



**Tax Lease**  
**Contract Number 001-70109871**

## 1. PARTIES

**LESSOR ("we", "us" or "our"):**

**CATERPILLAR FINANCIAL SERVICES CORPORATION**  
 2120 West End Avenue  
 Nashville, TN 37203

**LESSEE ("you" or "your"):**

**CITY OF COLUMBIA, MO**  
 P.O. BOX 6015  
 COLUMBIA, MO 65205-7236

In reliance on your selection of the equipment described below (each, a "Unit"), we have agreed to acquire and lease the Units to you, subject to the terms of this Lease. **Until this Lease has been signed by our duly authorized representative, it will constitute an offer by you to enter into this Lease with us on the terms stated herein.**

## 2. DESCRIPTION OF THE UNITS

<b>DESCRIPTION OF UNITS</b> Whether the Unit is new or used, the model number, the manufacturer, and the model name.	<b>SERIAL/VIN</b> Unique ID number for this Unit.	<b>MONTHLY RENT</b> This is due per period, as stated below in Section 4.	<b>OPTION PURCHASE PRICE</b> Payment at end of lease for purchase of Unit (see Section 16).	<b>MAX ANNUAL HOURS/ MILEAGE</b> Maximum annual usage of Unit (see Return Agreement).	<b>DELIVERY DATE</b> Enter date machine was delivered to you.
1 New 2023 Caterpillar 745-04 Articulated Truck	3T606216	\$15,413.07	\$206,955.00	2000	

**LOCATION OF UNITS:** 701 E BROADWAY  
 COLUMBIA, MO 65201-4465

You acknowledge that the Units described above were delivered to you in good working condition and that you accepted them on the date indicated.

The Lease Return Conditions agreement ("Return Agreement") submitted by you to us for each Unit is made a part of and incorporated into this Lease.

[Signatures on Following Page]

**SIGNATURES**

By signing this Lease, you certify that you have received and read this Lease, including the following 4 pages titled "Terms and Conditions", which make up part of this Lease, the Amendment to Tax Lease of even date herewith, and all the other Lease Documents, including each Return Agreement.

LESSEE: CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_  
\_\_\_\_\_, City Manager 

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

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, City  
Counselor

LESSOR: CATERPILLAR FINANCIAL SERVICES CORPORATION

By: \_\_\_\_\_

Name & Title: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
Name & Title: \_\_\_\_\_

## TERMS AND CONDITIONS

- 3. Lease Term** The Lease Term will start on the date we sign the Lease and will continue for 60 months, unless earlier terminated or canceled as permitted herein.
- 4. Rent** You will pay us the Monthly Rent beginning One month after the date we sign this Lease and on the same date of each month thereafter for the entire Lease Term. Monthly Rent will be due without demand. You will also pay us all other amounts payable under the terms of this Lease and under any other document executed in connection with this Lease, including each Return Agreement (the "Lease Documents") ("Other Payments", and together with the Monthly Rent, collectively, the "Rent"). You will pay the Rent to us at CATERPILLAR FINANCIAL SERVICES CORP., P.O. BOX 730681, DALLAS, TX 75373-0681 or such other location that we designate in writing. **You agree this Lease constitutes a non-cancelable net lease. You also agree that your duties and liabilities under this Lease and the other Lease Documents are absolute and unconditional. Your payment and performance obligations are not subject to cancelation, reduction, or setoff for any reason. You agree to settle all claims, defenses, setoffs, counterclaims and other disputes you may have with the Supplier (as defined below), the manufacturer of each Unit, or any other third party directly with the Supplier, the manufacturer or the third party, as the case may be. You will not assert, allege or make any such claim, defense, setoff, counterclaim or other dispute against us or with respect to the payments due us under this Lease.**
- 5. Late Charges** If we do not receive a Rent payment on the date it is due, you will pay us, on demand, a late payment charge equal to five percent (5%) of the late Rent payment.
- 6. Disclaimer of Warranties** You have selected each Unit based upon your own judgment. You understand that we are not the manufacturer or the seller of the Units. WE MAKE NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THIS LEASE OR TO ANY UNIT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH UNIT IS LEASED "AS IS, WHERE IS," WE MAKE NO WARRANTIES AS TO THE QUALITY OF MATERIALS OR WORKMANSHIP OR THAT THE MATERIALS OR WORKMANSHIP COMPLY WITH THE TERMS OF ANY PURCHASE ORDER OR AGREEMENT. WE EXPRESSLY DISCLAIM, AND YOU WAIVE ALL OTHER WARRANTIES AND CLAIMS EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY UNIT OR THIS LEASE, INCLUDING WITHOUT LIMITATION: (A) ANY IMPLIED WARRANTY THAT ANY UNIT IS MERCHANTABILITY; (B) ANY IMPLIED WARRANTY THAT ANY UNIT IS FIT FOR A PARTICULAR PURPOSE; (C) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; (D) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY IN TORT; AND (E) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY FOR LOSS OF OR DAMAGE TO ANY UNIT, FOR LOSS OF USE, REVENUE, OR PROFIT WITH RESPECT TO ANY UNIT, FOR ANY LIABILITY TO ANY THIRD PARTY, OR FOR ANY OTHER INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING STRICT OR ABSOLUTE LIABILITY IN TORT. Nothing in this Lease takes away any rights you may have against any other parties (such as the Supplier or the manufacturer of any Unit). You agree to pursue only these third parties for any and all claims concerning any Unit except as to ownership and title. You are entitled to all the promises and warranties made by the Supplier to us with respect to the Units, and you may contact the Supplier in order to receive a description of those promises and warranties.
- 7. Possession, Use, and Maintenance** (a) At your own expense, you will use and keep the Units in good operating order and condition and at least in accordance with Supplier's and manufacturer's recommendations and all maintenance and operating manuals and service agreements, and in accordance with all applicable laws and regulations, including the rules or limits on idling, fleet average or site based exhaust emissions, or operational limitations, for which you have sole responsibility for compliance. (b) You will not abandon a Unit. (c) You will not sublease a Unit or permit the use of a Unit by anyone other than you. (d) You will not change the use of a Unit from that specified in the Return Agreement, without our
- prior written consent. (e) You will not change the Location of a Unit from that specified above without providing us with prompt written notice of such change. (f) You will not remove a Unit from the United States. (g) You will not sell, assign, transfer, create or allow to exist a lien, claim, security interest, or encumbrance on any of your rights under this Lease or with respect to a Unit. Each Unit is and will remain personal property regardless of its use or manner of attachment to realty. We have the right (but not the obligation) to inspect each Unit and its maintenance records. We also have the right to observe the use of each Unit and determine its hours of usage. You will not alter a Unit or affix any accessory or equipment to a Unit if doing so will impair its originally intended function or use or reduce its value. You will not make any "non-severable" addition (as defined for federal income tax purposes) to a Unit without our prior written consent. If added to a Unit, the following will immediately become our property: (i) replacement parts; (ii) parts essential to the operation of the Unit; and (iii) parts that cannot be detached from the Unit without interfering with the operation of the Unit or adversely affecting the value or utility the Unit would have had without the addition. All such parts will be deemed incorporated in the Unit and will be subject to the terms of this Lease as if originally leased under this Lease. If an Event of Default has occurred and is continuing, all parts, accessories, and equipment affixed to a Unit will become our property.
- 8. Taxes** Rent includes all taxes arising from, or due in connection with, this Lease or the Units. You will pay when due, or promptly reimburse us for payment of, all taxes (other than our federal, state, or local net income taxes) imposed on a Unit, or the Rent. You will also pay or reimburse us for all (i) license and registration fees, (ii) fines, penalties, interest, or additions to any tax, (iii) charges similar to those stated in clauses (i) and (ii) that are imposed in connection with the ownership, possession, use, or lease of a Unit from the time we purchase the Unit until it is returned to us or purchased by you. You will remain responsible for the payment, or reimbursement of, any such charges, regardless of when we receive notice of the charge. You will prepare and file, in a manner satisfactory to us, all reports or returns required with respect to a Unit. You will reimburse us in full for any amounts that we pay or advance without regard to early payment discounts. We may estimate the amount of, and bill you periodically in advance for, any charge. You will be responsible, however, for any difference between the estimated amount and the actual amount. Except as provided in this section, you agree that we are entitled to receive any and all federal, state, or local tax credits and benefits, if any, applicable to a Unit. We are entitled to income tax depreciation deduction for each Unit based on the use as described in the Return Agreement.
- 9. Tax Indemnity** This Lease is entered into on the basis that we are entitled to claim certain depreciation deductions on the Units in accordance with Section 168(a) of the Internal Revenue Code of 1986, as amended, (the "Code") based upon the applicable depreciation method and recovery period specified in Code Sections 168(b) and (c), and to similar state and local income tax deductions (collectively, the "Tax Benefits"). Our classification of a Unit under Code Section 168(e), our determination of the applicable depreciation method and recovery period, and our claim for an entitlement to the Tax Benefits are based solely upon your representations in Section 7 and the applicable Return Agreement. If we do not receive nor retain all of the Tax Benefits anticipated with respect to any Unit (a "Tax Loss"), because (a) of a change in the US federal income tax rate, (b) you move any Unit outside the United States, or (c) you use any Unit for a different purpose than stated in the applicable Return Agreement; you will pay us, within thirty (30) days after we provide you written notice of such Tax Loss, an amount which, in our opinion, will cause our net after-tax rate of return over the Lease Term in respect to the Unit to equal the net after-tax rate of return we would have realized if such Tax Loss had not occurred. For purposes of this section, we may be included in any affiliated group (within the meaning of Section 1504 of the Code) of which we are a member for any year in which a consolidated or combined income tax return is filed for the affiliated group.
- 10. Loss or Damage** (a) You bear the risk of loss or damage to a Unit from the time we purchase the Unit (or from the beginning of the Lease Term, if earlier) until the Unit is returned to us or purchased by you in accordance with this Lease. Should any loss or damage occur,

