
LEASE AGREEMENT

Dated as of December 1, 2018

between the

**CITY OF JOPLIN, MISSOURI,
as Lessor,**

and

**SCHAEFFLER GROUP USA INC.,
as Lessee**

Relating to:

**\$67,215,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Revenue Bonds
(Schaeffler Expansion Project)
Series 2018**

Certain rights of City of Joplin, Missouri (the “City”), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., as Trustee under the Trust Indenture dated as of December 1, 2018, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of December 1, 2018 (the “Lease”), between the **CITY OF JOPLIN, MISSOURI**, a home rule charter city organized and existing under the laws of the State of Missouri (the “City”), as lessor, and **SCHAEFFLER GROUP USA INC.**, a Delaware corporation (the “Company”), as lessee;

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City’s Charter (collectively, the “Act”), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, office industries and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the governing body of the City has heretofore passed an ordinance (the “Ordinance”) on December 17, 2018, authorizing the City to issue its Taxable Industrial Revenue Bonds (Schaeffler Expansion Project), Series 2018, in the maximum principal amount of \$67,215,000 (the “Bonds”), for the purpose of purchasing and installing certain equipment (the “Project Equipment,” as more fully described on **Exhibit A** hereto) to be used by the Company at 3900 Rangeline Road, Joplin, Missouri (the “Project Site”), and authorizing the City to lease the Project Equipment to the Company.

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the “Indenture”), with UMB Bank, N.A., as Trustee (the “Trustee”), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will purchase and install the Project Equipment and will lease the Project Equipment to the Company in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

4. Pursuant to the foregoing, the City desires to lease the Project Equipment to the Company and the Company desires to lease the Project Equipment from the City, for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease, capitalized words and terms used in this Lease shall have the meanings given to such words and terms in **Section 101** of the Indenture (which definitions are hereby incorporated by reference).

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including governmental entities, as well as natural persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a home rule charter city duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its governing body, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers.

(b) As of the date of delivery hereof, the City proposes to purchase and install the Project Equipment or cause the Project Equipment to be purchased and installed at the Project Site. The City proposes to lease the Project Equipment to the Company and sell the Project Equipment to the Company if the Company exercises its option to purchase the Project Equipment or upon termination of this Lease, all for the purpose of furthering the public purposes of the Act.

(c) The purchase and installation of the Project Equipment will further the public purposes of the Act.

(d) No member of the governing body of the City or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation validly existing and in good standing under the laws of the State of Delaware and is authorized to conduct business in the State of Missouri.

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives.

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the best of the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party.

(d) The Project Equipment will be located at the Project Site and will comply in all material respects with all presently applicable laws, rules and regulations.

(e) The Project Site is located wholly within the incorporated limits of the City.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby rents, leases and lets the Project Equipment to the Company, and the Company hereby rents, leases and hires the Project Equipment from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

Section 3.2. Lease Term. This Lease shall become effective upon its delivery. Subject to earlier termination pursuant to the provisions of this Lease, the lease of the Project Equipment shall terminate on **December 1, 2030**.

Section 3.3. Possession and Use of the Project Equipment.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** following the occurrence and continuance of an Event of Default, the Company shall have sole and exclusive possession of the Project Equipment (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project Equipment during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project Equipment during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project Equipment and will defend the Company's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section, the Company shall have the right to use the Project Equipment for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project Equipment, as to the manner of use or the condition of the Project Equipment. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company shall have the right, at its own cost and expense, to contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

ARTICLE IV

**PURCHASE AND INSTALLATION
OF THE PROJECT EQUIPMENT**

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that it will issue, sell and cause to be delivered the Bonds to the purchaser of the Bonds in accordance with the provisions of the Indenture and the Bond Purchase Agreement. The proceeds of the sale of the Bonds, when received, shall be paid over to the Trustee for the account of the City. The Indenture requires the Trustee to promptly deposit such proceeds, when received, as provided therein, to be used and applied as hereinafter provided in this Lease and in the Indenture. Alternatively, the Indenture permits the Trustee (pursuant to **Section 208(d)** of the Indenture) to endorse the Bonds in an amount equal to the requisition certificates submitted pursuant to **Section 4.4** below. In that event, the

purchaser of the Bonds shall be deemed to have deposited funds with the Trustee in an amount equal to the amount stated in the requisition certificate.

