount of available financing. Such agreement to increase the amount shall necessitate a contract amendment.

**2. LEASE RATES:**

- 2.1 The fixed interest rate for each lease / purchase acquisition under the contract shall be calculated based upon the like-term interest rate for the Constant Maturity Treasury. The interest rate for such Constant Market Treasury shall be the rate shown on the U.S. Treasury website at <http://www.treas.gov/offices/domestic-finance/debt-management/interest-rate/yield.shtml> as of the business day in which the contractor receives the initial lease request in the form of a Master Lease Financing Request (see Attachment #1) that is properly approved by the Office of Administration, Division of Accounting and Commissioner’s Office. The Constant Maturity Treasury interest rate established as provided in the preceding sentence shall then be adjusted in the manner provided in the table below and rounded to the nearest one-hundredth of one percent (.00).
- 2.2 The adjusted rate shall be inclusive of all costs to the state agency. There shall be no additional costs to the state, such as surety bond premiums, letter of credit fees, origination fees, escrow fees, closing costs, administrative fees, etc. The adjusted rate shall be fixed and apply for the entire term of the individual lease schedule.

<b>REPAYMENT TERM LENGTH</b>	<b>BASE RATE USED FOR COMPUTING LEASE RATE</b>	<b>PERCENTAGE OF BASE RATE TO DETERMINE LEASE RATE</b>
Three-Year Term	3-Year Constant Maturity Treasury	186.2 % of Base Rate
Five-Year Term	5-Year Constant Maturity Treasury	142 % of Base Rate

### **3. PROCEDURES FOR USE:**

- 3.1 After the decision has been made to proceed with a lease / purchase and prior to ordering the eligible property, the state agency shall complete a Master Lease Financing Request (see Attachment #1 hereto) and send to the attention of the Assistant Director of Financial in the Office of Administration, Division of Accounting. The Division of Accounting will forward the request to the Office of Administration Commissioner's Office for their review.
- a. The agency shall include in its request a description of the eligible property, proposed term based upon the economic useful life of the purchase and amount to be financed.
  - b. Information submitted by the agency to the Office of Administration shall be sufficient to determine that the acquisition is in compliance with law. The agency must certify that sufficient funds are legally available for payments due in the current fiscal year and that the agency is able to meet all of the requirements of the contract.
  - c. The Office of Administration will have final approval authority on all agency requests for financing under the contract. In their review, the Office of Administration will be reviewing all transactions and will be aware of all lease obligations for budgeting purposes.
  - d. Equipment should not be ordered from the provider until the request document is approved by the Office of Administration unless an alternate method of payment is available.
- 3.2 *Upon receipt of the approved Request for Funding Document from the Office of Administration, the state agency will contact the Master Lease contractor to provide notification to the contractor of the imminent requirement for financing and the delivery and payment requirement timeframes. The agency shall forward the approved document to the contractor at the address indicated on the first page of this document. The contractor shall respond to the agency acknowledging the receipt of the documents and acknowledging that request will be funded as requested. At this time, the agency may order the equipment if not previously ordered in Section 3.1.d.*
- 3.3 *Upon receipt of a signed Disbursement Authorization and Request Form (Attachment #3), the contractor shall generate a lease schedule document in a manner similar to the example provided in Attachment #2. The lease schedule shall include the interest rate calculated pursuant to Section 2 of this document, shall be signed by the contractor (lessor), and then be sent to the requesting agency along with an IRS Form 8038G (or 8038GC as appropriate).*
- 3.4 *Upon receipt of the lease schedule and the IRS Form 8038G from the contractor, the state agency shall sign the lease schedule and forward the lease schedule, the signed Disbursement Authorization and Request Form, and the 8038G to the Assistant Director of Financial in the Office of Administration, Division of Accounting. The Division of Accounting shall sign the form and return to the state agency.*
- 3.5 *Upon receipt of the IRS Form 8038G, the state agency shall return the form to the contractor with a copy of the invoice and the signed lease schedule.*

### **4. LEASE PAYMENTS:**

- 4.1 Quarterly payments shall be made to the contractor (lessor) in accordance with the lease schedule.
- a. All individual agency leases will have common quarterly payment dates of February 1, May 1, August 1 and November 1. If the Disbursement Request and Individual Lease Schedule is finalized less than one month prior to a quarterly payment date, the contractor shall establish the first payment due on the following quarterly payment date. For example, an individual agency lease is finalized on January 15; the first quarterly payment would not be due until May 1. If the Disbursement Request and Individual Lease Schedule is finalized more than one month prior to a quarterly payment date, the contractor shall establish the first full

quarterly payment due on that next quarterly payment date. For example, an individual agency lease is finalized on December 15; the first quarterly payment would be due February 1.

