

HORSEPOWER FLEET LEASING, LLC MASTER LEASE AGREEMENT
(for a County entity)

This Master Lease Agreement (this "Agreement") is made at Montrose County, Colorado, effective the ____ day of December, _____ (the "Effective Date") by and between HORSEPOWER FLEET LEASING, LLC, a Utah limited liability company, with its principal offices located at 510 S 200 W Ste 200 Salt Lake City, UT 84101 ("Lessor"), and Montrose County Board of County Commissioners, a body corporate and politic existing under the laws of the State of Colorado, with its principal offices located at 317 S. 2nd Street, Montrose, CO 81401. Lessor and Lessee may be referenced herein individually as a "Party" and collectively as the "Parties". ■

1. VEHICLES LEASED. Lessor leases to Lessee, and Lessee leases from Lessor, all vehicles (including all replacements and substitutions thereto from time to time) (individually a "Vehicle" and collectively, the "Vehicles") described in each and every Vehicle Lease Schedule executed and delivered pursuant to this Agreement (singly a "Schedule" and collectively "Schedules"). Each Schedule incorporates this Agreement. Lessee and Lessor acknowledge that this Agreement constitutes an "Operating Lease" with respect to Section 7701(h)(3) of the Internal Revenue Code, and that Lessee has no equity or other ownership rights in the Vehicles or their accessories or replacement parts other than the Purchase Option referenced in this Agreement.

2. TERM.

- a) Schedules. The term of each vehicle subject to the Schedule (a "Schedule Term") shall commence upon the delivery (the "Delivery Date") to Lessee of the Vehicle and or equipment described and subject to each Schedule and shall continue until the Termination Date (the "Termination Date") specified in each Schedule, unless terminated earlier only as is permitted by this Agreement, including but not limited to the failure of Lessee to appropriate funds to continue the leasing of the Vehicle and/or equipment detailed in the schedule for the ensuing balance of the Schedule Term. The termination of a Schedule Term, without more, shall not affect the rights of the Parties with respect to any obligation due but not performed prior to such termination including any obligation by Lessee to Lessor to pay Rent. The execution of the Schedule by Lessee shall constitute a certificate of acceptance of the Vehicle by Lessee. This lease is subject to annual funding being appropriated and available for the purposes thereof. The term of this Lease shall be for two years from the date of execution.
- b) This Agreement. The term of this Agreement shall commence on the Effective Date and shall continue. The expiration or termination of this Agreement, without more, shall not affect the rights of the Parties with respect to any obligation due but not performed prior to such termination.

3. RENT. Lessee shall pay rent ("Rent") annually, in advance, to Lessor in the amounts and by the dates as set forth in each Schedule. Unless otherwise explicitly provided in a Schedule, each annual installment of Rent payable under each Schedule shall be paid in

advance on the first business day of the month in which said payment is to be made, regardless of whether Lessor has rendered a statement. Lessee shall pay all Rent as due when due without demand, invoice or notice. If any payment due under a Schedule (including, but not limited to, Rent) is not paid within fifteen (15) days after the due date thereof, Lessee shall pay to Lessor a late charge on such overdue payment at a rate equal to the greater of 1.5% of the outstanding amount due or \$40.00 per Vehicle, whichever is greater. Late charges shall accrue immediately after the 15 days and shall be assessed again for payments not received after 30 days, and with additional late charges accruing each 15 day incremental period in which payments are not received as agreed herein. All Rent and other payments due and payable under each Schedule shall be made to Lessor at its address shown above, or at such other address as Lessor may designate from time to time. In the event of an Early Termination which occurs on other than the last day of a lease month, Rent shall be prorated for such partial period,

4. NET LEASE. EACH SCHEDULE SHALL BE A TRIPLE NET LEASE WHEREBY LESSEE SHALL PAY ALL TAXES, MAINTENANCE, INSURANCE, AND OTHER COSTS AND EXPENSES, AS MORE FULLY SET FORTH IN THIS AGREEMENT. LESSEE'S OBLIGATIONS TO PAY ALL RENT AND OTHER SUMS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT, FOR ANY REASON WHATSOEVER. IN THE EVENT THAT THE LESSEE SHALL DESIRE TO RETAIN ANY VEHICLE LISTED ON ANY SCHEDULE BEYOND THE SCHEDULED TERMINATION DATE, LESSEE SHALL NOTIFY LESSOR OF SUCH INTENT IN WRITING NOT LATER THAN THIRTY (30) DAYS PRIOR TO TERMINATION DATE, AND SUCH EXTENSION SHALL BE AT THE DISCRETION OF LESSOR PURSUANT TO THE PROVISIONS OF SECTION 12 BELOW. If any Vehicle is unsatisfactory for any reason, Lessee shall make any claim solely against the manufacturer of the Vehicle and shall, nevertheless, pay Lessor or its successors or Assignees (as defined in Section 18) all amounts due and payable under the Schedule for such Vehicles.