Section 4.2. Purchase and Installation of the Project Equipment. The City and the Company agree that the Company as the agent of the City shall, but solely from the Project Fund, purchase and install the Project Equipment as follows:

(a) The City will acquire any portion of the Project Equipment installed or located at the Project Site at the execution hereof. Concurrently with the execution of this Lease, a bill of sale and any other necessary instruments of transfer will be delivered to the City, which may consist of a requisition containing conveyance language.

(b) The Company will purchase and install the Project Equipment at the Project Site. Except as provided in the next sentence, title to the Project Equipment shall be evidenced by bills of sale or other instruments of transfer (which may consist of a requisition containing conveyance language), including purchase orders or other instruments pursuant to which the City acquires title to personal property directly from the vendor thereof. Subject to **Section 8.2**, all Project Equipment substituted by the Company shall automatically become part of the Project Equipment subject to this Lease, and full title and ownership of such Project Equipment shall be automatically vested in the City, without the requirement of a bill of sale or other instrument of conveyance unless otherwise requested by the City. In any event, on or before March 1 of each year, the Company shall furnish to the City and the Trustee a list of items (based on the Company's internal record keeping) comprising the Project Equipment as of January 1 of such year, designating each item of Project Equipment as Three-Year Property or Seven-Year Property and setting out the date such property was acquired with Bond proceeds and the date on which the Abatement Period for each item of such property ends in accordance with **Exhibit E** to the Indenture. No property shall be included on such list of Project Equipment unless such property is within the Abatement Period for such property. The improper inclusion or exclusion of any Project Equipment pursuant to such list may be rectified by the Company within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment for the purpose of this Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the Trustee as may be requested in order to ensure that such list corresponds to the list of Project Equipment maintained by the Trustee pursuant to **Section 10.8**. The City and the Company agree that property that, (1) pursuant to **Section 4.8**, is purchased by the Company with its own funds and not Bond proceeds, or (2) is outside of its Abatement Period, shall not constitute part of the Project Equipment and shall be the property of the Company and therefore subject to taxation.

(c) The Company will use its reasonable commercial efforts to cause the purchase and installation of the Project Equipment to be completed as soon as practicable. If such purchase and installation commences before the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

Section 4.3. Project Costs. The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof.

Section 4.4. Payment for Project Costs. Except with respect to Project Costs paid pursuant to **Section 503(d)** of the Indenture, all Project Costs as specified in **Section 4.3** hereof shall be paid by the Trustee from the Project Fund. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit B**, signed by an Authorized Company Representative and approved by an Authorized City Representative:

- (a) requesting payment of a specified amount of such funds (which amount shall be equal to the value of the property being transferred to the City simultaneously with any request) and directing to whom such amount shall be paid;
- (b) describing each item of Project Costs for which payment is being requested, including for Project Equipment, a description of the item and a serial or other identifying number, if any, for such item;
- (c) designating all Project Equipment for which such Project Costs are requested as either Three-Year Property or Seven-Year Property;
- (d) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase and installation of the Project Equipment, has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid by the Company, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and
- (e) stating that, except for the amounts, if any, stated in said certificate, to the best of his knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and installation of the Project Equipment which might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or other similar lien upon the Project Equipment or any part thereof.

The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and an Authorized City Representative shall constitute, unto the Trustee, an irrevocable determination that all conditions precedent to the payments requested have been completed.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) that the purchase and installation of the Project Equipment has been completed and the date thereof, and (b) that all costs and expenses incurred in the purchase and installation of the Project Equipment have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee.

Section 4.6. Surplus or Deficiency in Project Fund.

(a) Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (1) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (2) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund is insufficient to pay fully all Project Costs and to complete the Project Equipment free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay into the Project Fund the full amount of any such deficiency, and the Trustee shall use those Project Fund moneys to make payments to the contractors and to the suppliers of materials and services as the same become due in accordance with the applicable contracts entered into with such contractors and suppliers all in accordance with the provisions for payment of Project Costs set forth in **Section 4.4** of this Lease, and the Company shall save and hold harmless the City and the Trustee from any obligation to pay such deficiency.

Section 4.7. Project Equipment Property of City.

(a) The Project Equipment installed on or located at the Project Site at the execution hereof and which the Company desires to convey to the City, all Project Equipment as acquired, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project Equipment, except as otherwise specifically provided herein, shall immediately when installed or purchased become the absolute property of the City, subject only to this Lease, the Indenture and the Leasehold Security Agreement, if any.