The state shall have the ability to make payments in advance, when funds are available, in order to lower the principal balance and thereby reduce the length of term. Any such full or partial prepayment for any eligible property/service financed under the contract may be made at any time without any penalty or prepayment fees.

#### 4.2 Advanced Payments:

- a. The frequency of advance payments shall be limited to one advanced payment per fiscal year period (July 1 through June 30) per individual lease schedule. The amount of any advance payment shall be at least the amount of the agreed to quarterly payment amount including principal and interest.
- b. Such advance payment shall not result in any penalties or increase in the remaining principal amount. Nor shall advance payments change the quarterly payment amount identified in the individual lease schedule or the effective interest rate, unless such rate is lower.
- c. At such time as the state makes such advance payments, the contractor shall provide a revised amortization schedule reflecting the newly revised principal balance and the reduction in term length. Advance payments shall not be construed as refinancing the lease obligation.
- d. In the event of a partial prepayment, such advance shall not change the quarterly lease payment amount identified in the individual lease schedule or the effective interest rate, unless such rate is lower. As a result, the prepayment shall result in a reduction in the term length and number of lease payments required. Upon receipt of the prepayment, the contractor must provide to the lessee a new amortization schedule that reflects the new principal balance and reduction in term length as a result of the prepayment. Prepayments shall not be construed as refinancing the lease obligation.

4.3 Lease Payments To Be Unconditional: Except as provided by provisions relating to non-appropriation of funds, the obligations of lessee to make lease payments and to perform and observe the other covenants and agreements contained in this document 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.

### 5. **OTHER MASTER LEASE FINANCING TERMS/CONDITIONS AND PROVISIONS:**

5.1 Single Point of Contact and Responsibility: The contractor shall be the single point of contact and responsibility for the State of Missouri regardless of any subcontract relationships including those involving third party sources of funds. In no event will the State of Missouri approve of an assignment of individual lease schedules nor will the state issue any orders or payments to third party organizations.

5.2 Title to the Property: Upon acceptance of the property by agency, title to the leased property shall vest in the agency, subject to the provisions of the contract including the individual lease schedule. The agency shall immediately surrender possession and title of that property to the contractor, upon (a) any termination of the Individual Lease Schedule as allowed herein or (b) the occurrence of a default with respect to the individual lease. Any transfer of title to contractor pursuant to this section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. The agency shall, nevertheless, execute and deliver any such instruments as the contractor may request to evidence such transfer.

5.3 Loss of or Damage to Leased Property: The state agency shall be responsible for all loss of or damage to the leased property. In the event of theft, damage, destruction or other loss of use of the leased property, the state will be responsible to continue payments in fulfillment of the contract, subject to the provisions of the contract relating to non-appropriation. If lost or damaged, the lessee shall be required to reinstate the value of the leased property to a fair market value level not less than the remaining principal balance of the lease.

