

# DOCUMENTATION INSTRUCTIONS FOR LEASE NUMBER 500-50262058

The instructions listed below should be followed when completing the enclosed documentation. Documentation completed improperly will delay funding. If you have any questions regarding the instructions or the documentation, please call us.

**EXCEPT AS NOTED, ALL SIGNATURES MUST BE BY THE PERSON OR PERSONS AUTHORIZED IN LESSEE'S RESOLUTION.**

## I. LEASE PURCHASE AGREEMENT

### a. Terms and Conditions

- Print name, title, sign and date
- Another authorized officer must attest the signature – must be signed by other than lease signor

### b. Tax Designation and Covenants

– The purpose of this document is to determine if the Tax-Exempt Lease Purchase Agreement meets the requirements for "Bank Qualification" under Section 265(b)(3)(B) of the Internal Revenue Code. How the Lessee answers the questions will not impact the current transaction; however, it does allow for proper categorization of the obligation and accurate reporting to the Internal Revenue Service.

- Initial as appropriate

## II. EXHIBIT A – PAYMENT SCHEDULE

- Print name, title, sign and date

## III. EXHIBIT B – EQUIPMENT DESCRIPTION — (WHEN PROVIDED)

- Print name, title, sign and date

## IV. MUNICIPAL AUTHORIZATION

To be signed by two authorized signors.

## V. STATE SPECIFIC ADDENDA – Required for: AR, AZ, CO, FL, GA, KS, LA, MI, MN, MS, NC, NJ, NY, OH, OK, and TX.

- Print name, title, sign and date. Attest where required

## VI. ACCEPTANCE CERTIFICATE – PLEASE RETAIN UNTIL ALL EQUIPMENT HAS BEEN RECEIVED AND IS IN FULL WORKING ORDER

- Print name, title, sign and date

## VII. 8038 - IRS FORM

The enclosed form is a SAMPLE only. The actual 8038G or GC will be completed and sent to you for your signature after closing, with instructions to return the original to us at your earliest convenience. This is being done in accordance with the Internal Revenue Service regulations and is a requirement of this financing.

## VIII. ADDITIONAL DOCUMENTATION THAT MUST BE SENT PRIOR TO FUNDING — (WHEN APPLICABLE) :

- ☐ **Resolution** of governing body approving the purchase of the equipment and the resolution ratifying the financing. (Note: If the purchase resolution and financing were done in one resolution that is sufficient.)
- ☒ **Vendor invoice** listing customer as both bill to and ship to party (to be provided by vendor)
- ☒ **Advance payment check** made payable to DE LAGE LANDEN PUBLIC FINANCE LLC
- ☐ **Completed Billing Information form**
- ☒ **State sales tax exemption certificate**
- ☐ **Original documents**
- ☐ **Escrow Agreement** – Return signed Escrow Agreement Incumbency Certificate & Lessee W9
- ☐ \_\_\_\_\_
- ☐ \_\_\_\_\_

## ALL DOCUMENTATION SHOULD BE RETURNED TO:

**Lease Processing Center**, 1111 Old Eagle School Road, Wayne, PA 19087 • 800-736-0220

Attn: JOY WILLIAMS

Email: JWILLIAMS@LEASEDIRECT.COM

# DE LAGE LANDEN PUBLIC FINANCE LLC

☐ Check here if your billing or Equipment Location has changed or is incorrect.  
Please note changes on the reverses side.  
Payment sent without a copy of this invoice may be subject to a delay in processing.

- Please do not send correspondence to this address.
- **Send payment for this Invoice to:**  
DE LAGE LANDEN PUBLIC FINANCE LLC  
REF# CITY OF NORTH  
1111 OLD EAGLE SCHOOL ROAD  
WAYNE, PA 19087

- **All future payments must be paid to the following Lockbox:**  
DE LAGE LANDEN PUBLIC FINANCE LLC  
LOCKBOX PO BOX 41602  
PHILADELPHIA, PA 19101

INVOICE #: 500-50262058  
REFERENCE #: CITY OF NORTH  
CUSTOMER #: NORTH RICHLAND  
DUE DATE: 5/22/21  
TOTAL DUE: 21,250.00