(b) This Agreement is not to be construed as transferring to the City or the Trustee any right, title, or interest to, or granting license rights under, any intellectual property owned or acquired by the Company covering the Project Equipment, other than to use the Project Equipment in the manner and to the extent provided by this Agreement.

Section 4.8. Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project Equipment and the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project Equipment for purposes of **Section 6.4**. When any property reaches the end of its Abatement Period, such property shall immediately cease to be part of the Project Equipment and shall become the absolute property of the Company, free and clear of the Lease and the Indenture.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent.

(a) The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on each Payment Date, as Basic Rent for the Project Equipment, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal on the Bonds and the interest thereon on such payment date, shall be equal to the amount payable on such payment date as principal of the Bonds and the interest thereon as provided in the Indenture. All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture.

(b) As long as the Company owns all of the Bonds, then the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company may deliver to the Trustee for cancellation Bonds not previously paid and the Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 5.2. Additional Rent. The Company shall pay as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including reasonable agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under the Indenture, this Lease or the Performance Agreement, as and when the same become due;

(b) all costs incident to the issuance of the Bonds and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all outstanding Bonds;

(c) all fees, charges and expenses incurred in connection with the enforcement of any rights under the Indenture, this Lease or the Performance Agreement by the City, the Trustee or the Owners, including counsel fees and expenses; and

(d) all other payments of whatever nature which the Company has agreed in writing to pay or assume under the provisions of the Performance Agreement, this Lease or the Indenture.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) Except as expressly stated in this Agreement and Section 204(d) of the Indenture, the obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without

abatement, deduction, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project Equipment has been purchased or installed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project Equipment or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project Equipment, legal curtailment of the Company's use thereof, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Company may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

Section 5.4. Prepayment of Basic Rent. The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

At its option, the Company may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon, in accordance with the terms of the Indenture.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at its own expense, keep the Project Equipment in a safe operating condition and keep the Project Equipment in good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project Equipment, or any part thereof or interest therein (including the leasehold estate of the Company therein) or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Project Equipment; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company shall have the right, in its own name or in the City's name, to contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City written notice of its intention so to do, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Company shall save and hold harmless the City from any costs and expenses the City may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the payments to be made by the Company under the Performance Agreement to the extent of any *ad valorem* taxes imposed with respect to the Project Equipment paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project Site shall be paid by the Company and shall be contracted by the Company in the Company's own name, and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Tax Exemption. The City and the Company expect that while the Project Equipment is owned by the City and is subject to the Lease, the Project Equipment will be exempt from all *ad valorem* property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein.

ARTICLE VII

INSURANCE

Section 7.1. Reserved.

Section 7.2. Property Insurance.

(a) The Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term, a policy or policies of insurance to keep the Project Equipment constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible or self-insured retention provisions not to exceed the amounts normally or generally carried by the Company). The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers as may be selected by the Company. Copies of certificates of insurance for such policies shall be delivered by the Company to the City and the Trustee on the date of execution of this Lease. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and the Company as insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee. The Company will provide immediate notice to the City and the Trustee of the intent to cancel such insurance.

(b) In the event of loss or damage to the Project Equipment, the Net Proceeds of property insurance carried pursuant to this Section shall be paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or as may be directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds outstanding.

Section 7.3. Public Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability and automobile liability insurance (including but not limited to coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which the City, the Company and the Trustee are the named or additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri, as amended (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease. The Company will provide immediate notice to the City and the Trustee of the intent to cancel such insurance.

(b) In the event of a general or automobile liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.4. Blanket Insurance Policies. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

Section 7.5. Worker's Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the Worker's Compensation coverage required by the laws of the State of Missouri.

ARTICLE VIII

MODIFICATIONS, REPAIRS AND IMPROVEMENTS OF THE PROJECT EQUIPMENT

Section 8.1. Additions of Machinery and Equipment on the Project Site. Following the earlier to occur of (1) submission of requisition certificates pursuant to **Section 4.4** in an amount equal to \$67,215,000 or (2) **December 31, 2023**, any additions of personal property installed on the Project Site by the Company shall, except as provided in **Section 8.2**, remain the property of the Company and shall not become part of the Project Equipment. Such personal property shall be subject to *ad valorem* taxes.