- 5.4 Personal Property: The leased property shall remain personal property and shall not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the property or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon.
- 5.5 Disclaimer of Warranties: As the state agency has selected the equipment and the provider(s) of the leased property, the contractor shall not be responsible for any warranty or representation, either express or implied, as it would relate to the value, design, condition, merchantability or fitness for purpose of the leased property. In no event shall the contractor be liable for any actual, incidental, indirect, special or consequential damage in connection with the Lessee's use or maintenance of the leased property.
- 5.6 Liens, Taxes, Other Governmental Charges and Utility Charges: The state agency shall keep the leased property free of all liens, charges and encumbrances except those created by the contract including the Individual Lease Schedules. The leased property shall be used for a governmental or proprietary purpose of state and, therefore, the leased property shall be exempt from all property taxes. If the use, possession or acquisition of the leased property is nevertheless determined to be subject to taxation, the state agency shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the leased property. The state agency shall pay all utility and other charges incurred in the use and maintenance of the leased property.
- 5.7 Contract Termination for Contractor Breach: If, for any reason, the contractor fails to fulfill its obligations under the contract in a timely and proper manner, the Office of Administration shall have the right to terminate the contract by specifying the date of termination in a written notice to the contractor. Such termination shall not alter the obligation of an agency to make payments for any equipment previously financed under the contract, subject to the provisions of the contract relating to non-appropriation.
- 5.8 Events of Default: Events of Default shall be deemed to occur when provisions of the Master Lease Contract and the Disbursement Request and Individual Lease Schedule have not been performed by either the lessee or the lessor as required. When an Event of Default occurs, written notification of the default shall be sent to the defaulting party identifying the parameters of the default. The defaulting party shall have ten (10) calendar days from receipt of the notification to provide a cure or a sufficient plan to cure the default.
- a. In the event the defaulting party fails to cure the default as allowed above, the resulting remedy shall include termination of the lease and return of the leased property to the lessor.
- 5.9 State Agency Default: Any default by any state agency in relation to an Individual Lease Schedule under the contract shall not affect in any way any other Individual Lease Schedule executed under the contract. The Master Lease Contract shall not include any cross-default provisions.
- 5.10 The contractor shall provide any management reports in a format requested by the Office of Administration for purposes of analyzing data on past or outstanding individual lease schedules. The reports shall include, without limitation, the following information for each Disbursement Request and Individual Lease Schedule: the date of the Disbursement Request and Individual Lease Schedule, the date of the approval by the contractor, the applicable interest rate, the amount, the agency acquiring the eligible property/service, the payment dates, the term, the total amount due on each payment date, the interest component of each payment, the principal component of each payment, the remaining balance on each payment date after giving effect to the principal component of such date and such other information as the Office of Administration or any agency shall request.
- 5.11 Any need by the contractor for legal opinions of enforceability or tax exempt qualifications shall be the responsibility of the contractor. The contractor shall have the ability to deny lease requests of the state in which a legal opinion has been received that the lease schedule is unenforceable or does not qualify for tax exempt status.
- 5.12 Treatment of Contract as a Tax-Exempt Obligation:
- a. All leases executed under the Master Lease Contract shall be tax-exempt and be subject to the provisions of the Master Lease Contract relating to treatment as tax-exempt obligation.

- b. The Office of Administration, Division of Accounting shall be responsible for executing a properly completed Form 8038-G or 8038-GC (as applicable). Once executed, it shall be the lessor's responsibility to properly file the form with the necessary parties.

5.13 Representations and Covenants of the State Agency (Lessee): Lessee shall represent, covenant and warrant for the benefit of Lessor the following:

- a. The subsequent contract along with all lease schedules executed under the authority of the contract constitute the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
- b. Lessee has full power and authority to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.
- c. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Lease Payments scheduled to come due during the current fiscal year and to meet its other obligations under the is Agreement for the current fiscal year, and such funds have not been expended for other purposes.
- d. Lessee has acquired the eligible property listed herein in accordance with all applicable procurement laws.
- e. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefore wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this or an other document or certificate which is used or contemplated for use in the consummation of the transactions executed under the contract.
- f. All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.
- g. The entering into and performance of the lease by the Lessee will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Eligible Property pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.
- h. During the Lease Term, the Eligible Property will be used by Lessee only for the purpose of performing governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority.
- i. Lessee currently intends to continue the Lease Term for the subject Lease through the current contract period and all of the subsequent renewal periods of the contract and to pay the Lease Payments hereunder. The agency (lessee) will include in its budget request for each fiscal year the lease payments to become due in that fiscal year with respect to all Eligible Property leased hereunder for its benefit and will use all reasonable and lawful means available to secure the appropriation of money for each fiscal year sufficient to pay all Rental Payments coming due in that fiscal year with respect to that Equipment. The parties acknowledge that appropriation for Lease Payments is a governmental function which Lessee cannot contractually commit itself in advance to perform and the contract, including this document, does not constitute such a commitment. However, Lessee reasonably believes that moneys in an amount sufficient to make all Lease Payments can and will lawfully be appropriated and made available to permit Lessee's continued utilization of the Eligible Property in the performance of its essential functions during the applicable Lease Term.
- j. Non-appropriation: Lessee is obligated only to pay such Lease Payments under the schedule as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year.