## INVOICE

CUSTOMER SERVICE 800-935-9439

INVOICE DATE	INVOICE #	REFERENCE #	CUSTOMER
4/22/21	500-50262058	CITY OF NORTH	NORTH RICHLAND
P.O. NUMBER		EQUIPMENT DESCRIPTION	
TBD		SEE BELOW	
EQUIPMENT LOCATION			

EQUIPMENT DESCRIPTION	DUE DATE	PAYMENT AMOUNT
PAYMENT FOR CONTRACT 500-50262058	5/22/21	\$21,250.00
TOTAL		21,250.00

FOR PROPER CREDIT, PLEASE SUBMIT A COPY OF THIS INVOICE WITH PAYMENT.

LESSEE	Full Legal Name CITY OF NORTH RICHLAND HILLS		Phone Number	
	DBA Name (if any)			
	Billing Address 7301 NE LOOP 820		City N RICHLAND HILLS	State TX

PROPERTY DESCRIPTION	Quantity	Model No. (if applicable)	Serial Number (if applicable)	General Description (describe equipment, software, maintenance, warranty, service and similar items being financed):
				COMMVault BACKUP & RECOVERY 3 YEARS SUBSCRIPTION
Location of Property (include the location of any tangible personal property financed and/or the location of any tangible personal property that will be using intangible property):				

VENDOR	Vendor Name SOCCOUR SOLUTIONS LP		RENTAL PAYMENTS	Rental Payment Periods:	Rental Payments shall be made in accordance with Section 4.01 and the Schedule of Rental Payments attached hereto as Exhibit A.
	Address			<input type="checkbox"/> Monthly	
	City			<input type="checkbox"/> Quarterly	
		State		<input type="checkbox"/> Semiannually	
		Zip		<input checked="" type="checkbox"/> Annually	

TERMS & CONDITIONS

THE TERMS AND CONDITIONS OF THIS AGREEMENT SET FORTH ON PAGES TWO THROUGH FIVE, INCLUDING ANY EXHIBITS ATTACHED HERETO, SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH HERE.

LESSOR	Lessor DE LAGE LANDEN PUBLIC FINANCE LLC	LESSEE SIGNATURE	Lessee CITY OF NORTH RICHLAND HILLS
	Signature		Signature
	Title		Title
	Lease Number 500-50262058		(Seal)
		Attest	
		Title	

(Terms and Conditions continued on the reverse side of this Agreement.)

TAX DESIGNATIONS AND COVENANTS

Bank Qualification: Lessee initial here if this provision is applicable: \_\_\_\_\_  
If not initialed, this provision does NOT apply to this Agreement.

(a) Lessee hereby designates this Agreement as a “qualified tax-exempt obligation” as defined in Section 265(b)(3)(B) of the Code. The aggregate face amount of all tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the calendar year during which the Commencement Date of this Agreement occurs, including this Agreement, is not reasonably expected to exceed \$10,000,000.

(b) Lessee hereby covenants that Lessee and all subordinate entities thereof will not issue in excess of \$10,000,000 of “qualified tax-exempt obligations” (including this Agreement but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year during which the Commencement Date of this Agreement occurs without first obtaining an opinion of nationally recognized counsel in the area of tax-exempt obligations of state and local governments acceptable to Lessor that the designation of this Agreement as a “qualified tax-exempt obligation” will not be adversely affected.

THIS SECTION IS INTENTIONALLY LEFT BLANK

## ARTICLE I

**Section 1.01. Definitions.** The following terms will have the meanings indicated below unless the context clearly requires otherwise:

**"Agreement"** means this Lease Purchase Agreement and any other schedule, exhibit or escrow agreement made a part hereof by the parties hereto, together with any amendments to the Agreement.

**"Capital Expenditures"** means costs of a type that are properly chargeable to a capital account under general federal income tax principles in effect at the time the cost is paid, or would be so chargeable with a proper election or with the placed-in-service date considered to be the date on which, based on all facts and circumstances, (a) the facility has reached a degree of completion that would permit its operation at substantially its design level and (b) the facility is, in fact, in operation at such level.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Commencement Date"** is the date when the term of this Agreement and Lessee's obligation to pay rent commence, which date shall be the earlier of (i) the date on which the Property is accepted by Lessee in the manner described in Section 5.01, or (ii) the date on which sufficient moneys to purchase the Property are deposited by Lessor for that purpose with an escrow agent.