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if it is not in default in making payments of Basic Rent or Additional Rent hereunder, remove from the Project Site and sell, exchange, replace or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any items of machinery and equipment, or parts thereof, which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Company, are otherwise no longer useful to the Company in its operations at the Project Site. Before any such removal, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description, including the make, model and serial numbers, if any, of any machinery or equipment constituting a part of the Project Equipment that the Company proposes to remove. Upon request, the City will execute and deliver a bill of sale that transfers full and complete title to the Company of the Project Equipment removed. Notwithstanding anything contained herein to the contrary, title to any item of the Project Equipment removed from the Project Site shall automatically vest in the Company without further instrument or action, and such vesting of title shall be self-operative effective upon removal.

(b) In all cases, the Company shall pay all of the costs and expenses of any such removal and shall immediately repair at its expense all damage to the Project Site caused thereby. The Company's right under this Section to remove machinery and equipment constituting a part of the Project Equipment is intended only to permit the Company to maintain an efficient operation by the removal of machinery and equipment that is no longer suitable for any of the reasons set forth in this Section, and such right is not to be construed to permit a removal under any other circumstances and specifically is not to be construed to permit the Company to make a wholesale removal of the Project Equipment.

(c) If the Company replaces any portion of the Project Equipment due to wear or damage, such replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment, provided that such replacement shall only benefit from such exemption during the original Abatement Period of the property replaced by it.

(d) If the Company replaces any portion of the Project Equipment for any other purpose, and the Company treats or could treat the cost of the replacement equipment as a capital expenditure for federal income tax purposes, then such replacement equipment shall not become part of the Project Equipment and shall be subject to *ad valorem* taxes.

(e) If the Company replaces any portion of the Project Equipment, and the Company treats or could treat the cost of the replacement equipment as an ordinary expenditure for federal income tax purposes, then such replacement equipment shall become part of the Project Equipment and shall not be subject to *ad valorem* taxes.

(f) Simultaneous with its furnishing of the list of Project Equipment to the City and the Trustee pursuant to **Section 4.2**, the Company shall (1) identify any Project Equipment that is being replaced, (2) identify the replacement equipment, and (3) state whether the replacement equipment will become part of the Project Equipment.

Section 8.3. Reserved.

Section 8.4. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project Site related to any repair, restoration, replacement, modification or addition to the Project Equipment, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a good and workmanlike manner and in strict compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

Section 8.5. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project Equipment, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project Equipment, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project Site, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the City title to any of the Project Equipment.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (i) within 60 days after the Company becomes aware of an such lien, notifies the City and the Trustee in writing of its intention so to do, (ii) diligently prosecutes such contest, (iii) at all times effectively stays or prevents any official or judicial sale of the Project Equipment, or any part thereof or interest therein, under execution or otherwise, (iv) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (v) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City

that, in the opinion of counsel, the interest of the City in the Project Equipment will be subject to loss or forfeiture if the lien remains unpaid during the pendency of the contest. In that event, the Company shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such pledge, lien, charge, encumbrance or claim if the same shall arise at any time. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any expense incurred by it in order to discharge or remove any such pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project Equipment is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (1) make the determination described in subsection (f) below, or (2) repair, restore or replace the same so that upon completion of such repairs, restoration or replacement such Project Equipment is of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction.

If the Company elects to repair, restore or replace the Project Equipment, any reference to the words "Project Equipment" shall be deemed to include any such new machinery, equipment and fixtures.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of property insurance required by **Article VII** hereof received with respect to such damage or loss to Project Equipment shall be used to pay the cost of repairing, restoring or replacing such Project Equipment or any part thereof. Insurance monies in an amount less than \$100,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of \$100,000 or more shall be paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** hereof to pay the cost of repairing, restoring or replacing the Project Equipment or any part thereof. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration or replacement, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any Leasehold Security Agreement or Financing Party. Completion of such repairs, restoration or replacement shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration or replacement, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site over \$100,000.

(f) If the Company determines that repairing, replacing or restoring the Project Equipment is not practicable and desirable, any Net Proceeds of property insurance required by **Article VII** hereof received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the secured party under any Leasehold Security Agreement (if any) and the Financing Party under any Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f).