- k. If a Lease is terminated as a result of non-appropriation, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Eligible Property then subject to that Lease to Lessor at the location or locations to be specified by Lessor. If Lessee fails to deliver Equipment that is subject to a Lease terminated under this Section within 10 business days after the termination of that Lease, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Lease Payments that would thereafter have come due under that Lease if it has not been terminated and which are attributable to the number days after the termination of that Lease during which Lessee fails to so deliver that Eligible Property.
- l. Location and Inspection: Once installed, no item of the Eligible Property will be moved from the location specified for it in the Schedule on which that item is listed without notice to Lessor specifying the new location. After giving sufficient advanced notice, the Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Eligible Property.
- m. Use and Maintenance of the Equipment: Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this schedule. Lessee will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment.

**ATTACHMENT #1  
MASTER LEASE FINANCING REQUEST**

**State of Missouri Lease No.:** \_\_\_\_\_

*(to be completed by the Office of Administration, Division of Accounting)*

**Agency Name:** \_\_\_\_\_

**Agency Address:** \_\_\_\_\_

**Agency Contact:** \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Fax: \_\_\_\_\_

The (agency name) hereby requests the ability to acquire (description of product) via lease/purchase financing through the State of Missouri's Master Lease Contract, Contract C209084001.

Detailed Description of Equipment: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Equipment Provider/Contact/Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Method of Acquisition: \_\_\_\_\_ (e.g. Bid #, Contract #)

Equipment Cost: \$ \_\_\_\_\_

Financing Amount Requested: \$ \_\_\_\_\_

Lease Term Requested: \_\_\_\_\_ months

Anticipated Order Date: \_\_\_\_\_

Anticipated Delivery Date: \_\_\_\_\_

**Requested By:**

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Agency Name: \_\_\_\_\_

**Office of Administration Approval:**

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Agency Name: \_\_\_\_\_

*Approval of the above shall represent that the agency request is within the maximum credit limits defined in the contract, within the current appropriation authority of the agency and that the term does not appear to exceed the useful life of the property leased. In no way shall the approval of the Office of Administration result in the Office of Administration being a party to the subsequent lease and thereby responsible for any default of the agency.*

Master Lease Financing Request, cont'd

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**Agency Required Information:**

Date: \_\_\_\_\_

Term of Lease: \_\_\_\_\_

Estimated Interest Rate: \_\_\_\_\_

Reason for Leasing vs. Outright Purchase: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are there sufficient appropriated funds for the current fiscal year payment requirements? Y N

Is this a new lease or refinance? New Refinance

If refinance provide: lease number, original principal amount, interest rate and term of old lease.

Lease Number: \_\_\_\_\_ Principal Amount: \$ \_\_\_\_\_

Interest Rate: \_\_\_\_\_ Term: \_\_\_\_\_

Department/Division Director Approval: \_\_\_\_\_ Date: \_\_\_\_\_

My signature confirms this equipment is necessary for our operations and that the quoted price is fair.

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**This Section to be completed by Office of Administration – Division of Accounting**

Estimated Payment Amount: \$ \_\_\_\_\_

Estimated Annual Payment Requirement: \$ \_\_\_\_\_

Estimated Cumulative Interest over term of Lease \$ \_\_\_\_\_

Recommendation: Approve Deny

Signature: \_\_\_\_\_

My signature confirms the financing is reasonable given current market conditions.