**"Event of Default"** means an Event of Default described in Section 12.01.

**"Issuance Year"** is the calendar year in which the Commencement Date occurs.

**"Lease Term"** means the Original Term and all Renewal Terms, but ending on the occurrence of the earliest event specified in Section 3.02.

**"Lessee"** means the entity described as such on the front of this Agreement, its successors and its assigns.

**"Lessor"** means the entity described as such on the front of this Agreement, its successors and its assigns.

**"Maximum Lease Term"** means the Original Term and all Renewal Terms through the Renewal Term including the last Rental Payment date set forth on the Payment Schedule.

**"Net Proceeds"** means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys' fees) incurred in the collection of such claim or award.

**"Original Term"** means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date.

**"Payment Schedule"** means the schedule of Rental Payments and Purchase Price set forth on Exhibit A.

**"Property"** means the equipment, software, maintenance, warranty, service and similar items being financed by this Agreement as described on the front of this Agreement, and all replacements, substitutions, updates, upgrades, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto, as applicable.

**"Purchase Price"** means the amount set forth on the Payment Schedule as the Purchase Price for the Property.

**"Renewal Terms"** means the optional renewal terms of this Agreement, each having a duration of one year and a term co extensive with Lessee's fiscal year.

**"Rental Payment Period"** means the period beginning on the day a Rental Payment is due and ending the day before the next Rental Payment is due. The first Rental Payment Period shall begin on the Commencement Date in all cases. If Rental Payment Periods are monthly, subsequent Rental Payment Periods shall begin on the same day of each month after the Commencement Date. If Rental Payment Periods are quarterly, subsequent Rental Payment Periods shall begin on the same day of each third month after the Commencement Date. If Rental Payment Periods are semiannual, subsequent Rental Payment Periods shall begin on the same day of each sixth month after the Commencement Date. If Rental Payment Periods are annual, subsequent Rental Payment Periods shall begin on the anniversary of the Commencement Date in each year. If the Commencement Date is the 29th, 30th, or 31st day of a month, any subsequent Rental Payment Period that would otherwise begin on the 29th, 30th or 31st of a month that does not include such a date shall begin on the last day of the month.

**"Rental Payments"** means the basic rental payments payable by Lessee pursuant to Section 4.01.

**"State"** means the state in which Lessee is located.

**"Vendor"** means the manufacturer or supplier of the Property as well as the agents or dealers of the manufacturer or supplier of the Property, as listed on the front of this Agreement.

## ARTICLE II

**Section 2.01. Representations and Covenants of Lessee.** Lessee represents, warrants and covenants for the benefit of Lessor as follows:

(a) Lessee is a municipal corporation and political subdivision duly organized and existing under the constitution and laws of the State. Lessee will do or cause to be done all things to preserve and keep in full force and effect its existence as a body corporate and politic. Lessee is a political subdivision of the State within the meaning of Section 103(a) of the Code or a constituted authority authorized to issue obligations on behalf of a state or local governmental unit within the meaning of the regulations promulgated pursuant to said Section of the Code.

(b) Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby and to perform all of its obligations hereunder.

(c) Lessee has been duly authorized to execute and deliver this Agreement by proper action and approval of its governing body at a meeting duly called, regularly convened and attended throughout by a requisite majority of the members thereof or by other appropriate official approval.

(d) This Agreement constitutes the legal, valid and binding obligation of the Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

(e) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the Commencement Date.

(f) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term, and such funds have not been expended for other purposes.

(g) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

(h) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Property hereunder.

(i) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting the Lessee, nor to the best knowledge of the Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document,

agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement or materially adversely affect the financial condition or properties of Lessee.

(j) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by the Lessee of this Agreement or in connection with the carrying out by the Lessee of its obligations hereunder have been obtained.

(k) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which the Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest of other encumbrance on any assets of the Lessee or the Property pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which the Lessee is a party or by which it or its assets may be bound, except as herein provided.

(l) The Property is essential to the function of the Lessee or to the service Lessee provides to its citizens. The Lessee has an immediate need for, and expects to make immediate use of, substantially all the Property, which need is not temporary or expected to diminish in the foreseeable future. The Property will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority and will not be used in the trade or business of any other entity or person.