(g) The Company shall not, by reason of its inability to use all or any part of the Project Equipment during any period in which the Project Equipment is damaged or destroyed or is being repaired, replaced or restored, nor by reason of the payment of the costs of such repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

Section 9.2. Reserved.

Section 9.3. Owner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty may prior to the application thereof by the City or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project Equipment or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project Equipment or the Company's use thereof; unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

Section 10.2. Surrender of Possession. Upon accrual of the City's right of re-entry because of the Company's default hereunder or upon the cancellation or termination of this Lease for any reason other than the Company's purchase of the Project Equipment pursuant to **Article XI** hereof, the Company shall peacefully surrender possession of the Project Equipment to the City in good condition and repair.

Section 10.3. Right of Access to the Project Equipment. The City may conduct such periodic inspections of the Project Equipment as may be generally provided in the City's code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents shall have the right at reasonable times during normal business hours and, except in the event of emergencies, upon not less than one Business Day's prior notice, subject to the Company's usual safety and security requirements, to enter upon the Project Site (a) to examine and inspect the Project Equipment without interference or prejudice to the Company's operations, (b) to monitor the purchase and installation provided for in **Section 4.2** hereof as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the acquisition, installation or maintenance of the Project Equipment, (d) to perform such work in and about the Project Equipment made necessary by reason of the Company's default under any of the provisions of this Lease, and (e) upon either (i) the occurrence and continuance of an Event of Default or (ii) the Company's failure to purchase the Project Equipment at the end of the Lease Term, to exhibit the Project Equipment to prospective purchasers, lessees or trustees.

Section 10.4. Granting of Easements; Leasehold Security Agreements and Financing Arrangements.

(a) Subject to **Section 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing, the Company may at any time or times (1) grant subleases (as permitted in **Section 13.1(b)** hereof), or licenses, of the Project Equipment, or parts thereof, (2) release or terminate existing subleases, or licenses, all with or without consideration and upon such terms and conditions as the Company shall determine, or (3) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any such sublease, license, or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project Equipment, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the

redemption of the Bonds and/or the purchase of the Project Equipment by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that:

(i) a duplicate original or certified copy or photostatic copy of each such mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof; and

(ii) such mortgage shall contain a covenant to the effect that the net proceeds of all insurance policies and the condemnation award shall be held, used and applied for the purposes and in the manner provided for in this Lease.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project Equipment, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)**.

(d) Upon notice by the Company to the City in writing that it has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect of each such Financing Party:

(i) there shall be no merger of this Lease or of the leasehold estate created hereby with the legal title to the Project Equipment, notwithstanding that this Lease or said leasehold interest and said legal title shall be owned by the same Person or Persons, without the prior written consent of such Financing Party;

(ii) the City, shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

(iii) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(iv) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default;

(v) upon the occurrence and continuance of an Event of Default by the Company under this Lease, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such event of default shall continue beyond any period set forth in the Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default; and

(vi) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project Equipment at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request.

(f) The Company's obligations under any mortgage or Financing Document relating to the Project Equipment shall be subordinate to the Company's obligations under this Lease.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of this Lease, the Performance Agreement or the Indenture and from the conduct or management of, or from any work or thing done in or on the Project Equipment during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project Equipment, (b) any breach or default on the part of the Company in the performance of any of its obligations under this Lease, the Performance Agreement, the Indenture or any related document, (c) any contract entered into in connection with the purchase or installation of the Project Equipment, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) any violation of Section 107.170 of the Revised Statutes of Missouri, as amended, and (g) the acceptance or administration by the Trustee of the trust created by the Indenture; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City or Trustee if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are (i)

the result of work being performed on the Project Equipment by employees of the City, or (ii) the result of gross negligence or willful misconduct by the City or the Trustee. Upon notice from the City or the Trustee, the Company shall defend them or either of them in any such action or proceeding. This **Section 10.5** shall survive any termination of this Lease and the Performance Agreement, the satisfaction and discharge of the Indenture or the resignation or removal of the Trustee.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, interest expense deduction, investment tax credits or any other tax benefits with respect to the Project Equipment or any part thereof shall, for federal and state income tax purposes, belong to the Company, and the City will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation, interest expense deduction, investment tax credits or other tax benefits.