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**Office of Administration Commissioner's Office:**

Approved Denied

Signature: \_\_\_\_\_

**ATTACHMENT #2**

**MASTER LEASE SERVICES  
LEASE SCHEDULE**

*A Lease Schedule shall be executed by the contractor (lessor) and the state agency requesting financing (lessee). The following shall serve as a guideline for the establishment of such a lease schedule. The actual lease schedule executed may differ in format but shall not conflict with the Master Lease Contract nor shall it include terms and conditions not included in or allowed by the Master Lease Contract.*

STATE OF MISSOURI LEASE NO.: \_\_\_\_\_

**1. REQUESTING AGENCY / BILLING ADDRESS**

Agency Name: \_\_\_\_\_  
Agency Address: \_\_\_\_\_  
Agency Contact: \_\_\_\_\_  
Contact Phone No.: \_\_\_\_\_  
Contact E-Mail: \_\_\_\_\_  
Contact Fax No.: \_\_\_\_\_

**2. SCHEDULE OF ELIGIBLE PROPERTY TO BE LEASED**

Quantity	Description Brand/Model/Serial No./Location	Unit Cost	Total Cost
<b>TOTAL FINANCING REQUESTED:</b>			

**3. CERTIFICATION OF ACCEPTANCE (for Category A financings only)**

Pursuant to the lease of the above described eligible property, the state agency (lessee) hereby certifies and represents to the lessor as follows:

- (a) All of the eligible property listed above has been delivered, installed and accepted by the agency on the date hereof.
- (b) The agency has conducted such inspection and/or testing of the eligible property listed above as it deems necessary and appropriate and hereby acknowledges that it accepts the eligible property for all purposes intended.

**4. GENERAL LEASE PROVISIONS AND REQUIREMENTS:**

**4.1 Definitions: The following definitions shall apply throughout this document:**

4.1.1 **Lessor** refers to the contractor that funds leases to the State of Missouri.

4.1.2 **Lessee** refers to the applicable State of Missouri agency that utilizes a lease via the Master Lease Contract to fund acquisitions of eligible property.

- 4.1.3 **Lease/Purchase Financing** refers to a tax exempt financing or capital lease, subject to annual appropriation, in which the lessee takes ownership of the eligible property/service upon full payment of the lease obligations.
- 4.1.4 **Eligible Property/Services** refers to tangible property that is able to be acquired by lease funds pursuant to the contract.
- 4.1.5 **Vendor** refers to the entity from which the agency is acquiring the leased property and to which the lessor will make payment upon execution of a Lease Schedule and Disbursement Authorization and Request Document.
- 4.1.6 **Master Lease Contract** refers to the procurement contract established as a result of RFP B2Z06031 and, along with the executed Lease Schedules, represents the agreement between the contractor and the State of Missouri.
- 4.1.7 **Master Lease Financing Request** refers to the request from the state agency for lease funding under the subsequent contract to be used to acquire eligible property. The request is issued to the Office of Administration, Division of Accounting who shall review the request in the following areas: (1) that request is within the maximum credit limits of the Master Lease Contract, (2) that request is within the appropriation authority of the agency, and (3) that requested term does not exceed the useful life of the property/service.
- 4.1.8 **Disbursement Request and Individual Lease Schedule** refers to the executed lease document(s) that requests payment by the lessor to vendor(s) providing the eligible property/services and the resulting lease schedule that defines the rate, term, principal amount and amortization schedule for the lease.
- 4.1.9 **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature, which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of Division of Purchasing and Materials Management (DPMM).
- 4.2 Lease Approvals:**
- 4.2.1 The state agency's (lessee) approval to proceed with a lease under the Master Lease Contract shall be provided by a Master Lease Financing Request, properly approved by the Office of Administration, Division of Accounting.
- 4.2.2 The contractor (lessor) shall provide funding for all approved requests unless the requesting state agency has previously exercised early termination of prior leases either due to non-appropriation or default of lease obligations.
- 4.2.3 Any default by any state agency in relation to an Individual Lease Schedule under the contract shall not affect in any way any other Individual Lease Schedule executed under the contract. The Master Lease Contract shall not include any cross-default provisions.
- 4.3 Tax-Exempt Lease/Purchase Financing:**
- 4.3.1 All leases executed under the Master Lease Contract shall be tax-exempt and be subject to the provisions of the Master Lease Contract relating to treatment as tax-exempt obligation.
- 4.3.2 The Office of Administration, Division of Accounting shall be responsible for executing a properly completed Form 8038-G or 8038-GC (as applicable). Once executed, it shall be the lessor's responsibility to properly file the form with the necessary parties.
- 4.4 Lease Payments:**
- 4.4.1 The repayment frequency under the contract will be quarterly and due on the following dates: February 1, May 1, August 1 and November 1. Each Disbursement Request and Individual Lease Schedule shall provide for equal quarterly payments of principal and interest over the specified term of repayment, provided that the first quarterly payment may be larger than the remaining payments to reflect additional interest if the period from date the contractor disburses payment to the vendor until the first quarterly payment date is longer than three months or smaller than the remaining payments to reflect reduced interest if the period from date the contractor disburses payment to the vendor until the first quarterly payment date is shorter than three months. All payments of interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Full or partial prepayment for any eligible property/service financed under the contract may be made at any time without penalty. In the event of a partial prepayment, the remaining number of quarterly payments will be reduced in proportion to the amount that is prepaid bears to the remaining balance as of the date of prepayment.