(m) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the United States Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

(n) Lessee has never failed to appropriate or otherwise make available funds sufficient to pay rental or other payments coming due under any lease purchase, installment sale or other similar agreement.

(o) All the costs of acquiring the Property, including amounts attributable to the financing of software, maintenance, warranty and similar items, are consistently treated as Capital Expenditures by the Lessee on its books and records. All proceeds of this Agreement will be used, directly or indirectly, to finance Capital Expenditures or, to the extent permitted by law, to minimize expenditures for certain specified purposes.

(p) Lessee has received written assurance from Vendor that with respect to the portion of the Property being prepaid, the same maintenance, repair, extended warranty, updates or maintenance or support services, as applicable, are regularly provided to nongovernmental persons on the same terms.

**Section 2.02. Certification as to Arbitrage.** Lessee hereby represents as follows:

(a) The estimated total costs of the Property will not be less than the total principal portion of the Rental Payments.

(b) The Property has been ordered or is expected to be ordered within six months of the Commencement Date, and the Property is expected to be delivered and installed, and the Vendor fully paid, within one year of the Commencement Date.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments.

(d) The Property has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments.

(e) To the best of our knowledge, information and belief, the above expectations are reasonable.

## ARTICLE III

**Section 3.01. Lease of Property.** Lessor hereby demises, leases and lets the Property to Lessee, and Lessee rents, leases and hires the Property from Lessor, in accordance with the provisions of this Agreement, for the Lease Term. The Original Term of this Agreement shall commence on the Commencement Date and shall terminate on the last day of Lessee's current fiscal year. The Lease Term may be continued at the end of the Original Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term; provided, however, that at the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed, Lessee shall be deemed to have continued this Agreement for the next Renewal Term unless Lessee shall have terminated this Agreement pursuant to Section 3.04 or Section 10.01. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Payment Schedule.

**Section 3.02. Termination of Lease Term.** The Lease Term shall terminate upon the earliest of any of the following events:

(a) the expiration of the Original Term or any Renewal Term and the nonrenewal of this Agreement in the event of nonappropriation of funds pursuant to Section 3.04;

(b) the exercise by Lessee of the option to purchase the Property under Article X and payment of the Purchase Price and all amounts payable in connection therewith;

(c) a default by Lessee and Lessor's election to terminate this Agreement under Article XII; or

(d) the payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder during the Maximum Lease Term.

**Section 3.03. Continuation of Lease Term.** Lessee currently intends, subject to Section 3.04, to continue the Lease Term through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Original Term and each of the Renewal Terms can be obtained. The responsible financial officer of Lessee shall do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such Rental Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Agreement for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

**Section 3.04. Nonappropriation.** Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. In the event sufficient funds shall not be appropriated or are not otherwise legally available to pay the Rental Payments required to be paid in the next occurring Renewal Term, as set forth in the Payment Schedule, this Agreement shall be deemed to be terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver written notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the Lease Term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee's rights to the Property

will simultaneously terminate and Lessee agrees, at Lessee's cost and expense, (a) to immediately discontinue use of the Property, (b) to return to Lessor any portion of the Property constituting tangible personal property, (c) to remove any intangible Property from Lessee's property and terminate access to and use of such Property, whether such Property is installed on premises or accessed remotely or by internet connection and, as applicable, deliver or otherwise release the same to Vendor at the location or locations specified by Vendor, and (d) within 30 days of any such termination, to deliver a certificate to Lessor certifying that Lessee has complied with this sentence.

#### ARTICLE IV

**Section 4.01. Rental Payments.** Lessee shall pay Rental Payments exclusively from legally available funds, in lawful money of the United States of America to Lessor on the dates and in the amounts set forth on the Payment Schedule. Any Rental Payment not received on or before its due date shall bear interest at the rate of 18% per annum or the maximum amount permitted by law, whichever is less, from its due date. As set forth on the Payment Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest.