5. TAXES. To the extent permitted by Colorado law, Lessee shall promptly report, file, pay and indemnify and hold Lessor harmless with respect to any and all Taxes, as hereinafter defined. The term "Taxes" as used herein shall mean all taxes, fees and assessments due, assessed or levied by any foreign, federal, state or local government or taxing authority, and any penalties, fines or interest thereon, which are imposed against or upon any Vehicle, its use or operation, or the rentals or receipts due under this Agreement, but shall not include any taxes based upon or measured by the income of Lessor. The foregoing notwithstanding, Lessor shall file such tax returns relating to sales and property taxes as may be required of Lessor pursuant to applicable law, and remit the amount thereof, and Lessee shall reimburse Lessor promptly upon demand for the amount of such taxes. Upon request by Lessee, Lessor will submit to Lessee written evidence of Lessor's payment of all Taxes due hereunder.

6. INSURANCE. Until a Vehicle has been received by Lessor pursuant to Section 10, 12 or 21 of this Agreement, Lessee shall at all times carry and maintain insurance on (or self insure, if approved in advance in writing by Lessor for items 6a, and 6b. herein) the Vehicle, at the sole and exclusive expense of Lessee, which insurance shall have the following minimum

coverages; a) Comprehensive, including fire and theft for the actual value, b) Collision for actual value with a maximum deductible of \$2,500, c) Public Liability for \$2,000,000.00, and d) Property Damage for \$100,000.00 with insurance companies satisfactory to Lessor. Such policies shall (y) name Lessor (and, if Lessor requests at any time, any successor of Lessor or Assignee (as defined in Section 18 of this Agreement)) as loss payee and as additional insured for liability insurance, and (z) provide that Lessor (and any successor of Lessor or Assignee) shall receive notice at least 30 days before coverage lapses or is canceled or materially changed. Lessee shall promptly provide to Lessor evidence of insurance coverage prior to the receipt of the Vehicle by Lessee and every six (6) months thereafter, or as may otherwise be reasonably requested by Lessor. Lessee shall direct its insurance company to issue all checks to Lessor for loss or damage to a Vehicle unless such check is made payable to a repair facility for repair work done on such Vehicle.

7. **MAINTENANCE & REPAIRS:** Lessee shall keep and maintain the Vehicle in good operating condition and working order, using as a guide the maintenance program prescribed in the Operator's Manual provided with the Vehicle, and shall perform all maintenance services required or recommended for such Vehicle at the intervals specified in the Operator's Manual provided with such Vehicle.

Lessee shall be responsible for the cost of all gasoline or diesel fuel, oil, lubrication, replacement parts, and all washing, polishing, towing, and storage, to the extent necessary to maintain the Vehicle in good operating and marketable condition. Lessee shall maintain the proper oil, battery, and coolant levels and protection against freezing of the vehicle radiators and engines. Lessee will not alter or adjust the odometer, emission control equipment, or any items that may nullify the manufacturer's warranty on the Vehicle.

Lessee shall pay for all repairs and maintenance items not covered by the manufacturer's warranty. Lessor shall not be responsible to bear the cost of any repairs or maintenance unless the Lessee has paid a separate maintenance and/or warranty cost as part of this Agreement, regardless of the Lessee's position or assertion that a repair or other item should have been covered by a manufacturer warranty.

Lessee shall notify lessor in writing within 7 days of the occurrence of an event involving any Vehicle that results in damage which in any manner may adversely impact the ultimate resale value of same. This shall include damage that may be considered "frame" damage. Estimates for repairs to frame or vehicle substructure shall be provided to Lessor by Lessee as received. Lessor may require Lessee to payoff a Vehicle in full if damaged in such a manner. All repairs which exceed a cost of \$3,000 shall be disclosed to Lessor by Lessee within (7) days of such occurrence. Lessor may require payoff of any Vehicle which is deemed in Lessor's sole discretion to have become significantly and/or adversely affected by damage sustained. Lessor may also, at the sole discretion of Lessor, permit a new lease to be written for any Vehicle affected by this provision allowing for a full payout of same over a term that Lessor shall stipulate.