#### **4.5 Lease Payments Subject to Annual Appropriation:**

4.5.1 The respective state agency referenced on the individual lease schedule, on behalf of the State of Missouri, shall be obligated to pay such payments under the contract and any Individual Lease Schedule as are lawfully available and appropriated for that purpose under the laws of the State of Missouri. Payments made by the State Agency under the Agreement are payable solely from amounts that may be, but are not required to be, appropriated annually by the State of Missouri. All payments under the Master Lease Contract shall be subject to annual appropriation by the State in accordance with the RFP Terms and Conditions, paragraph 16-d. Neither the lease nor any payments required under the lease shall constitute a mandatory payment obligation of the Lessee, in any year beyond the year during which the Lessee, is a lessee under the contract, or constitute or give rise to a general obligation or other indebtedness of the Lessee. The Lessee is not legally obligated to budget or appropriate moneys for any fiscal year beyond the current fiscal year or any subsequent fiscal year in which the contract is in effect, and there can be no assurance that the Lessee will appropriate funds to make payments or renew the contract in any year. The Lessee may terminate its obligations under the contract on an annual basis at the end of a contract period which is also the end of the state's fiscal year.

#### **4.6 Advance Payments:**

4.6.1 The state shall have the ability to make payments in advance, when funds are available, in order to lower the principal balance and thereby reduce the length of term.

4.6.2 The frequency of advance payments shall be limited to one advanced payment per fiscal year period (July 1 through June 30) per individual lease schedule. The amount of any advance payment shall be at least the amount of the agreed to quarterly payment amount including principal and interest.

4.6.3 Such advance payment shall not result in any penalties or increase in the remaining principal amount. Nor shall advance payments change the quarterly payment amount identified in the individual lease schedule or the effective interest rate, unless such rate is lower.

4.6.4 At such time as the state makes such advance payments, the contractor shall provide a revised amortization schedule reflecting the newly revised principal balance and the reduction in term length. Advance payments shall not be construed as refinancing the lease obligation.

#### **4.7 Single Point of Contact/Responsibility:**

4.7.1 The lessor shall be the single point of contact and responsibility for the State of Missouri regardless of any subcontract relationships including those involving third party sources of funds. **In no event will the State of Missouri approve of an assignment of individual lease schedules nor will the state issue any orders or payments to third party organizations.**

#### **4.8 Title to the Leased Property:**

4.8.1 Upon acceptance of the property by agency, title to the leased property shall vest in the agency, subject to the provisions of the contract including the individual lease schedule.

4.8.2 The agency shall immediately surrender possession and title of that property to the contractor, upon (a) any termination of the Individual Lease Schedule as allowed herein or (b) the occurrence of a non-remedied default with respect to the individual lease. Any transfer of title to contractor pursuant to this section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. The agency shall, nevertheless, execute and deliver any such instruments as the contractor may request to evidence such transfer.

#### **4.9 Loss or Damage to Eligible Property:**

4.9.1 The state agency shall be responsible for all loss of or damage to the leased property. In the event of theft, damage, destruction or other loss of use of the leased property, the state will be responsible to continue payments in fulfillment of the contract, subject to the provisions of the contract relating to non-appropriation. If lost or damaged, the lessee shall be required to reinstate the value of the leased property to a fair market value level not less than the remaining principal balance of the lease.