Section 10.7. Company to Maintain its Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee Person (a) expressly assumes in writing all the obligations of the Company contained in this Lease, and (b) (i) the long-term debt rating of such Person or the long-term debt rating of an entity controlled by, under common control with or controlling such Person, is the same as or better than the long-term debt rating category by any nationally recognized rating service as the Company, (ii) such Person is controlled by, under common control with or controls the Company, or (iii) such Person has a Net Worth of at least \$50,000,000. For purposes hereof, "Net Worth" shall mean total assets less total liabilities as reported on the financial statements of such Person pursuant to generally accepted accounting principles.

Section 10.8. Security Interests.

(a) To secure the payment of all of the Company's obligations under this Lease, to the extent permitted by law, the Trustee retains a security interest in all personal property consisting of the Project Equipment, including all additions, attachments, accessions thereto, substitutions therefor and on any proceeds therefrom.

(b) The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder. At the written request of all of the Owners, the City and the Company agree to enter into any other instruments necessary for perfection of and continuance of the perfection of the security interests of the City and the Trustee in the Project Equipment. Upon the written instructions of the Owners of 100% of the Bonds then Outstanding, the Trustee shall file all instruments the Owners deem necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to file or to renew such statements. The Trustee shall maintain a file showing a description of all Project Equipment, said file to be compiled from the certificates furnished to the Trustee pursuant to **Section 4.2** and **Section 8.2** hereof.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project Equipment.

(a) The Company shall have, and is hereby granted, the option to purchase the Project Equipment at any time, upon payment in full of all Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture.

(b) To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 30 nor more than 90 days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the foregoing, if the City or the Trustee provides notice of its intent to exercise its remedies hereunder upon an Event of Default (a "Remedies Notice"), the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said notice has not been rescinded by such date. The Company may rescind such exercise by providing written notice to the City and the Trustee on or before the 29th day and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

(1) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus

(2) an amount of money equal to the Trustee's and the Paying Agent's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(3) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus

(4) the sum of \$10.00.

At its option, to be exercised at least five (5) days before the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

Section 11.2. Conveyance of the Project Equipment. At the closing of the purchase of the Project Equipment pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

(a) A release of the Project Equipment from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under

the Uniform Commercial Code, all executed by a duly authorized officer of the Trustee, on behalf of the Trustee as assignee of the City.

(b) Documents, including without limitation a bill of sale, conveying to the Company legal title to the Project Equipment, as it then exists, subject to the following: (1) those liens and encumbrances, if any, to which title to the Project Equipment was subject when conveyed to the City; (2) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (3) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreement on its part contained in this Lease; (4) Permitted Encumbrances other than the Indenture and this Lease; and (5) if the Project Equipment or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Relative Position of Option and Indenture. The option to purchase the Project Equipment granted to the Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Company is in default under this Lease, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project Equipment. The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project Equipment upon the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture. The amount of the purchase price under this Section shall be equal to the amount set forth in **Section 11.1(b)(1), (2), (3) and (4)** above.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an “Event of Default” or “default” under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent; or

(b) Default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company’s part to be observed or performed, and such default continues for 30 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (1) the Company has commenced such cure within said 30-day period, and (2) the Company diligently prosecutes such cure to completion); or

(c) The Company: (1) admits in writing its inability to pay its debts as they become due; or (2) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (3) makes an assignment for the benefit of creditors; or (4) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its

property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (5) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (7) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The Company abandons the Project Equipment or any material portion thereof, and the same remains uncared for or abandoned for a period of 90 days, or if the Company ceases operations (as defined in **Section 3.6** of the Performance Agreement) at the Project Site or is ejected from the Project Site; or

(e) The Company fails to (1) pay amounts due under the Performance Agreement or (2) comply with the other material terms of the Performance Agreement, and such default referred to in clause (2) continues for 60 days after the City, the Trustee or any other party to the Performance Agreement has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (a) the Company has commenced such cure within such 60-day period, and (b) the Company diligently prosecutes such cure to completion).

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election (subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 30 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1** hereof, the Company's rights to possession of the Project Equipment shall cease and this Lease shall thereupon be terminated, and the City may take possession of the Project Equipment or, if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, convey the Project in accordance with **Section 11.2** hereof.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease,

for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease.