8. **USE, LOCATION AND CONTROL.** The Vehicle shall be used and operated by Lessee only in the ordinary conduct of the regular business of Lessee and in accordance with all

applicable operating instructions, and applicable governmental laws, rules and regulations. Lessee shall cause the Vehicle to be possessed and operated only in the United States of America. In order to confirm Lessee's compliance with its obligations under this Agreement, Lessee shall allow Lessor and its Assigns to physically inspect any Vehicle under lease anywhere it may be located from time to time, during reasonable hours without notice. Lessee shall not use the Vehicle, or permit any other person or entity to use the Vehicle, or any part of the Vehicle, for any purpose or in any manner other than that for which the Vehicle was designed. To the extent permitted by Colorado law, Lessee shall indemnify, defend, and hold Lessor harmless for any injuries and or damages that shall occur as a result of any illegal or non-recommended usage (in Lessor's reasonable opinion). If, as a result of such illegal or non-recommended usage, a Vehicle shall become damaged beyond reasonable repair (in Lessor's reasonable opinion), Lessee shall promptly pay Lessor in full the Settlement Amount.

9. PURCHASE OPTION. At any time after the Minimum Term specified on the applicable Schedule, if Lessee is not in default, it shall have a purchase option (the "Purchase Option"), whether at the end of the Lease Term or in the event of an Early Termination, as defined in Section 10, which may be exercised by Lessee giving Lessor written notice of such exercise and by paying Lessor the following settlement amount ("Settlement Amount") within seven (7) days of such notice:

- (i) The Residual Value as determined by Lessor as stated in the Schedule; plus
- (ii) Any past due installment or rent; plus
- (iii) Any interest, late charges, or other amounts due under this Agreement; plus
- (iv) Any fees and taxes imposed in connection with the purchase; plus
- (v) The Premature Termination Factor specified on the Schedule times the number of remaining annual installments of Rent.

10. EARLY TERMINATION. At any time after the Minimum Term and before the end of the Lease Term specified in a particular Schedule, Lessee may terminate the lease of any Vehicle leased under such Schedule provided Lessee is not in default (an "Early Termination"). In the event of an Early Termination, Lessee shall do one of the following: (i) purchase the Vehicle, or (ii) surrender the Vehicle to Lessor.

- i. Early Termination/Purchase of Vehicle. If Lessee elects to purchase a Vehicle with respect to an Early Termination, it shall pay Lessor the Settlement Amount as defined in Section 9 above.
- ii. Early Termination/Surrender of Vehicle. If Lessee elects to surrender a Vehicle to Lessor prior to the end of the Lease Term, for any cause, Lessee shall be responsible to pay Lessor any shortfall between the Settlement Amount and the net proceeds received by Lessor from the sale of such Vehicle, together with any disposition fee as indicated on the Schedule, not later than seven (7) days subsequent to such sale.

11. SCHEDULED TERMINATION AND LESSEE'S RESPONSIBILITY. At the end of the Lease Term Lessee shall do one of the following: (i) purchase the Vehicle, or (ii) surrender the Vehicle to Lessor if scheduled as a 'Net closed-end Lease.

- i. Purchase of Vehicle. If Lessee elects to purchase a Vehicle, it shall pay Lessor the Settlement Amount as defined in Section 9 above.
- ii. Surrender of Vehicle. If Lessee elects to surrender a Vehicle to Lessor, Lessee shall be responsible to pay Lessor any shortfall between the Settlement Amount and the net proceeds received by Lessor from the sale of such Vehicle, together with any disposition fee as indicated on the Schedule, not later than seven (7) days after notification of such deficiency; provided, however, that Lessor shall use its best efforts to avoid any shortfall by contacting not less than three (3), dealers, three (3)) before declaring a shortfall.

In the event any Vehicle is held by Lessee beyond the scheduled Termination Date, Lessee shall continue to pay Rent as specified on the applicable Schedule. In the event Lessee retains any Vehicle for more than ninety (90) days beyond the Termination Date, a fee of \$25.00 per month shall be added to the Rent of such Vehicle, regardless of whether Lessor has notified Lessee of the lease termination. Lessor is not obligated to permit Lessee to retain any Vehicle listed on any Schedule beyond its specified Termination Date. Lessor may also elect to designate that certain Vehicles covered in this Agreement shall be returned to Lessor exclusively at Lessor's option. Lessee shall be ultimately responsible to pay Lessor the Settlement Amount regardless of how the Vehicle is disposed of at the lease termination.