4.9.2 The State of Missouri is largely self-insured. Certification shall be provided to the lessor in a form resembling the letter included as Attachment 6 to RFP B2Z06031. For more information, refer to the following website for the Office of Administration, Division of General Services, Risk Management: [www.oa.mo.gov/gs/risk/index.htm](http://www.oa.mo.gov/gs/risk/index.htm).

**4.10 Personal Property:**

4.10.1 The leased property shall remain personal property and shall not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the property or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon.

**4.11 Disclaimer of Warranties:**

4.11.1 As the state agency has selected the equipment and the provider(s) of the leased property, the contractor shall not be responsible for any warranty or representation, either express or implied, as it would relate to the value, design, condition, merchantability or fitness for purpose of the leased property. In no event shall the contractor be liable for any actual, incidental, indirect, special or consequential damage in connection with the Lessee's use or maintenance of the leased property.

**4.12 Liens, Taxes, Other Governmental Charges and Utility Charges:**

4.12.1 The state agency shall keep the leased property free of all liens, charges and encumbrances. The leased property shall be used for a governmental or proprietary purpose of state and, therefore, the leased property shall be exempt from all property taxes. If the use, possession or acquisition of the leased property is nevertheless determined to be subject to taxation, the state agency shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the leased property. The state agency shall pay all utility and other charges incurred in the use and maintenance of the leased property.

**4.13 Events of Default:**

4.13.1 Events of Default shall be deemed to occur when provisions of the Master Lease Contract and the Disbursement Request and Individual Lease Schedule have not been performed by either the lessee or the lessor as required. When an Event of Default occurs, written notification of the default shall be sent to the defaulting party identifying the parameters of the default. The defaulting party shall have ten (10) calendar days from receipt of the notification to provide a cure or a sufficient plan to cure the default.

4.13.2 In the event the defaulting party fails to cure the default as allowed above, the resulting remedy shall include termination of the lease and return of the leased property to the lessor.

**5. REPRESENTATIONS AND COVENANTS OF AGENCY (LESSEE):** Lessee represents, covenants and warrants for the benefit of Lessor as follows:

- (a) Lessee has full power and authority to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.
- (b) This document along with the Contract C206031001 constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
- (c) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Lease Payments scheduled to come due during the current fiscal year and to meet its other obligations under the is Agreement for the current fiscal year, and such funds have not been expended for other purposes.
- (d) Lessee has acquired the eligible property listed herein in accordance with all applicable procurement laws.
- (e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefore wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this or an other document or certificate which is used or contemplated for use in the consummation of the transactions executed under the contract.

- (f) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.
- (g) The entering into and performance of the lease by the Lessee will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Eligible Property pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.
- (h) During the Lease Term, the Eligible Property will be used by Lessee only for the purpose of performing governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority.
- (i) Lessee currently intends to continue the Lease Term for the subject Lease through the current contract period and all of the subsequent renewal periods of the contract and to pay the Lease Payments hereunder. The agency (lessee) will include in its budget request for each fiscal year the lease payments to become due in that fiscal year with respect to all Eligible Property leased hereunder for its benefit and will use all reasonable and lawful means available to secure the appropriation of money for each fiscal year sufficient to pay all Rental Payments coming due in that fiscal year with respect to that Equipment. The parties acknowledge that appropriation for Lease Payments is a governmental function which Lessee cannot contractually commit itself in advance to perform and the contract, including this document, does not constitute such a commitment. However, Lessee reasonably believes that moneys in an amount sufficient to make all Lease Payments can and will lawfully be appropriated and made available to permit Lessee's continued utilization of the Eligible Property in the performance of its essential functions during the applicable Lease Term.
- (j) Non-appropriation: Lessee is obligated only to pay such Lease Payments under the schedule as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. Should Lessee fail to budget, appropriate or otherwise make available sufficient funds to pay Lease Payments under a Lease following the then current Original Term or Renewal Term, that Lease shall be deemed terminated at the end of the then current contract period. Lessee agrees to deliver notice to Lessor of any such termination promptly upon any such failure to budget or appropriate such funds, but failure to give such notice shall not extend the term beyond the then current contract period.
- (k) If a Lease is terminated as a result of non-appropriation, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Eligible Property then subject to that Lease to Lessor at the location or locations to be specified by Lessor. If Lessee fails to deliver Equipment that is subject to a Lease terminated under this Section within 10 business days after the termination of that Lease, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages in an amount equal to the amount of the Lease Payments that would thereafter have come due under that Lease if it has not been terminated and which are attributable to the number days after the termination of that Lease during which Lessee fails to so deliver that Eligible Property.
- (l) Lease Payments To Be Unconditional: Except as provided by the provisions herein relating to non-appropriation of funds, the obligations of lessee to make lease payments and to perform and observe the other covenants and agreements contained in this document 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.
- (m) Location and Inspection: Once installed, no item of the Eligible Property will be moved from the location specified for it in the Schedule on which that item is listed without notice to Lessor specifying the new location. After giving sufficient advanced notice, the Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Eligible Property.
- (n) Use and Maintenance of the Equipment: Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this schedule. Lessee