you will not be released from your obligations under the Lease or any other Lease Document. (b) You will provide prompt, written notice to us of any Total Loss (as defined below) or any material damage to any Unit. Any such notice will include any damage reports provided to any governmental authority, an insurer, or the Supplier, and any documents pertaining to the repair of such damage, including copies of work orders and all invoices for related charges. (c) Without limiting any other term in this Lease, you will promptly repair all damage that does not constitute a Total Loss, to restore the Unit to the condition required by this Lease. (d) A Unit has incurred a "Total Loss" upon: (i) the disappearance, theft or destruction or any other total loss of such Unit; (ii) damage to the Unit that is uneconomical to repair; or (iii) the condemnation, confiscation, or other taking of title to or use of a Unit or the imposition of any lien on such Unit by any governmental authority. On the next Rent due date following a Total Loss (a "Loss Payment Date"), you will pay us the Monthly Rent due on that date plus the Casualty Loss Value of the Unit with respect to which the Total Loss has occurred (the "Lost Units"), together with any Other Payments due with respect to the Lost Units. Until such payment is made, you will continue to pay us the Monthly Rent on the due dates set forth in Section 4. Upon making the full payment required on the Loss Payment Date, your obligation to pay future Monthly Rent on the Lost Units will terminate, but you will remain liable for all Monthly Rent and all Other Payments on any remaining Units. Furthermore, upon receipt of the full payment required on the Loss Payment Date, we convey to you all of our right, title, and interest in the Lost Units, "AS IS WHERE IS", but subject to the requirements of any third party insurance carrier in order to settle an insurance claim. "Residual Value" means the future fair market value of a Unit at the end of the Lease Term (determined at Lease inception). "Casualty Loss Value" means the sum of: (i) the discounted present value of all unpaid future Rent for the Lost Units; (ii) the discounted present value of the Lost Unit's Residual Value as determined by us; and (iii) all other amounts then due under this Lease with respect to the Lost Units (including all Other Payments then owing and unpaid). If the Total Loss occurs after the final Rent due date of the Lease Term, the Casualty Loss Value will be determined as of the last Monthly Rent due date during the Lease Term. (e) We are not required to pursue any claim against any person in connection with a Total Loss or other loss or damage. (f) If we receive a payment under an insurance policy required under this Lease in connection with any Total Loss or other loss or damage to a Unit, and such payment is both unconditional and infeasible, then provided you have complied with the applicable provisions of this section, we will either (i) if the payment results from a Total Loss, send you proceeds up to an amount equal to the Casualty Loss Value you previously paid us, or credit the proceeds against any amounts you owe us or (ii) if the payment results from repairs made pursuant to Section 10(c), send you proceeds up to an amount equal to the amount of your actually incurred costs of repair.

**11. Waiver and Indemnity** You release and agree to indemnify, defend, and keep harmless, us (including any assignee of ours) and our directors, officers, agents and employees (each, an "Indemnitee"), from and against any and all Claims (defined below) (other than those directly resulting from the actual gross negligence or willful misconduct of the Indemnitee). To meet this obligation, you will pay, on a net after-tax basis, or otherwise discharge such Claims, when and as they become due. We will give you prompt notice of a Claim. You are entitled to control the defense of or to settle a Claim, so long as: (a) no Event of Default has occurred and is then continuing; (b) you are financially capable of satisfying your obligations under this section; and (c) we approve your proposed defense counsel. "Claims" means all claims, allegations, judgments, settlements, suits, actions, damages (whether incidental, consequential or direct), demands (for compensation, indemnification, reimbursement or otherwise), losses, penalties, fines, liabilities (including strict liability), and charges that we incur or for which we are or may be responsible, in the nature of interest, liens, and costs (including attorneys' fees and disbursements and any other legal or non-legal expenses of investigation or defense of any Claim, whether or not the Claim is ultimately defeated, or enforcing the rights, remedies, or indemnities provided for hereunder, or otherwise available at law or in equity to us), of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, by or against any person. Claims include any of the foregoing arising from: (i) a Lease Document; (ii) a Unit, including the contents and any regulated or hazardous substances at any time contained in a Unit or emitted from a Unit, (iii) the premises at which any Unit may be located from time to time; (iv) the ordering, acquisition, delivery, installation, or rejection of a Unit; (v) the possession of a Unit or any property to which the Unit may be attached  
US Tax Lease (CAT Value Option)

from time to time; (vi) the maintenance, use, condition, ownership or operation of any Unit, during the Lease Term; (vii) the existence of a latent or other defect (whether or not discoverable by you or us) with respect to a Unit; (viii) any Claim in tort for negligence or strict liability in relation to a Unit; (ix) any Claim for patent, trademark or copyright infringement in relation to a Unit; (x) the Total Loss or damage, return, surrender, sale, or other disposition of any Unit or any part thereof; or (xi) any Claim involving or alleging environmental damage, or any criminal or terrorist act, relating in any way to a Unit. To the extent necessary under law or regulation, in order to eliminate liability for us, we transfer and you accept the transfer from us of any and all liability associated with exhaust emissions in connection with the Units. If any Claim is made against you or an Indemnitee, the party receiving notice of the Claim will promptly notify the other. If the party receiving notice of the Claim fails to notify the other, however, your obligations are still in effect. You agree to be responsible for all costs and expenses, including reasonable attorneys' fees, incurred by us or our directors, officers, employees, agents, or assigns in defending such claims or in enforcing this section. Under no condition or cause of action will we be liable for any loss of actual or anticipated business or profits or any special, indirect, or consequential damages.