12. OWNERSHIP, LIENS, LICENSING, TITLING. The Vehicles are and shall at all times be the property of Lessor. Lessee shall have no right, title, or interest in any of the Vehicles except as a lessee and as set forth in this Agreement and the Schedule relating to each Vehicle. No provision of this Agreement or of any Schedule shall be construed as conveying to Lessee any interest in the Vehicles other than as a lessee. Lessee shall keep all Vehicles, all Schedules, and this Agreement free and clear of all liens, charges, claims and other encumbrances other than as specifically approved by Lessor in writing. In the event Lessor shall release Vehicle title, Manufacturer's Certificates of Origin, and/or licensing documents to Lessee, Lessee's agents, auctions, and/or State titling authorities for purposes other than a sale event after which Lessor is paid in full, Lessee shall be responsible to handle such documents in a manner to protect the interest of Lessor as owner. If transfer of title or licensing is not completed to the satisfaction of Lessor for any reason within forty-five (45) days of release of title or ownership document, Lessor may require Lessee to pay Lessor the full value of the Vehicle in funds as directed by Lessor. In the event Lessee shall fail to record the Lessor Ownership interest, shall fail to record lien information on state applications as directed by Lessor, or if Lessee fails to properly license and title a Vehicle in the opinion of Lessor, Lessee shall immediately upon notice received, facilitate proper corrections to all records through appropriate state agencies, at the Lessee's expense. Lessee expressly agrees to expeditiously process all license & titling transactions pertaining to Vehicles leased under this Agreement and the Schedules hereto to protect the interests of ownership parties. In the event that any Vehicle shall be sold by Lessee or Lessee's representative, Lessee hereby guarantees payment in full of all amounts owing under this Agreement within (7) seven days of sale event. In the event Lessor shall deem a Vehicle to be

improperly licensed and/or titled, Lessor may cause a correction to be affected, in which case Lessee shall be responsible for all reasonable costs related thereto, together with a \$50.00 handling fee per correction.

13. NO LESSOR WARRANTIES. LESSOR LEASES EACH VEHICLE "AS IS" AND LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE VEHICLE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. LESSEE WAIVES ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT OR ABSOLUTE LIABILITY IN TORT) LESSEE MIGHT HAVE, NOW OR IN THE FUTURE, AGAINST LESSOR FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGES), OR EXPENSE WITH RESPECT TO OR ARISING OUT OF THE USE OF ANY VEHICLE. LESSEE ACKNOWLEDGES THAT LESSOR DID NOT SELECT, OR MANUFACTURE THE VEHICLE AND THAT LESSEE SELECTED THE VEHICLE BASED UPON ITS OWN JUDGMENT, AND LESSEE EXPRESSLY DISCLAIMS ANY RELIANCE ON ANY STATEMENT MADE BY LESSOR OR ITS AGENTS REGARDING THE VEHICLES. Lessor assigns to Lessee, and Lessee shall have the benefit of, any and all manufacturer's warranties, with respect to the Vehicle; provided, however, that the sole remedy of Lessee for the breach of any such warranty, indemnification, or service agreement shall be against the manufacturer of such Vehicle and not against Lessor, nor shall any such breach have any effect whatsoever on the rights and obligations of Lessor or Lessee under this Agreement or any Schedule.

14. RISK OF LOSS/CASUALTY VALUE. Upon the delivery of the Vehicle to Lessee, Lessee shall bear the entire risk of any and all damage, destruction and or loss to any and all the Vehicles. As provided above in Section 4 of this Agreement, no such damage, destruction or loss shall excuse or relieve Lessee of the duty to pay Rent or to perform any other obligation under this Agreement or any Schedule. In the event any Vehicle leased under this Agreement shall become stolen, impounded, levied upon in any manner, or damaged beyond reasonable repair, including vehicles which have significant structural damage and vehicles which have been damaged and repaired in a substandard manner (in Lessor's sole judgment)) such Vehicle shall be purchased by Lessee not later than 30 days subsequent to such occurrence pursuant to the terms of Section 9 above. Any Vehicles which fall into this category must be reported to Lessor in writing within 72 hours of Lessee becoming aware of such circumstance.