will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment.

**6. REPAYMENT AND AMORTIZATION SCHEDULE:**

Original Lease (Principal) Amount: \_\_\_\_\_  
 Lease Term (# of years): \_\_\_\_\_  
 Constant Maturity Treasury Rate as of \_\_\_\_\_ (Date) \_\_\_\_\_ : \_\_\_\_\_  
 Contract Adjustment of Constant Maturity Rate: \_\_\_\_\_ (As per contract) \_\_\_\_\_  
 Effective Adjusted Rate of Lease: \_\_\_\_\_

Payment #	Payment Due Date	Payment Amount	Interest Paid	Principal Paid	Balance
Original	---	---	---	---	\$ (Principal)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					

*(Actual table shall be reduced or expanded to include the applicable number of quarterly payments)*

**All provisions of the Master Lease Contract, Contract # \_\_\_\_\_, including those contained in this Individual Lease Schedule shall be binding upon the Lessee and the Lessor. No other provisions or agreements shall be applicable to the individual lease of the Eligible Property specified herein.**

**APPROVALS:**

**Lessee (State Agency):**  
 Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Organization: \_\_\_\_\_

**Lessor (Contractor):**  
 Signature: \_\_\_\_\_  
 Printed Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Organization: \_\_\_\_\_

ATTACHMENT #3

MASTER LEASE SERVICES  
CERTIFICATE OF ACCEPTANCE AND DISBURSEMENT AUTHORIZATION AND REQUEST

*A Certificate of Acceptance and Disbursement Authorization and Request, along with a copy of the invoice and the IRS Form 8038-G shall be provided by the agency (lessee) to the contractor (lessor). The following shall serve as a guideline for the establishment of such a document. The actual document executed may differ in format but shall not conflict with the Master Lease Contract nor shall it include terms and conditions not included in or allowed by the Master Lease Contract.*

STATE OF MISSOURI LEASE NO.: \_\_\_\_\_

**1. REQUESTING AGENCY / BILLING ADDRESS**

Agency Name: \_\_\_\_\_  
Agency Address: \_\_\_\_\_  
Agency Contact: \_\_\_\_\_  
Contact Phone No.: \_\_\_\_\_  
Contact E-Mail: \_\_\_\_\_  
Contact Fax No.: \_\_\_\_\_

**2. CERTIFICATION OF ACCEPTANCE:**

Pursuant to the lease of the above described eligible property, the state agency (lessee) hereby certifies and represents to the lessor as follows:

- (a) All of the eligible property listed above has been delivered, installed and accepted by the agency on the date hereof.
- (b) The agency has conducted such inspection and/or testing of the eligible property listed above as it deems necessary and appropriate and hereby acknowledges that it accepts the eligible property for all purposes intended.

**3. DISBURSEMENT AUTHORIZATION AND REQUEST:**

Pursuant to the lease of the above described eligible property, the state agency (lessee) hereby authorizes and requests payment be made to the provider of subject eligible property in the amount specified in the applicable lease schedule and referred to as the "original lease (principal) amount."

Payment shall be made in the form of a check / bank draft (choose one) and be made payable to the provider of the eligible property as indicated below.

**AUTHORIZED BY:**

**Lessee (State Agency):**

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Date: \_\_\_\_\_

*Payment shall be made within five business days of the receipt of this document by the contractor (lessor).*