**12. Insurance** You, at your expense, must keep each Unit insured with a commercial insurance policy for our benefit. This insurance must include physical damage insurance that will protect each Unit against all risks for an amount at least equal to the then-applicable Casualty Loss Value. You will also maintain commercial general liability insurance (including product and broad form contractual liability) covering each Unit for at least \$1,000,000 combined coverage for bodily injury and property damage per occurrence. All insurance must be in a form and with companies approved by us. The physical damage insurance shall specify you as named insured and us as loss payee, and the general liability policy shall specify you as named insured and us as additional insured. The insurance shall be primary, without the right of contribution from any insurance carried by us. You must promptly notify us of any occurrence that may become the basis of a claim. You must also provide us with all requested pertinent data. Upon demand, you must promptly deliver to us evidence of insurance coverage. Notwithstanding anything to the contrary, you acknowledge and authorize us to receive the return of any unearned premiums, including without limitation any refunds resulting from cancellation, nonrenewal, voidance or adjustment of your insurance policy financed with us, if the policy is underwritten by Caterpillar Insurance Company or its affiliates. You agree that such unearned premiums are being forwarded on your behalf, credited to you and will be applied by us to any unpaid balances on your account.

**13. Events of Default** Each of the following is an event of default ("Event of Default"): (a) You fail to make a payment when due. (b) A representation or warranty made to us in connection with this Lease is incorrect or misleading. (c) You fail to observe or perform a covenant, agreement, or warranty and the failure continues for ten days after written notice to you. (d) A default occurs under any other agreement between you or a guarantor of this Lease (each a "Guarantor") and us or an affiliate of ours. (e) You, or a Guarantor, cease to do business, die, become insolvent, make an assignment for the benefit of creditors or file a petition or action under a bankruptcy, reorganization, insolvency or moratorium law, or a law for the relief of, or relating to, debtors. (f) Any filing of an involuntary petition under a bankruptcy statute against you or a Guarantor, or appointment of a receiver, trustee, custodian or similar official to take possession of your properties or those of a Guarantor, unless the petition or appointment ceases to be in effect within thirty days after filing or appointment. (g) There is a material adverse change in your, or a Guarantor's, financial condition, business operations or prospects. (h) There is a termination, breach, or repudiation of a Guarantor's guaranty. (i) There is a breach in any respect of any covenant or agreement in Section 18 hereof.

**14. Remedies** (a) If an Event of Default occurs, we will have the rights and remedies provided by this Lease and under the Uniform Commercial Code ("UCC") and any other law. Among these rights and remedies are to: (i) proceed at law or in equity, to enforce specifically your performance or to recover damages; (ii) declare this Lease in default, and cancel this Lease or otherwise terminate your right to use any Unit and your other rights, but not your obligations, (iii) require you to assemble Units and make them available to us at a place we designate; (iv) enter premises where a Unit may be located and take immediate possession of such Unit and remove (or disable in place) such Unit (and any unattached parts) without notice, liability, or legal

process; (v) use your premises for storage without liability; (vi) sell or lease any of the Units, whether or not in our possession, at public or private sale, with or without notice to you, and apply or retain the net proceeds of such disposition in accordance with this Lease; (vii) enforce any or all of the preceding remedies with respect to any related collateral, and apply any deposit or other cash collateral, or any proceeds of any such collateral, at any time to reduce any amounts you owe us; (viii) demand and recover from you all Liquidated Damages (as defined below) and all Other Payments whenever they are due; and (ix) if we financed your obligations under a warranty agreement such as an Equipment Protection Plan, Customer Service Agreement, or similar agreement, we may cancel the agreement on your behalf and receive the refund of the fees that we financed but had not received from you as of the date of the Event of Default. As used herein, "Liquidated Damages" means the liquidated damages (all of which, you hereby acknowledge, are damages to be paid in lieu of future Monthly Rent and expected Residual Values and are reasonable in light of the anticipated harm arising by reason of an Event of Default, and are not a penalty) described in the first sentence of parts (i) or (ii) of Section 14(b) below, depending upon the recovery and disposition of the Units.

(b) If an Event of Default occurs and:

(i) we recover a Unit and dispose of it by a lease or elect not to dispose of the Unit after recovery, you will pay us on demand an amount equal to the *sum* of (A) any accrued and unpaid Rent as of the date we recover the Unit, *plus* (B) the present value as of such date of the total Monthly Rent for the then remaining Lease Term, *minus* (C) either (1) the present value, as of the commencement date of any substantially similar re-lease of the Unit, of the re-lease rent payable to us for the period, commencing on such commencement date, which is comparable to the then remaining Lease Term or (2) the present value of the "market rent" for such Unit (as computed pursuant to Article 2A of the UCC ("Article 2A")) in the continental United States as of the date on which we have a reasonable opportunity to remarket the Unit for the period, commencing on such date, which is comparable to the then remaining Lease Term, as applicable; provided, however, you acknowledge that if we are unable after a reasonable effort to dispose of the Unit at a reasonable price and pursuant to other reasonable terms, or the circumstances reasonably indicate that such an effort will be unavailing, the "market rent" in such event will be deemed to be \$0.00, but in the event that we do eventually re-lease or otherwise dispose of the Unit, we will apply the net proceeds of such disposition, to the extent received in good and indefeasible funds, as a credit or reimbursement, as applicable, in a manner consistent with the terms of this Lease and the applicable provisions of Article 2A. Any amounts discounted to present value, shall be discounted at the rate of three percent (3%) per annum, compounded annually;

(ii) you fail to return a Unit in the manner and condition required by this Lease, or we recover and sell the Unit, you will pay to us on demand an amount calculated as the Casualty Loss Value of the Unit (determined as of the next Monthly Rent payment date after the date of the Event of Default), together with all costs and expenses (as defined below), *less* a credit for any disposition proceeds, if applicable pursuant to the application provisions in the next sentence. If we demand the Liquidated Damages under this part (ii) and recover and sell the Unit, we will apply any proceeds received in good and indefeasible funds: first, to pay all costs and expenses not already paid; second, to pay us an amount equal to any unpaid Rent due and payable, together with the Liquidated Damage amounts specified in this part (ii), to the extent not previously paid; third, to pay us any interest accruing on the amounts covered by the preceding clauses, plus late charges, from and after the date the same becomes due, through the date of payment; fourth, to pay us an amount equal to any remaining obligations that you owe us under this Lease.

The remedies provided to us are cumulative and in addition to all other remedies at law or in equity. You will remain liable for any deficiency and we will retain any excess after our exercise of these remedies. You agree to pay all charges, costs, expenses and reasonable attorney's fees incurred by us in enforcing this Lease. To the extent you are entitled to a refund from us, you agree we have the right to

offset any obligation that you have with us or our affiliates with such refund.

**15. Return of Unit** On expiration of the Lease Term or if we demand possession of a Unit pursuant to the terms of the Lease, you will, at your expense, promptly deliver the Unit to us properly protected and in the condition required by Section 7 and the applicable Return Agreement. You will deliver the Unit, at our option, (a) to the nearest Caterpillar dealer selling equipment of the same type as the Unit; or (b) on board a carrier named by us and shipping the Unit, freight collect, to a destination designated by us. If the Unit is not in the condition required by Section 7 and the applicable Return Agreement, you must pay us, on demand, all costs and expenses incurred by us to bring the Unit into the required condition. You are obligated to pay holdover rent in the amount equal to 1/30th of the Monthly Rent plus any other costs and expenses for each day following the end of the Lease Term on any Unit that is not returned or purchased pursuant to the terms of this Lease.