**Section 4.02. Rental Payments to Constitute a Current Expense of Lessee.** The obligation of Lessee to pay Rental Payments hereunder shall constitute a current expense of Lessee, and does not constitute a mandatory payment obligation of Lessee in any fiscal year beyond the then current fiscal year of Lessee. Lessee's obligation hereunder shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

**Section 4.03. Rental Payments To Be Unconditional. EXCEPT AS PROVIDED IN SECTION 3.04, THE OBLIGATIONS OF LESSEE TO MAKE RENTAL PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION ANY FAILURE OF THE PROPERTY TO BE DELIVERED OR INSTALLED, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES.**

#### ARTICLE V

**Section 5.01. Delivery, Installation and Acceptance of the Property.** Lessee shall (a) order the Property, (b) cause any portion of the Property constituting tangible personal property to be delivered and installed at the location specified on the front of this Agreement, (c) cause any intangible Property to be accessible from Lessee's computers, servers and other electronic equipment, either by installing the software directly on premises or providing remote access thereto, and (d) pay any and all delivery, installation and other costs in connection therewith. When the Property has been delivered and installed or is otherwise accessible by the Lessee, Lessee shall immediately accept the Property and evidence said acceptance by executing and delivering to Lessor an acceptance certificate acceptable to Lessor. After it has been installed, any portion of the Property constituting tangible personal property and any computers, servers and other electronic equipment using intangible Property will not be moved from the location specified on the front of this Agreement without Lessor's consent, which consent shall not be unreasonably withheld.

**Section 5.02. Enjoyment of Property.** Lessee shall peaceably and quietly have and hold and enjoy the Property during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in this Agreement.

**Section 5.03. Right of Inspection.** Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting any portion of the Property constituting tangible personal property.

**Section 5.04. Use and Maintenance of the Property.** Lessee will not install, use, operate or maintain the Property improperly, carelessly, in violation of any licensing or other agreement, or in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee shall obtain all permits and licenses, if any, necessary for the installation, use, operation and maintenance of the Property. In addition, Lessee shall comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest or rights of Lessor under this Agreement. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Property in good repair, working order and condition and install all updates, upgrades, improvements and additions to the Property made available to it by Vendor. Lessor shall have no responsibility to maintain or repair or to provide or make updates, upgrades, improvements or additions to the Property.

#### ARTICLE VI

**Section 6.01. Title to the Property.** During the Lease Term, title to the Property shall vest in Lessee, subject to the provisions of this Agreement and any applicable license or other agreement. Upon any termination of this Agreement pursuant to Sections 3.02(a) or Section 3.02(c), Lessee's title shall immediately and without any action by Lessee terminate. Upon any termination of the Agreement pursuant to Sections 3.02(b) or 3.02(d), title to the Property shall be vested in Lessee, free and clear of any claim by or through Lessor.

**Section 6.02. UCC FILINGS.** Lessee authorizes Lessor to file a financing statement with respect to the Property.

#### ARTICLE VII

**Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges.** Lessee shall keep the Property free and clear of all liens, charges and encumbrances, except those created under this Agreement. The parties to this Agreement contemplate that the Property will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Property will be exempt from all property taxes and other similar charges. If the licensing, use, possession or acquisition of the Property is found to be subject to taxation in any form, Lessee will pay all taxes and governmental charges lawfully assessed or levied against or with respect to the Property. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Property. Lessee shall pay such taxes and charges as the same become due; provided that, with respect to any such taxes and charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments that accrue during the Lease Term.

**Section 7.02. Insurance.** At its own expense, Lessee shall maintain (a) casualty insurance insuring any portion of the Property constituting tangible personal property against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any

other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Price of the Property, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee may self insure against the risks described in clauses (a) and (b). All insurance proceeds from casualty losses shall be payable as hereinafter provided. Lessee shall furnish to Lessor certificates evidencing such coverage throughout the Lease Term, as applicable. All such casualty and liability insurance shall be with insurers that are acceptable to Lessor, shall name Lessor as a loss payee and an additional insured, respectively, and shall contain a provision to the effect that such insurance shall not be cancelled or modified materially without first giving written notice thereof to Lessor at least ten days in advance of such cancellation or modification. All such casualty insurance shall contain a provision making any losses payable to Lessee and Lessor, as their respective interests may appear.