15. GENERAL INDEMNIFICATION. To the extent permitted by Colorado law, Lessee shall indemnify and hold harmless Lessor, its successors and assigns, and the officers and employees of Lessor from and against any damage, loss, theft, or destruction of any Vehicle, and against all losses, liabilities, damages, injuries, claims, demands, costs and expenses of every kind and nature, whether or not covered by insurance, including legal fees, and disbursements arising out of and in connection with the use, condition or operation of Vehicles pursuant to this Agreement. Without limiting the generality of the foregoing, Lessee shall promptly pay and resolve all parking citations, fines, assessments, impoundments, impound fees, traffic citations, arrests, seizures, towing charges, storage charges, and all other fees and costs, including, without limitation, late charges, .

finer, interest and attorney's fees related to the use and operation of the Vehicles. In the event Lessee fails to timely pay or resolve any such items, Lessor may assess Lessee a late charge of Fifty Dollars (\$50.00) for each such occurrence. Lessee shall give Lessor, its successors or assigns prompt notice of any occurrence, event or condition in connection with which Lessor, its successors or assigns may be entitled to indemnification pursuant to the provisions of this Section 15. The provisions of this Section 15 shall survive the termination of this Agreement and of any Schedule.

16. NO SUBLEASE OR ASSIGNMENT; MERGER,

a) IF LESSEE IS IN THE BUSINESS OF RENTING VEHICLES TO RETAIL CUSTOMERS, LESSEE MAY LEASE VEHICLES IN THE ORDINARY COURSE OF ITS VEHICLE RENTAL BUSINESS TO INDIVIDUAL CUSTOMERS. LESSEE SHALL NOT OTHERWISE SUBLEASE, ASSIGN OR IN ANY WAY DISPOSE OR RELINQUISH CONTROL OF ALL OR ANY PART OF ITS RIGHTS OR OBLIGATIONS UNDER THIS AGREEMENT OR ANY SCHEDULE WITHOUT THE EXPRESS WRITTEN CONSENT OF LESSOR, WHICH MAY BE WITHHELD IN LESSOR'S SOLE DISCRETION.

b) Except upon the express written consent of Lessor, Lessee shall not: (i) enter into any transaction of merger or consolidation or any commitment with respect thereto; (ii) permit any substantial change in the ownership or control of the capital stock of Lessee; or (iii) change the form or organization of the business of Lessee.

17. LESSOR ASSIGNMENT. Without notice to Lessee, Lessor may assign or sell its interest in, grant a security interest in, or otherwise transfer, in whole or in part to any person or entity (each such person or entity an "Assignee"), this Agreement, one or more Schedules, any or all of the Vehicles or any of its rights, interests or obligations with respect thereto, including, without limitation, all Rent and other sums due or to become due under any Schedule to one or more persons or entities. Upon notice thereof from Lessor (as provided in Section 27(e) below), Lessee shall pay Rent to an Assignee. Lessee acknowledges that any such assignment or transfer by Lessor will not materially impair Lessee's prospect of obtaining return performance by Lessor, materially change Lessee's duties or obligations under this Agreement or any affected Schedule, nor materially increase the burdens or risks imposed on Lessee, and Lessee further agrees that any such assignment or transfer shall be permitted even if the same could be deemed to materially affect the interests of Lessee. LESSEE SHALL NOT ASSERT AGAINST ANY ASSIGNEE ANY CLAIM, DEFENSE, COUNTERCLAIM OR SET-OFF THAT LESSEE MAY AT ANY TIME HAVE AGAINST LESSOR.

18. PROVISIONAL SECURITY AGREEMENT. This Agreement and all the Schedules are intended by the Parties to be a "lease" as that word is used and defined under Colorado law.

Further, this Agreement and all the Schedules are intended by the Parties to be a "true lease" and not a disguised sale. In the event that it is determined at any time in any legal proceeding that any Vehicle is not subject to a true lease and or that the ownership, or title to any, of the Vehicles

is not held by and or in Lessor, then Lessee herewith grants to Lessor a security interest in all the Vehicles subject to this Agreement and every Schedule (and any and all amendments thereto) and all proceeds thereof to secure the performance of all obligations of whatever kind or nature due by Lessee to Lessor under this Agreement and every Schedule. Lessee also agrees to execute any and all documents including but not limited to all security agreements and financing statements, and to take whatever other actions are requested and or required by Lessor to perfect and to continue Lessor's security interest in and to the Vehicles.