**16. Purchase Option** At the expiration of the Lease, if no Event of Default has occurred and is continuing, you may choose to purchase any Unit for the Option Purchase Price set forth on the front of this Lease if this Lease includes an Option Purchase Price. In order to exercise a purchase option, you must send written notice to us at least sixty (60) days prior to the end of the Lease Term. Upon receipt of the Option Purchase Price and all other amounts owing under the Lease, plus any taxes or our other costs and expenses arising from the sale of the Unit or the delivery of the bill of sale, we will deliver to you, upon request, a bill of sale without warranties except that the Unit is free of all encumbrances of any person claiming through us. You agree to purchase the Unit "**AS IS, WHERE IS, WITH ALL FAULTS.**" Any applicable purchase option must be exercised as of the last day of the Lease Term and it is not available during any holdover period. You agree with us that the Option Purchase Price, if set forth in Table A and identified as a Cat Value Option, is not less than the reasonably expected Residual Value (as defined in Section 10) of such Unit.

**17. Your Assurances and Representations** Each of us intends that: (i) this Lease constitutes a true "lease" and a "finance lease" as such terms are defined in Article 2A and not a sale or retention of a security interest; (ii) you have selected the "Supplier" (as defined in Article 2A) and have directed us to purchase each Unit from this Supplier; (iii) you were informed, before your execution of this Lease and are hereby informed in writing that you are entitled under Article 2A to the promises and warranties, including those of any third party, provided to us by the Supplier in connection with or as part of the purchase of the Units, and that you may communicate directly with the Supplier and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations on remedies relating thereto; and (iv) we are and shall remain the owner of each Unit (unless sold by us pursuant to any Lease Document), and you shall not acquire any right, title or interest in or to such Unit except the right to use it in accordance with the terms hereof.

You represent and warrant to us that: (a) You will use each Unit for business purposes only and not for personal, family or household use. (b) You will provide all financial information and reporting as we may reasonably require. (c) All credit, financial and other information submitted by you or on your behalf to us in connection with this Lease is and shall be true, correct and complete. (d) You will not change your name, principal place of business or primary residence and, if you are a business entity, your state of formation or form of business organization (including by merger, consolidation, reincorporation or restructure) without prior written notice to us. (e) We may share any of your information provided by you, or gathered by us, with any affiliate of ours that has or may extend credit to you. (f) You will not assign this Lease or any right or obligation under it without our prior written consent. (g) In the event any Unit is equipped with a Unit monitoring system such as Cat® Product Link, you agree not to remove, disable or impair the Unit monitoring system. You agree to permit Caterpillar Inc. and/or its subsidiaries or affiliates, including us (collectively "Caterpillar"), and/or Caterpillar dealers to access data concerning the Unit, its condition and its operation transmitted from the monitoring system. The information may be used: (1) to administer, implement and enforce the terms of this Lease (including any addendum hereto), (2) to recover the Unit if necessary, and/or (3) to improve or manage Caterpillar's products and services. You agree that information transmitted may include, among other things, the serial number, VIN, location, and operational and other data, including but not limited to fault

codes, emissions data, fuel usage, service meter hours, software and hardware version numbers, and installed attachments.

You agree that messages regarding active transactions you have with us may be delivered by telephone call (whether prerecorded voice or autodialed or not) or sent via text message or SMS (whether autodialed / texted or not), or message sent through a social media or similar platform, to any landline or mobile phone number submitted in connection with the credit application process or subsequently as a business contact number for you. You agree to update your business contact information, including any mobile number submitted as a contact, with us if it changes during the duration of this Lease. You understand and agree that collections messaging may occur, even if you have registered certain preferences regarding a mobile number that is also a business contact number.

Caterpillar publishes its Data Governance Statement ("Data Governance Statement") covering matters relating to data collected by Caterpillar, including geolocation and operational data relating to equipment or owners or operators of the Units. In addition, Caterpillar's Global Data Privacy Statement ("Privacy Statement") describes how Caterpillar collects, processes and shares information that relates to an identified or identifiable individual ("Personal Information") and rights that individuals might have under applicable data privacy laws. By entering into this Lease, Lessee agrees: (1) that it has received and reviewed the Data Governance Statement online at <https://www.caterpillar.com/datagovernance> and the Privacy Statement online at <https://www.caterpillar.com/dataprivacy>; (2) to the collection, use, disclosure and sharing of information, including personal information, as set forth in the Data Governance Statement and the Privacy Statement; and (3) that it will provide any individuals access to or a copy of the Data Governance Statement and the Privacy Statement before providing the individual's information to us or our affiliates. Lessee (or individuals representing Lessee) may also authorize and/or consent to the collection, use, disclosure and sharing of information and/or Personal Information in other agreements or documents with us, our affiliates or Caterpillar dealers, and nothing contained herein shall interfere with or affect such agreements or documents in any way.

You agree, at your expense, to do any act and execute, acknowledge, authorize, deliver, file, register, and record any documents that we deem desirable in our reasonable discretion to protect our title or rights in a Unit and our rights and benefits under this Lease. You hereby irrevocably appoint us as your attorney-in-fact for the signing and filing of such documents and authorize us to delegate these limited powers.

- 18. Sanctions** None of (a) you, or any of your respective directors, officers or employees, subsidiaries, or any Guarantor, or any beneficial owner of you or any Guarantor, or any person holding a controlling interest in you or any Guarantor (each, a "Relevant Person"), or (b) to your knowledge, having made reasonable enquiries, any agent of yours that will act in any capacity in connection with or benefit from this Lease (including any addendum hereto) and the leasing hereunder, is currently or at any time a Sanctioned Person.

"Sanctioned Person" means, at any time, (I) a person listed in any sanctions-related list of designated persons maintained by the U.S. Department of the Treasury, the U.S. Department of Commerce, the U.S. Department of State, or by the United Nations Security Council, the European Union, or any EU member state, or (II) any person owned or controlled by any such person or persons in aggregate.

No Unit or other proceeds received under the terms of this Lease will be used by you or any Guarantor, or any other Relevant Person, or to your knowledge, having made reasonable enquiries, by any of your agents, sublessees, or other users of the Unit, in violation of, or which shall cause us or our affiliates to be in violation of, any applicable laws,

rules, or regulations relating to (A) bribery or corruption, (B) anti-money laundering, (C) terrorism, (D) economic or financial sanctions, or (E) trade embargoes.

- 19. Assignment; Counterparts** We may assign, sell or encumber all or any part of this Lease, the Rent, and the Units with or without notice to you. THE RIGHTS OF ANY SUCH ASSIGNEE WILL NOT BE SUBJECT TO ANY DEFENSE, COUNTERCLAIM OR SET OFF WHICH YOU MAY HAVE AGAINST US. If requested by us, you will assist us in the assignment of any of our rights under this Lease. If requested by us, you will also sign a notice of assignment in a form approved by us. If notified by us, you will make all payments due under this Lease to the party designated in the notice without offset or deduction. In connection with any potential or actual assignment, you consent to the sharing of your credit file information, including personal information relating to your principals, with any potential assignee. Upon any assignment by us of our rights under this Lease, and except as may otherwise be provided herein, all references in this Lease to "Lessor", "we", "us", and "our" will mean the assignee. This Lease is for the benefit of, and is binding upon, you and our respective successors and assigns. Though multiple counterparts of this document may be signed, only the counterpart accepted, acknowledged, and certified by us on the signature page as the original will constitute original chattel paper. A photocopy or facsimile of this Lease will be legally admissible under the "best evidence rule." A signed copy of this Lease and any related document sent electronically will be treated as an original document and will be admissible as evidence thereof, and all signatures thereon will be binding as if manual signatures were personally delivered.