Section 12.4. Performance of the Company's Obligations by the City. If the Company fails to keep or perform any of its obligations as provided in this Lease in the making of any payment or performance of any obligation, then the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 12.6. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

Section 12.7. Trustee's Exercise of the City's Remedies. Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign, transfer, encumber or dispose of this Lease or any interest herein or part hereof for any lawful purpose under the Act. With respect to any assignment, the Company shall comply with the following conditions:

(1) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(2) Such assignment shall include the entire then unexpired term of this Lease; and

(3) A duplicate original of such assignment shall be delivered to the City and the Trustee within 10 days after the execution thereof, together with an assumption agreement, duly executed and acknowledged by the assignee and in proper form for recording, by which the assignee shall assume all of the terms, covenants and conditions of this Lease on the part of the Company to be performed and observed.

(b) The Company shall have the right to sublet all or any part of the Project Equipment to a single entity for any lawful purpose under the Act. The Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the City and the Trustee a true and correct copy of each such sublease. Any sublease may provide, at the Company's option, for further subletting by the sublessee thereunder, without the consent of the City, if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

(c) Notwithstanding the foregoing, the right of the Company to assign or sublease any interests in this Lease without the prior written consent of the City shall only apply to assignments made to an entity that satisfies the requirements of **Section 10.7** hereof. Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the issuance of the Bonds. Upon such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease, the Performance Agreement or any agreement related to the issuance of the Bonds.

Section 13.2. Assignment of Revenues by City. The Company understands that the City will, pursuant to the Indenture, pledge and assign certain rents, revenues and receipts receivable under this Lease to the Trustee as security for payment of the principal of and interest on the Bonds, and the Company hereby consents to such pledge and assignment.

Section 13.3. Reserved.

Section 13.4. Restrictions on Sale or Encumbrance of Project Equipment by City. During the Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, mortgage, transfer or convey the Project Equipment or any interest therein.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without

the prior written consent of the Trustee, given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. Any notice or other communication to be given under this Lease may be given by mailing or delivering the same in writing to the City, Trustee or Company at the times and at the addresses set forth for notices in the Indenture.

Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project Equipment subject to zoning, building permit or other regulatory approvals by the City.

Section 15.3. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.4. Limitation on Liability of City. No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

Section 15.5. Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 15.6. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 15.7. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 15.8. Execution in Counterparts; Electronic Storage. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

Approved as to form:

City Attorney

SCHAEFFLER GROUP USA INC.

By: _____
Name:
Title:

EXHIBIT A

PROJECT EQUIPMENT

All equipment financed with the proceeds of the Bonds located on the Project Site in Joplin, Newton County, Missouri, to and until the end of the Abatement Period for each such item of equipment. No Project Equipment shall be acquired with Bond proceeds after December 31, 2023.

EXHIBIT B

FORM OF REQUISITION CERTIFICATE

Requisition No. _____

Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2018, BETWEEN THE CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND LEASE AGREEMENT DATED AS OF DECEMBER 1, 2018, BETWEEN THE CITY OF JOPLIN, MISSOURI, AND SCHAEFFLER GROUP USA INC.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of \$_____ is requested to pay for Project Costs (as defined in said Trust Indenture).

2. Said Project Costs shall be paid in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Set forth on **Schedule 2** hereto is a description of the Project Equipment acquired by the Company and which is being paid for pursuant to this Requisition Certificate.

4. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase and installation of the Project Equipment (as defined in the Trust Indenture), have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Company or are justly due to the Persons whose names and addresses are stated on **Schedule 1**, and have not been the basis of any previous requisition from the Project Fund.

5. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase and installation of the Project Equipment which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project Equipment or any part thereof.

6. With respect to all personal property described in this Requisition Certificate and for which Project Costs are disbursed pursuant to this Requisition Certificate, in consideration of such disbursement, such personal property is hereby BARGAINED and SOLD, and the Company by these presents does now GRANT and CONVEY, unto the CITY OF JOPLIN, MISSOURI, and its successors and assigns, all of its right, title and interest, if any, in and to such personal property, and such personal property shall constitute a portion of the "Project Equipment" as defined under the Lease Agreement dated as of December 1, 2018, between the Company and the City. The property is being conveyed "as is," "where is" and "with all faults" as of the date of this Requisition Certificate, without any representation or warranty whatsoever as to its condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied.

SCHAEFFLER GROUP USA INC.

By: _____
Authorized Company Representative

**SCHEDULE 1
TO REQUISITION CERTIFICATE**

Payee and Address

Description

Amount