**Section 7.03. Advances.** In the event Lessee shall fail to maintain the insurance required by this Agreement, pay the taxes or charges required to be paid by it under this Agreement or keep the Property in good repair and operating condition, Lessor may, but shall be under no obligation to, purchase the required policies of insurance and pay the cost of the premiums thereof, pay such taxes and charges and maintain and repair the Property and pay the cost thereof. All amounts so advanced by Lessor shall become additional rent for the then current Original Term or Renewal Term. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 12% per annum or the maximum permitted by law, whichever is less.

**Section 7.04. Financial Information.** Lessee will annually provide Lessor with current financial statements, budgets, proofs of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement as may be requested by Lessor.

**Section 7.05. Release and Indemnification.** To the extent permitted by law, Lessee shall indemnify, protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith (including, without limitation, counsel fees and expenses and any federal income tax and interest and penalties connected therewith imposed on interest received) arising out of or as the result of (a) the entering into this Agreement, (b) the ownership of any item of the Property, (c) the ordering, licensing, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Property, (d) any accident in connection with the licensing, operation, use, condition, possession, storage or return of any item of the Property resulting in damage to property or injury or death to any person or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

#### ARTICLE VIII

**Section 8.01. Risk of Loss.** Lessee assumes, from and including the Commencement Date, all risk of loss of or damage to the Property from any cause whatsoever. No such loss of or damage to the Property nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Rental Payments or to perform any other obligation under this Agreement.

**Section 8.02. Damage, Destruction, Unfitness for Use and Condemnation.** If (a) any portion of the Property constituting tangible personal property is destroyed, in whole or in part, or is damaged by fire or other casualty or if any portion of the Property is otherwise rendered unfit for use by any cause whatsoever, or (b) title to, or the temporary use of, any portion of the Property or the interest of Lessee or Lessor in any portion of the Property shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds to be applied to the prompt replacement, repair or restoration of the Property, unless Lessee shall have exercised its option to purchase Lessor's interest in the Property pursuant to Article X. Any balance of the Net Proceeds remaining after such replacement, repair or restoration of the Property has been completed shall be paid to Lessee.

**Section 8.03. Insufficiency of Net Proceeds.** If the Net Proceeds are insufficient to pay in full the cost of any replacement, repair or restoration referred to in Section 8.02, Lessee shall either (a) complete such replacement, repair or restoration and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) purchase Lessor's interest in the Property pursuant to Article X. The amount of the Net Proceeds, if any, remaining after completing such replacement, repair or restoration or after purchasing the Property shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

#### ARTICLE IX

**Section 9.01. Disclaimer of Warranties. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR USE OR PURPOSE OF THE PROPERTY OR AGAINST INFRINGEMENT, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY PROPERTY PROVIDED FOR IN THIS AGREEMENT.**

**Section 9.02. Vendor's Warranties.** Lessee may have rights under the contract evidencing the purchase of the Property or licensing or other agreements; Lessee is advised to contact the Vendor for a description of any such rights. Lessor hereby assigns to Lessee during the Lease Term all rights under any licensing or other agreement and warranties, if any, running from Vendor to Lessor included in or respecting the Property. Lessor hereby irrevocably appoints Lessee its agent and attorney in fact during the Lease Term, so long as Lessee shall not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Property that Lessor may have against the Vendor. Lessee's sole remedy for the breach of any such licensing or other agreement, warranty, indemnification or representation shall be against the Vendor, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or availability of such agreements or warranties by any Vendor.

#### ARTICLE X

**Section 10.01. Purchase Option.** Lessee shall have the option to purchase Lessor's interest in all (but not less than all) of the Property, upon giving written notice to Lessor at least 60 (but not more than 180) days before the date of purchase, at the following times and upon the following terms:



(a) On any Rental Payment Date, upon payment in full of the Rental Payments and all other amounts then due hereunder plus the then applicable Purchase Price to Lessor; or

(b) If substantially all of the Property is substantially damaged, destroyed or otherwise rendered unfit for use or is condemned, on the day Lessee specifies as the purchase date in Lessee's notice to Lessor of its exercise of the purchase option, upon payment in full of the Rental Payments and all other amounts then due hereunder plus (i) the Purchase Price designated on the Payment Schedule for such purchase date if such purchase date is a Rental Payment Date or the Purchase Price for the immediately preceding Rental Payment Date if such purchase date is not a Rental Payment Date, and (ii) if such day is not a Rental Payment Date, an amount equal to the portion of the interest component of the Rental Payment scheduled to come due on the following Rental Payment Date accrued from the immediately preceding Rental Payment Date to such purchase date, computed on the basis of a 360 day year of twelve 30 day months.