- 20. Effect of Waiver; Entire Agreement; Notices; Applicable Law** Our delay or omission in exercising any right or remedy will not impair such right or remedy. A delay or omission by us will not be construed as a waiver of any Event of Default. Any waiver or consent by us must be in writing. This Lease and the Lease Documents completely state our and your rights and supersedes all prior agreements with respect to a Unit. All notices must be in writing, addressed to the other party at the address stated on the front of this Lease or at such other address as may be furnished in writing. This Lease is governed by and construed under the laws of the State of Tennessee, without giving effect to the conflict-of-laws principles. You consent to the jurisdiction of any state or federal court located within the State of Tennessee. **THE PARTIES WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS LEASE, THE OBLIGATIONS, OR THE UNITS.**

- 21. No Agency; Modification of Lease; Miscellaneous** No person or entity, including, without limitation, the supplier or the manufacturer of the Units, is authorized to act as our agent regarding this Lease. No waiver, modification, or change in this Lease will bind us unless provided by us in writing. Oral agreements are not binding. You agree that we may correct patent errors in this Lease and the Lease Documents and fill in blanks including for example correcting or filling in serial numbers, VIN numbers, and dates. Headings in this Lease are inserted for convenience only. Headings do not affect the meaning or interpretation of this Lease. If a provision of this Lease is invalid under any law, it shall be deemed omitted. Any such omission will not invalidate the remaining provisions. To the extent any payment due us under this Lease is deemed to be usurious, the payment obligation shall be amended and limited to the maximum lawful amount. All obligations under this Lease survive the expiration or termination of the Lease if necessary to give full effect to the terms of this Lease.



**PARTIES**

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

CATERPILLAR FINANCIAL SERVICES CORPORATION  
2120 West End Avenue  
Nashville, Tennessee 37203

LESSEE ("you" or "your"):

CITY OF COLUMBIA  
P. O. Box 6015  
Columbia, Missouri 65205

We and you agree to add the following paragraph to the Lease:

You represent and warrant to us that you (i) have sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal year and (ii) reasonably believe that funds can be obtained sufficient to make all rental payments during the term of the Lease. You hereby covenant that you will do all things reasonably within your power to obtain funds from which the rental payments may be made, including (i) providing for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding and (ii) using your *bona fide* best efforts to have such portion of the budget approved. It is your intent to make rental payments for the full term of this Lease if funds are available therefor, and you represent that the use of the Units is essential to your proper, efficient and economic operation. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise not available in any fiscal year for rental payments due under this Lease, then you will immediately notify us of such occurrence and this Lease will terminate on the last day of the fiscal year for which appropriations were received. You will not incur any penalty or expense as a result of any such termination of this Lease, and you will have no obligation to make rental payments with respect to the remainder of the Lease, but you will be obligated to pay rental payments to the extent funds shall have been appropriated and budgeted or are otherwise available. In the event of such termination, you agree to return the Units to us pursuant to Section 15 of this Lease, and we will have all legal and equitable rights and remedies to take possession of the Units. Notwithstanding the foregoing, you agree that you will not cancel this Lease if any funds are appropriated for the acquisition, retention or operation of the Units or other equipment performing functions similar to the Units.

**SIGNATURES**

IN WITNESS WHEREOF, the Parties have hereunto executed this Lease Agreement in triplicate the day and year of the last signatory noted below.

LESSEE: CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_, City Manager *DKS*  
Date: \_\_\_\_\_

ATTEST:  
\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:  
\_\_\_\_\_, City  
Counselor

LESSOR: CATERPILLAR FINANCIAL SERVICES CORPORATION

By: \_\_\_\_\_  
Name & Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:  
\_\_\_\_\_  
Name & Title: \_\_\_\_\_

**Purchase Agreement  
Contract Number 001-70109871**



This Purchase Agreement is between **JOHN FABICK TRACTOR COMPANY** ("Vendor") and **Caterpillar Financial Services Corporation** ("Cat Financial"). Vendor agrees to sell to Cat Financial and Cat Financial agrees to buy from Vendor the equipment described below (the "Unit(s)"), subject to the terms and conditions set forth below and on the reverse side hereof.

<u>Description of Unit(s)</u>	<u>Serial#</u>	<u>VIN #</u>	<u>Freight</u>	<u>Total Price</u>
(1) 745-04 CATERPILLAR Articulated Truck	3T606216		\$0.00	\$880,142.97

<b>Lessee:</b>	<b>Subtotal</b>	<b>\$880,142.97</b>
<b>CITY OF COLUMBIA, MO</b>	<b>Federal Excise Tax</b>	<b>\$0.00</b>
<b>P.O. BOX 6015</b>	<b>Other Tax</b>	<b>\$0.00</b>
<b>COLUMBIA, MO 65205-7236</b>	<b>Total Purchase Price</b>	<b>\$880,142.97</b>
	<b>Unit(s) Delivery Point:</b>	
	<b>701 E BROADWAY</b>	
	<b>COLUMBIA, MO 65201-4465</b>	

See next page for additional terms and conditions.

**SIGNATURES**

CATERPILLAR FINANCIAL SERVICES CORPORATION

JOHN FABICK TRACTOR COMPANY

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name (Print) \_\_\_\_\_

Name (Print) \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_



1. The lessee named on the front hereof (the "Lessee") has selected the Unit(s), instructed Cat Financial to purchase the Unit(s) from Vendor, and agreed to lease the Unit(s) from Cat Financial.
2. Cat Financial (or its assignee) will have no obligation hereunder (and any sums previously paid by Cat Financial to Vendor with respect to the Unit(s) shall be promptly refunded to Cat Financial) unless (a) all of the conditions set forth in Section 1.3 (if a master lease agreement) or Section 1 (if a non-master lease agreement) of the lease with the Lessee covering the Unit(s) have been timely fulfilled and (b) the Lessee has not communicated to Cat Financial (or its assignee), prior to "Delivery" (as hereinafter defined) of the Unit(s), an intent not to lease the Unit(s) from Cat Financial. All conditions specified in this paragraph shall be deemed timely fulfilled unless prior to Delivery of the Unit(s), Cat Financial (or its assignee) shall notify Vendor to the contrary in writing, which shall include fax or email. "Delivery" shall mean the later of the time (a) Cat Financial executes this Purchase Agreement or (b) the Lessee or its agent takes control and/or physical possession of the Unit(s).
3. Upon timely satisfaction of the conditions specified in Paragraph 2 above, ownership, title and risk of loss to the Unit(s) shall transfer to Cat Financial (or its assignee) upon Delivery of the Unit(s).
4. Vendor warrants that (a) upon Delivery of the Unit(s), Cat Financial (or its assignee) will be the owner of and have absolute title to the Unit(s) free and clear of all claims, liens, security interests and encumbrances and the description of the Unit(s) set forth herein is correct and (b) the Unit Transaction Price set forth on the front hereof for each unit of Unit(s) leased under a lease is equal to such Unit(s)'s fair market value.
5. Vendor shall forever warrant and defend the sale of the Unit(s) to Cat Financial (or its assignee), its successors and assigns, against any person claiming an interest in the Unit(s).
6. Provided that no event of default exists under any agreement between Lessee and Cat Financial and upon timely satisfaction of the conditions specified in Paragraph 2 above, and unless otherwise agreed to in this Purchase Agreement, Cat Financial (or its assignee) shall pay Vendor the total Purchase Price set forth on the front hereof for the Unit(s) within three business days following (a) the receipt and approval by Cat Financial of all documentation deemed necessary by Cat Financial in connection with the lease transaction and (b) all credit conditions have been satisfied.
7. Vendor shall deliver the Unit(s) to the Lessee at the delivery point set forth on the front hereof.
8. This Purchase Agreement may be assigned by Cat Financial to a third party. Vendor hereby consents to any such assignment.
9. This Purchase Agreement shall become effective only upon execution by Cat Financial.