19. EVENTS OF DEFAULT. Each of the following shall constitute an "Event of Default."

- a) Lessee fails to make any payment of Rent or of any other amount payable by Lessee when due plus any applicable grace period pursuant to this Agreement or any Schedule, regardless of whether or not Lessor provides notice of such default;
- b) Lessee fails to perform or observe any other term, covenant or condition of this Agreement or of any Schedule or any other agreement with Lessor and such failure shall continue for a period of five (5) calendar days;
- c) Any representation or warranty made by Lessee to Lessor in this Agreement, or in any Schedule or in any other writing or material provided by Lessee shall be false or misleading at any time in any material respect;
- d) Lessee ceases doing business as a going concern or transfers all or a substantial part of its assets; or Lessee becomes or is adjudicated insolvent or bankrupt, admits in writing its inability to pay its debts as they become due, or makes an assignment for the benefit of creditors; or Lessee applies for, or consents to, the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer is appointed without the consent of Lessee; or Lessee institutes any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or any such proceeding is instituted against Lessee and is not dismissed within thirty (30) days; or any judgment, writ warrant or attachment or execution of similar process is issued or levied against a substantial part of Lessee's property and remains unsatisfied for thirty (30) days; or Lessee has its articles of incorporation, charter or right to do business in any state revoked, suspended, terminated or otherwise changed; or
- e) Lessor reasonably deems itself to be insecure.

Lessee shall promptly notify Lessor of the occurrence of any Event of Default.

20. REMEDIES. Upon the occurrence of any Event of Default, Lessor may, without notice to Lessee, exercise any one or more of the following remedies, as Lessor in its sole discretion may elect:

- a) Upon the demand of Lessor, Lessee shall promptly, and, at the sole cost and expense of Lessee, return the Vehicles to such location or locations as Lessor shall designate;
- b) Upon the demand of Lessor, Lessee shall immediately pay to Lessor an amount equal to the total of all Rents and other amounts due and to become due under this Agreement and all applicable Schedules;
- c) Repossess any Vehicle under this Agreement according to applicable law, including by going onto Lessee's property to peacefully repossess such Vehicle, with or without the aid of a sheriff or constable, provided that any such repossession shall not release Lessee from its obligations under this Agreement;
- d) Upon notice to Lessee, Lessor may collect directly from Assignee's renters all payments owed to Assignee with respect to Vehicles leased hereunder, and Lessee shall cooperate with such collection, including, without limitation, immediately giving Lessor access to all client Vehicle rental documents;

Upon notice to Lessee, Lessor may terminate this Agreement and any or all Schedules, sue to enforce Lessee's performance thereof, and/or exercise any other right or remedy then available to Lessor at law or in equity;

- e) Lessor may hold all funds from the disposition of Vehicles as security for performance of all of Lessee's obligations under this Agreement until six months after the last Vehicle leased by Lessee is sold, and such funds shall be applied by Lessor in due course to satisfy such obligations; and
- f) Lessor may exercise all rights and remedies of a lessor under the Uniform Commercial Code as adopted in the State of Colorado, as Lessor may from time to time elect.

The exercise of any of the foregoing remedies by Lessor shall not constitute a termination of this Agreement or any Schedules unless Lessor expressly so notifies Lessee in writing. No failure or delay on the part of Lessor to exercise any right or remedy of Lessor under this Agreement shall operate as a waiver. No express or implied waiver by Lessor of any one Event of Default shall constitute a waiver of any other Event of Default by Lessee or a waiver of any right of Lessor. No remedy referred to in this Section 20 is intended to be exclusive, but each shall be cumulative and concurrent, and shall be in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. In addition to the above, and in any event, Lessee shall be liable for all costs, damages and expenses incurred by Lessor by reason of the occurrence of any Event of Default or the exercise of any remedy by Lessor, including, but not limited to, all attorneys' fees and costs, including on appeal, whether or not court proceedings are brought, costs related to the repossession, storage, repair and disposition of the Vehicles, and all incidental and consequential damages.

21. LESSORS RIGHTS ON LESSEES FAILURE TO PAY. In the event that Lessee fails to pay or otherwise perform any obligation due by Lessee under this Agreement or any Schedule, Lessor may, but shall not be obligated to, pay such amounts or perform such obligations for the account of Lessee without thereby waiving Lessor's right to declare an Event

of Default. In any such event, Lessee shall immediately upon demand reimburse Lessor for any such costs and expenses incurred by Lessor.

22. **QUIET ENJOYMENT.** Lessor covenants that Lessee shall quietly possess the Vehicles if, and so long as, Lessee performs all obligations due by Lessee under this Agreement and all Schedules.