# Opinion of Counsel

## Re: Tax Lease (Contract Number 001-70109871) (the "Lease") between CITY OF COLUMBIA, MO ("Lessee") and Caterpillar Financial Services Corporation ("Lessor")

Sir/Madam:

I am an attorney for Lessee, and in that capacity I am familiar with the above-referenced transaction, the Lease, and all other documents pertaining to the Lease (the Lease and such other documents pertaining to the Lease being referred to as the "Lease Agreements").

Based on my examination of these and such other documents, records and papers and matters of fact and laws as I deemed to be relevant and necessary as the basis for my opinion set forth below, upon which opinion Lessor and any subsequent assignee of Lessor's interest may rely, it is my opinion that:

1. Lessee is a fully constituted political subdivision or agency duly organized and existing under the Constitution and laws of the State of Missouri (the "State"), and is authorized by such Constitution and laws (i) to enter into the transaction contemplated by the Lease Agreements and (ii) to carry out its obligations thereunder.
2. The Lease Agreements (i) have been duly authorized, executed and delivered by Lessee and (ii) constitute valid, legal and binding obligations and agreements of Lessee, enforceable against Lessee in accordance with their terms, assuming due authorization and execution thereof by Lessor.
3. No further approval, license, consent, authorization or withholding of objections is required from any federal, state or local governmental authority with respect to the entering into or performance by Lessee of the Lease Agreements and the transactions contemplated by the Lease Agreements.
4. Lessee has sufficient appropriations or other funds available to pay all amounts due under the Lease Agreements for the current fiscal year.
5. The entering into and performance of the Lease Agreements will not (i) conflict with, or constitute a breach or violation of, any judgment, consent decree, order, law, regulation, bond, indenture or lease applicable to Lessee, or (ii) result in any breach of, or constitute a default under, or result in the creation of, any lien, charge, security interest or other encumbrance upon any assets of Lessee or the Units (as defined in the Lease) pursuant to any indenture, mortgage, deed of trust, bank loan, credit agreement or other instrument to which Lessee is a party, or by which it or its assets may be bound.
6. No litigation or proceeding is pending or, to the best of my knowledge, threatened to, or which may, (a) restrain or enjoin the execution, delivery or performance by Lessee of the Lease Agreements, (b) in any way contest the validity of the Lease Agreements, (c) contest or question (i) the creation or existence of Lessee or its governing body or (ii) the authority or ability of Lessee to execute or deliver the Lease Agreements or to comply with or perform its obligations under the Lease Agreements. There is no litigation or proceeding pending or, to the best of my knowledge, threatened that seeks to or could restrain or enjoin Lessee from annually appropriating sufficient funds to pay the Lease Payments (as defined in the Lease) or other amounts contemplated by the Lease Agreements. In addition, I am not aware of any facts or circumstances which would give rise to any litigation or proceeding described in this paragraph.
7. The Units are personal property and, when subjected to use by Lessee, will not be or become fixtures under the laws of the State.
8. The authorization, approval and execution of the Lease Agreements, and all other proceedings related to the transactions contemplated by the Lease Agreements, have been performed in accordance with all applicable open meeting, public records, public bidding and all other applicable laws, rules and regulations of the State.
9. The appropriation of moneys to pay the Lease Payments coming due under the Lease and any other amounts contemplated by the Lease Agreements does not and will not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

### SIGNATURE

Name (PRINT): \_\_\_\_\_

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

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

Address: \_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

**CUSTOMER INFORMATION VERIFICATION**  
**Contract Number 001-70109871**



**CUSTOMER INFORMATION** **CHANGES TO CUSTOMER INFORMATION**

Customer Name: CITY OF COLUMBIA, MO

Physical Address: 701 E BROADWAY  
COLUMBIA, MO, 65201-4465

Mailing Address: P.O. BOX 6015  
COLUMBIA, MO, 65205-7236

Equipment Location: 701 E BROADWAY  
COLUMBIA, MO, 65201-4465

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

E-mail Address: cale.turner@como.gov

The changes above apply to:  Current Request for financing  All active contracts

**TAX INFORMATION**

**Tax Exempt\*\***                      **Non-Exempt**

Asset outside the City limits Yes \_\_\_\_\_ No \_\_\_\_\_

**\*\*A Tax Exemption Certificate is required for all tax exempt customer. If you are tax exempt – please enclose a current tax exemption certificate to be returned with your documents.**

**AUTO PAY INFORMATION (Checking Account Information)**

- I **decline** Auto Pay authorization at this time
- I **request and authorize Caterpillar** Financial Services Corporation ("Cat Financial") to begin debiting my account for the amounts due under the contract(s) indicated below, with debits made to my account and withdrawn by Cat Financial, provided my account has sufficient collected funds to pay the debit when presented. If my financial institution dishonors any debit for any reason, Cat Financial may issue another debit in substitution for the dishonored debit and will have no liability on account of a dishonored debit. I agree that Cat Financial's rights relating to each debit will be the same as if I had personally signed a check. I agree that I will be liable to make payment promptly, including any applicable late fees, if any debit is not paid, unless Cat Financial or its agents or affiliates are directly responsible for the nonpayment. I acknowledge that I may cancel this authorization at any time by written notice to Cat Financial, which notice will be effective 10 days after receipt; however, my cancellation of this authorization does not terminate, cancel or reduce my obligations under the contract(s). I understand that Cat Financial will not notify me in advance of any withdrawal and I agree to waive all pre-notification requirements in respect of all debits drawn under this authorization. Please use the information below to set up Auto Pay on:

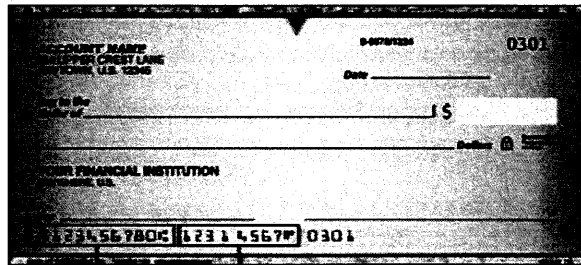
Bank Name

Routing Number  
 9 digits

Account Number  
 3-17 digits

Re-Enter Account Number  
 3-17 digits

Account Name (exactly as it appears on Check)



Routing Number    Account Number

**CUSTOMER SIGNATURE**

The information above has been reviewed and is accurate to the best of my knowledge. For a joint account, all account holders must sign if more than one signature is required on checks issued against the account.

\_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

For questions or assistance with Auto Pay, or for information about your account, please contact Customer Service, 1-800-651-0567.

JOHN FABICK TRACTOR COMPANY  
ONE FABICK DR  
FENTON, MO 63026-2986

**Reference:**

CITY OF COLUMBIA, MO

We are requesting a copy of the minutes of the appropriation meeting during which the funds for this deal were allocated.

A copy of this information is necessary to complete the documentation package and to fund the deal. Your ability to return a complete package will ensure timely payment to you.

Thank you for your assistance.

CATERPILLAR FINANCIAL SERVICES CORPORATION  
DOCUMENTATION DEPARTMENT

**Lease Return Conditions** (Not for use with On-Highway Vehicles, Drills, Draglines, Electric Rope Shovels, Highwall Miners and Underground Equipment)



This Lease Return Conditions agreement (this "Return Agreement"), which may also be referred to as an "Application Survey," is part of and incorporated into that certain Cat Value Option, Transaction No. 4544469 (the "Lease") entered into between the Lessee and the Lessor named in the Lease. Capitalized terms used in this Return Agreement but not defined shall have the meaning ascribed to them in the Lease.