23. **LESSEE REPRESENTATIONS.** Lessee represents and warrants to Lessor that (a) Lessee is a body corporate and politic duly organized, validly existing and in good standing under the laws of the state of its incorporation; (b) Lessee will authorize the signing, delivery, and performance of each Schedule before signing it; (c) when fully executed and delivered, this Agreement and each Schedule will be a legal, valid and binding agreement of Lessee, enforceable against Lessee in accordance with its terms subject to applicable bankruptcy and other laws, and will not violate or create a default under any law, rule, regulation, judgment, order, instrument, agreement, or charter document binding on Lessee or its property; (d) no consent or approval of, notice to, or filing with any governmental authority is required for Lessee to sign, deliver or perform this Agreement and each Schedule other than may be required to file financing statements; (e) there are no pending or threatened actions or proceedings before any court or administrative agency that could have a material adverse effect on Lessee, nor is Lessee in default under any material loan, lease or purchase obligation; and (f) all information furnished and to be furnished by Lessee to Lessor is and will be true and correct and complete; and (g) all financial statements regarding Lessee furnished and to be furnished by Lessee to Lessor have been and will be prepared according to generally accepted accounting principles.

24. **FINANCIAL AND OTHER INFORMATION.** Lessee shall furnish to Lessor, at the sole cost and expense of Lessee: (a) upon request, but at least annually, a copy of such financial information of Lessee as may be reasonably requested by Lessor, certified by signature of the principal financial officer of Lessee and in form reasonably acceptable to Lessor within ninety (90) days after the last day of the applicable month; (b) a bi-annual updated fleet list containing Vehicle identification number, year, make, model, and last known odometer reading; (c) annual audited or reviewed financial statements within ninety (90) days after the end of Lessee's fiscal year; and (d); such additional information concerning Lessee as Lessor may reasonably request from time to time including, without limitation, documents normally reviewed as part of an audit, and Lessee's fleet rental documents. Lessee shall notify Lessor within ten (10) days after any material adverse change in Lessee's financial condition. Lessor shall have the right, at Lessor's sole expense, to hire auditors to audit, inspect, and copy the books and records of Lessee with respect to Lessee's business activities with or without advance written notice by Lessor to Lessee. Lessee shall cooperate with Lessor in providing Lessor's auditor's reasonable access to all of its books and records during normal business hours for this purpose.

25. **SECURITY DEPOSIT.** Lessee may be required to provide Lessor with a security deposit (the "Security Deposit") for the faithful performance by Lessee of all of the terms, covenants and conditions required to be performed by Lessee hereunder. If a Security Deposit is required, Lessor and Lessee shall execute and deliver an addendum to this Agreement which shall set forth the terms and conditions of the Security Deposit and shall be a part of this Agreement. Lessor and Lessee may modify or amend the terms and conditions of the Security Deposit by executing additional addenda to this Agreement which shall likewise become a part of this Agreement.

26. FURTHER ASSURANCES. Upon the request of Lessor, Lessee shall promptly deliver to Lessor all such documents and instruments as Lessor deems reasonably necessary or advisable to protect all of the rights, title and interests of Lessor in any of the Vehicles, the Schedules and/or this Agreement including, but not limited to, fully executed certificates of Vehicles acceptance, financing statements, certified resolutions of Lessee's governing body, incumbency certificates, opinion of counsel for Lessee, estoppel certificates, fixture filings and certificates evidencing the insurance required in Section 6 of this Agreement.

27. MISCELLANEOUS.

- a) Entire Agreement. The Parties acknowledge that there are no agreements or understandings, written or oral, between the Parties with respect to any of the Vehicles, other than as set forth herein and in each Schedule and that this Agreement and each Schedule contains the entire agreement between the Parties with respect thereto.
- b) Signature for Lessee. Lessor may sign all financing statements for Lessee as Lessor may deem appropriate for filing at any time and in any place to protect the rights and interests of Lessor in any of the Vehicles and in any of the Schedules and in this Agreement,
- c) No Waiver. To the full extent permitted by applicable law, Lessee hereby waives all rights of Lessee under any provision of law now or hereafter in effect which might limit or modify or otherwise render unenforceable in any respect, any remedy or other provision of this Agreement or any Schedule. No delay by Lessor in exercising any right, power or remedy under this Agreement or any Schedule shall constitute a waiver, and any waiver by Lessor on any one occasion or for any one purpose shall not be construed as a waiver on any future occasion or for any other purpose and specifically, by way of example only, acceptance by Lessor or any Assignee of any payment of Rent after the date any such payment is due shall not constitute a waiver or remedy any Event of Default arising out of the failure of payment except as may be expressly waived in writing by Lessor.
- d) Binding Nature. This Agreement and every Schedule shall be binding upon, and shall inure to the benefit of Lessor, Lessee, and their respective successors, legal representatives, and assigns.
- e) Notices. Any notice, request, or other communication to either of the Parties shall be in writing and shall be deemed received no later than the day that is (i) three (3) business days after deposit in the United States mail by registered or certified mail, return receipt requested, postage prepaid, (ii) the day after notice is deposited with Federal Express or other nationally recognized overnight courier service, or (iii) the same day notice is delivered by hand delivery to an officer or

manager of such Party. Each Party may change its address by like notice stating its new address to the other.