**1. EQUIPMENT DESCRIPTION**

Make: CATERPILLAR Model: 745-04 Serial No.: 3T606216

Unit Configuration and Attachments: MANUAL: CSA, Heated body // Dump Body // Tailgate, Autolube

Unit Usage & Primary Operating Environment: Standard Environment - Ag-Crop, Ag Non-Manure, Airport, Clay, Coal, Commercial, Crushed & Screened Aggregate, Dams & Bridges, Frac Sand, Landfill-Site Prep Only, Landscaping, Moving Mulch, Pipeline, Residential, Road Building, Site Development, Snow, Utilities.

If there are any changes to your Unit usage or operating environment, please communicate this change to Caterpillar Financial immediately.

**2. RETURN OF UNIT / EXCESS USAGE**

Lessee will notify Lessor of its intention to return the Unit at least sixty (60) days before the end of the Lease Term, and will return the Unit to the Lessor in accordance with the terms in the Lease. Lessee will be responsible for performing any loading, unloading, disassembly, reassembly, testing, inspecting, and transportation of the Unit (including all leased attachments), and will do so in a manner consistent with the manufacturer's recommendations and practices.

Total Lease Hours: 2000 Current Hours: 0 Total Allowable Unit Hours: 10000

If any Unit is returned with hours of use exceeding the Total Allowable Unit Hours (the "Excess Hours"), Lessee will pay Lessor additional rent in an amount equal the Excess Hours multiplied by \$101.73. The hours of use for the Unit shall be determined, at Lessor's option, by the hour meter attached to the Unit, the engine Electronic Control Module (ECM), or Cat® Product Link (if available).

**3. RETURN CONDITIONS**

**A. General Condition**

- i. Lessee shall return the Unit in the same configuration and with all the components, accessories and attachments that were included on the Unit at the beginning of the Lease Term (including any items stated on the invoice to Lessor) regardless of operating condition, and shall not modify a Unit from its original configuration without written approval by Lessor.
- ii. Lessee shall use only the manufacturer's genuine or specifically recommended replacement parts for all maintenance, repairs and overhauls. Will fit, off brand, and parts that have not been specifically recommended by the manufacturer are NOT acceptable, and Lessee will be assessed for the full cost of replacing such parts (including labor).
- iii. Lessee shall operate the Unit in accordance with the manufacturer's published operation, application, loading, lubrication, and maintenance guidelines and policies; ensure all repairs, maintenance, and overhauls are performed at recommended intervals and in a manner consistent with the manufacturer's recommendations and practices; and make all warranty repairs and manufacturer recommended product updates prior to the return of the Unit.
- iv. Cooling, hydraulic, power generation, power train, power transmission, air, heating, fuel, and lubrication systems may not have any damage, system leaks or be contaminated. All internal fluids and reservoirs, such as coolant, lube oil, grease, and hydraulic fluids must be filled at operating levels, all filler caps must be secured with no leaks, all filters must be new and meet or exceed manufacturer standards. Lessee must enroll Unit in a Caterpillar dealer Scheduled Oil Sampling (or comparable) program.
- v. If Lessee elected to purchase and finance as part of the Lease a Cat® Customer Value Agreement, extended protection plan, and/or other similar product(s) (collectively, "Additional Products"), Lessee acknowledges that, in entering the Lease, Lessor may have relied upon Lessee maintaining such Additional Products in effect for the entirety of the Lease Term. If Lessee cancelled or terminated any Additional Products during the Lease Term, such cancellation or termination may have a negative effect on the condition of the Unit, which may result in a Condition Charge (as defined below).

**B. Cleaning.** Each Unit must be cleaned to a commercially acceptable appearance and all rust and corrosion properly removed or treated. All foreign and/or hazardous material (e.g. waste, dirt, non-OEM decals, refuse, coal, rock, limestone, cement, phosphate, concrete, asphalt, gypsum, etc.) on or adhered to the Unit must be properly removed and disposed of in accordance with all applicable federal, state and local laws and regulations.

**C. Undercarriage/Tires and Ground Engaging Tools (GET).** The wear surface in use of each individual GET item and track component (e.g., belts, links, pads, sprockets, idlers, undercarriage pins & bushings) shall be no more than 50% worn according to the manufacturer's wear specifications and guidelines. Recapped tires are not acceptable. All tires shall be the same size, type and brand (or similar quality brand if the original brand is no longer available) as the tires on the Unit when it was first delivered to Lessee. Lessee shall be charged for wear on tires, undercarriage, and GET based on the following payment schedule:

Wear %	Charge to Lessee
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0 - 50%	→ No charge
50 - 90%	→ Charge will be between 0% to 100% of estimated replacement cost depending on where the wear % falls within this range (e.g., 60% wear would result in a charge equal to 25% of the estimated replacement cost).
90 - 100%	→ 100% of estimated replacement cost

If any tire, undercarriage component, or GET component is inoperable, broken, missing, damaged, bent, leaking, cracked, includes section repairs or rated Poor, Lessee will be responsible for 100% of the estimated replacement cost regardless of its wear percentage.

**D. Electrical System.** The alternator/generator, starter, electric motors, drives, and electronic control units must operate as intended. All electrical harnesses and connections must be in functional condition and properly secured with no sectional repairs. All electronic functions and accessories, controls, monitoring systems, touch screens, gauges, cameras, internal & external lighting, senders, and switches must be fully readable and functional as originally intended. All batteries must be fully operational without any dead cells or cracked cases.

**E. Engine.** All engine components, as well as engine retarder brakes and emissions aftertreatment devices, must meet or exceed the manufacturer's minimum recommended specifications while operated under full load. This determination will be made by subjecting the engine to standard industry testing and will be conducted by an inspection agent approved by Lessor (normally the local Cat dealer).

**F. Mechanical & Hydrostatic Drive Train.** All drive train components (e.g., drive train controls, accessories, transmissions, hydrostatic drive systems, power transfer gearboxes, differentials, planetaries, swing gear boxes, and torque converters) shall operate as intended at full load with no overheating, leaks, or excessive vibrations or noise.

**G. Brakes.** All parts of the brake system (e.g., the brake controls, service brakes, parking or emergency brake, swing brake, planetary and wet brake systems) shall function as intended and operate without leaks, noise, or vibrations.

**H. Hydraulic Equipment.** All hydraulic equipment (e.g., hydraulic controls, accessories, pumps, motors, cylinders, valves, pipe/tubing and hoses) must be properly secured and operate as intended with no leaks, vibration, noise, drift, bent or damaged cylinders, excessive motor case drain, or linkage bushings/pins worn past service limits. Hydraulic cycle times must meet the manufacturer's minimum performance specifications.

**I. Air Conditioning & Heating Systems.** All air conditioning systems and components (e.g., controls, compressors, evaporators, condensers, motors, valves, lines, fittings, louvers, ducting, recirculation components and filters) must operate as intended and without leaks, noise, or vibrations.

**J. Structures, Parts, & Components.** All of the Unit's components (e.g., welds, plates, frames, tanks, beds, winches, drums, booms, sticks, buckets, blades, hitches, trunnions, articulation/oscillation joints, as well as rotating, reciprocating, pumping, compression, temperature control, reservoir, conveyance, supporting, lifting and positioning machinery) must be operating as intended and be structurally sound, without deformities, cracks, corrosion, leaks, or damage.

**K. ROPS/FOPS and Safety Items.** The cab, Roll Over Protective Structure ("ROPS"), and Falling Object Protective Structure ("FOPS") shall not be damaged or require any repair. ROPS/FOPS certification and integrity must be maintained throughout the Lease Term and must be certified upon return. All safety items (e.g., restraint devices, steps, stairways, safety rails, grab irons, walkways, catwalks, fire suppression systems, warning alarms, decals, placards, signage) shall be complete, unexpired and in working order.

**L. Sheet Metal & Plastic Surfaces.** All sheet metal and plastic surfaces shall operate as intended; be without holes, breaks, bends, abrasions, corrosion; and be in the same configuration as they were at the beginning of the Lease Term.

**M. Paint, Decals & Operator's Compartment.** The paint and decals shall not have any peeling, bubbling, mismatched shades, or otherwise be in a poor condition relative to the original paint. Non-OEM paint color, decals, or markings are not acceptable. The operator's compartment shall be free of any interior soiling, odors, trash, or debris, and the interior (e.g., dash, seats, floor covers, headliners and upholstery) shall not have any holes, tears or burns. All window glass and mirrors shall be clear and free from damage. All window frames, doors, and weather stripping shall be complete.

**N. Documents and Records.** The Unit must have all appropriate licensing and inspection certificates, permits and any other certifications necessary to operate the Unit. Lessee shall maintain complete records (including dates and hour meter readings) of all maintenance, repairs, overhauls, part purchases, fluid sample analysis reports, and service-related agreements or programs relating to the Unit. Lessee shall make such records available to Lessor for verification and review at any time during Lessee's normal business hours. Copies of these documents and records shall be made available to Lessor upon return of the Unit.

#### 4. CONDITION ASSESSMENT & CHARGES

If, in the sole judgment of Lessor, any Unit does not meet the standards set forth in this Return Agreement, or if Lessee fails to perform its obligations set forth above, Lessee shall pay to Lessor the estimated cost to return a Unit to the condition specified in the Lease and this Return Agreement ("Condition Charge"). The Condition Charge shall be due and payable to Lessor regardless of whether the repairs and service are completed. All repair and service charges will be based upon a Caterpillar dealer's retail estimated repair costs, and will include the cost of parts and labor. All amounts owed to Lessor pursuant to the Lease and this Return Agreement (including Excess Use Charges and Condition Charges) shall be due and payable upon demand.

**MINIMUM CHARGE THRESHOLD:** Lessee shall not be responsible for any charges incurred in connection with this Return Agreement if the total amount of the charges does not exceed Five Hundred Dollars (\$500.00). Please note, however, that if the total amount of the charges exceeds \$500, Lessee will be responsible for the entire amount.

**SIGNATURES** (By signing below, you certify that you have read this Return Agreement.)

LESSEE: CITY OF COLUMBIA, MISSOURI

By: \_\_\_\_\_  
\_\_\_\_\_, City Manager

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

ATTEST:

\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_, City  
Counselor

LESSOR: CATERPILLAR FINANCIAL SERVICES CORPORATION

By: \_\_\_\_\_

Name & Title: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
Name & Title: \_\_\_\_\_





**Amendment to Tax Lease  
Contract Number 001-70109871**

This Amendment (the "Amendment"), dated \_\_\_\_\_, 2023 (the "Effective Date"), to the Tax Lease (the "Lease") for the Contract Number set out above is by and between the parties identified below.

**PARTIES**

**LESSOR:**

**CATERPILLAR FINANCIAL SERVICES CORPORATION**  
2120 West End Avenue  
Nashville, TN 37203

**LESSEE:**

**CITY OF COLUMBIA**  
P.O. Box 6015  
Columbia, Missouri 65205

**TERMS AND CONDITIONS**

- Capitalized terms used but not defined herein shall have the meaning given them in the Lease.
- Except as provided herein, the Lease shall remain unchanged and in full force and effect in accordance with its terms. Any additional modifications are null and void unless approved in writing by you and us. Nothing herein shall be deemed to be a waiver or amendment of any other provision contained in the Lease or any of our rights or remedies under the Lease.
- As of the Effective Date, the Lease is hereby amended as set forth below.

**AMENDMENT**

- The table in Section 2 of the Lease (headed "Description of Units") is amended as follows:

<b>DESCRIPTION OF UNITS</b> Whether the Unit is new or used, the model number, the manufacturer, and the model name.	<b>SERIAL/VIN</b> Unique ID number for this Unit.	<b>MONTHLY RENT</b> This is due per period, as stated below in Section 4.	<b>OPTION PURCHASE PRICE</b> Payment at end of lease for purchase of Unit (see Section 16).	<b>MAX ANNUAL HOURS/ MILEAGE</b> Maximum annual usage of Unit (see Application Survey).	<b>DELIVERY DATE</b> Enter date machine was delivered to you.
New 2023 745-04 Articulated Truck	3T606216	\$15,413.07	\$206,955.00	2000	

- Section 7 of the Lease (headed "Possession, Use and Maintenance") is amended by adding after the final sentence thereof the following two sentences:

"It is understood that for the maintenance of the Unit John Fabick Tractor Company ("Fabick Cat") shall provide services pursuant to a Premier Equipment Protection Plan and a Customer Service Agreement for Preventive Maintenance that Fabick Cat has made available to you. However, none of your obligations or duties with respect to this Lease are conditional or contingent on the provision of such services to you by Fabick Cat."

- Section 9 of the Lease (headed "Tax Indemnity") is amended by restating it in its entirety to provide as follows:

9 "**Federal Income Tax Treatment** Based on the Rent, the Lease Term and other terms and provisions of the Lease, during the Lease Term we will be the owner of the Unit for federal income tax purposes. Accordingly, we will be entitled to claim certain depreciation deductions on the Units in accordance with Section 168(a) of the Internal Revenue Code of 1986, as amended. You will not use the Unit for a different purpose than stated in the Return Agreement or take any other action that would hinder or affect our ability to claim such deductions for federal income tax purposes."

- Section 11 of the Lease (headed "Waiver and Indemnity") is amended by restating it in its entirety to provide as follows:

**"No Waiver of Immunities** In no event shall the language of this Lease constitute or be construed as a waiver or limitation of either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions and laws. This Lease, however, does not negate or affect the statutory waiver of sovereign immunity set forth in Vernon's Annotated Statutes section 537.600 and 537.610."

- 8. Section 17 of the Lease (headed "Your Assurances and Representations") is amended by deleting the last sentence thereof (regarding appointment of us as your attorney-in-fact).
- 9. Section 19 of the Lease (headed "Assignment; Counterparts") is amended by deleting the ninth (9<sup>th</sup>), tenth ((10<sup>th</sup>) and eleventh (11<sup>th</sup>) sentences thereof and replacing them with the following:

"This Lease will be manually signed by each of us in three (3) counterparts, each of which will constitute an original and one of which will be retained by us (as chattel paper) and two of which will be retained by you. Additionally, a signed copy of this Lease and any related document sent electronically will be admissible as evidence, and all signatures thereon will be binding as if manual signatures were personally delivered."

- 10. Section 20 of the Lease (headed "Effect of Waiver; Entire Agreement; Notices; Applicable Law") is amended by changing the governing law provision and the jurisdictional provision thereof from the State of Tennessee to the State of Missouri.

**SIGNATURES**

IN WITNESS WHEREOF, the Parties have hereunto executed this Lease Agreement in triplicate the day and year of the last signatory noted below.

LESSEE: **CITY OF COLUMBIA, MISSOURI**

By: \_\_\_\_\_  
\_\_\_\_\_, City Manager. *TJN*

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

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
\_\_\_\_\_, City Counselor

LESSOR: **CATERPILLAR FINANCIAL SERVICES CORPORATION**

By: \_\_\_\_\_

Name & Title: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
Name & Title: \_\_\_\_\_