- f) **Applicable Law.** This Agreement and all Schedules shall be considered executed, and delivered in the State of Colorado and shall be governed and construed for all purposes under and in accordance with the laws of the State of Colorado without application of the conflict of laws provisions thereof.
 - g) **Resolution of Disputes.** Any controversy or dispute between the Parties with respect to this Agreement or any Schedule or any of the Vehicles shall be resolved, in the discretion of Lessor, in a court of competent jurisdiction sitting in Lessee's state of incorporation or domicile, or in any state where a Vehicle is located (the "Designated Forum"), and Lessee herewith consents to and submits itself to the jurisdiction of such courts in the Designated Forum. In addition, and separately, any such controversy or dispute may be referred to mediation at the sole direction and election of Lessor at such place and under such procedures as Lessor may determine at the sole discretion and election of Lessor.
 - h) **Severability.** In the event any one or more of the provisions of this Agreement or any Schedule shall for any reason shall be held invalid, illegal, or unenforceable, the remaining provisions of this Agreement or any Schedule shall be unimpaired, and the invalid, illegal, or unenforceable provision shall be replaced by a mutually acceptable, valid, legal, and enforceable provision which comes closest to the intention of the Parties underlying the invalid, illegal, or unenforceable provision
 - i) **Claims.** Any claim by Lessee against Lessor for any breach by Lessor of any obligation of Lessor under this Agreement or any Schedule shall be commenced in a court of competent jurisdiction located in the State of Colorado within one (1) year after such claim accrues.
 - j) **Additional Matters.** Section headings are for convenience only and are not substantive terms or conditions of this Agreement.
28. **CERTIFICATION.** Lessee hereby certifies, under penalty of perjury as follows:
- a) Lessee intends that more than fifty percent (50%) of the use of the Vehicles subject to this Agreement will be in the Lessee's trade or business, including the Lessee's normal operations as a municipality;
 - b) Lessee has been advised that Lessee will not be treated as the owner of the Vehicles subject to this Agreement for Federal income tax purposes;
 - c) No term or provision of this Agreement or any Schedule shall be amended, altered, waived, discharged, or terminated except in writing signed by the Parties in compliance with Section 2A-208(2) of the Uniform Commercial Code requiring a separate signature of such provision;

- d) The individual(s) executing this Agreement or any Schedule on behalf of the Lessee hereby warrant(s) that he/she/they has(ve) the requisite authority to execute this Agreement on behalf of the Lessee and that the Lessee has agreed to be and is bound hereby; and

Lessee separately certifies to the matters set forth in this Section 28 by signing in this space immediately provided below.

Lessee's Signature BY: _____

Lessee Signor's Printed Name: _____

Municipal Tax ID # _____

AFFIDAVIT OF AUTHORITY

STATE OF _____:

COUNTY OF _____:

THE UNDERSIGNED AFFIANT, _____, being first duly sworn, deposes and says:

1. My name is _____, and I reside at _____.

2. I hold the position of _____ with _____, a political subdivision of the State of _____.

3. I herewith certify that I have been duly authorized by _____, the aforesaid political subdivision, consistent with the applicable laws, rules, and regulations governing the granting of such authority to make, execute, and deliver the Master Lease Agreement, or a Schedule thereto, to Horsepower Fleet Leasing, LLC, as the valid, binding, and enforceable agreement and undertaking of the aforesaid subdivision.

4. I do further certify that the following persons, whose sample signatures are provided below, are also authorized persons empowered and authorized by the applicable laws, rules, and regulations governing the granting of such authority to make, execute, and deliver the Master Lease Agreement, or a Schedule thereto, to Horsepower Fleet Leasing, LLC, as the valid, binding, and enforceable agreement and undertaking of the aforesaid political subdivision, to wit:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
<u>Tyler Loveridge</u>	<u>Horsepower Fleet Lease, LLC</u>	<u></u>
<u></u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

FURTHER AFFIANT sayeth not.

DATED this ____ day of _____, 20____.

Name: _____

SUBSCRIBED AND SWORN to before me, a Notary Public of the State of Colorado, this ____ day of _____, 20____.

Notary Seal

Notary Public