Upon the exercise of the option to purchase set forth above, title to the Property shall be vested in Lessee, free and clear of any claim by or through Lessor.

**Section 10.02. Determination of Fair Purchase Price.** Lessee and Lessor hereby agree and determine that the Rental Payments hereunder during the Original Term and each Renewal Term represent the fair value of the use of the Property and that the amount required to exercise Lessee's option to purchase Lessor's interest in the Property pursuant to Section 10.01 represents, as of the end of the Original Term or any Renewal Term, the fair purchase price of the Property. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Agreement or to exercise its option to purchase the Property hereunder. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Property, (b) the uses and purposes for which the Property will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Property and the use of the Property pursuant to the terms and provisions of this Agreement and any applicable licensing and other agreements, and (d) Lessee's option to purchase Lessor's interest in the Property.

## ARTICLE XI

**Section 11.01. Assignment by Lessor.** Lessor's interest in, to and under this Agreement and the Property may, without notice to or the consent of Lessee, be assigned and reassigned in whole or in part to one or more assignees by Lessor. Lessee hereby appoints Municipal Registrar Services (the "Registrar") as its agent for the purpose of maintaining a written record of each such assignment in form necessary to comply with Section 149(a) of the Code. No such assignment shall be binding on Lessee until the Registrar has received written notice from Lessor of the name and address of the assignee. Lessee agrees to execute all documents, including chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Property and in this Agreement. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim, defense, set-off or other right Lessee may from time to time have against Lessor.

**Section 11.02. Assignment and Subleasing by Lessee.** None of Lessee's right, title and interest in, to and under this Agreement and in the Property may be assigned or encumbered by Lessee for any reason, except that Lessee may sublease all or part of the Property, to the extent, if any, permitted by any applicable licensing and other agreements, if Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments from gross income for federal income tax purposes. Any such sublease of all or part of the Property shall be subject to this Agreement and the rights of the Lessor in, to and under this Agreement and the Property.

## ARTICLE XII

**Section 12.01. Events of Default Defined.** Subject to the provisions of Section 3.04, any of the following shall be "Events of Default" under this Agreement:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein;

(b) Any termination or suspension of any of Lessee's rights under any licensing agreement included in the Property.

(c) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed or to comply with any licensing or other agreement included in or respecting the Property, other than as referred to in Section 12.01(a), for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(d) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(e) Any provision of this Agreement shall at any time for any reason cease to be valid and binding on Lessee, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee shall deny that it has any further liability or obligation under this Agreement;

(f) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(g) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

**Section 12.02. Remedies on Default.** Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments and other amounts payable

by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due.

(b) Lessor may terminate this Agreement and hold Lessee liable for Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term, and in such event, Lessee's rights to the Property will simultaneously terminate and Lessee agrees, at Lessee's cost and expense, (a) to immediately discontinue use of the Property, (b) to return to Lessor any portion of the Property constituting tangible personal property, (c) to remove any intangible Property from Lessee's property and terminate access to and use of such Property, whether such Property is installed on premises or accessed remotely or by internet connection and, as applicable, deliver or otherwise release the same to Vendor at the location or locations specified by Vendor, and (d) within 30 days of any such termination, to deliver a certificate to Lessor certifying that Lessee has complied with this sentence. Lessor reserves the right to, and Lessee agrees that the Lessor or Vendor may, upon termination of this Agreement, enter the premises where the Property is located or used to retake possession of the Property or ensure compliance with the previous sentence.

(c) Lessor may take whatever other action at law or in equity may appear necessary or desirable to enforce its rights as Lessor under this Agreement.

In addition, Lessee will remain liable for all covenants and indemnities under this Agreement and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor. Lessor may charge interest on all amounts due to it at the rate of 18% per annum or the maximum amount permitted by law, whichever is less.

**Section 12.03. No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article.

## ARTICLE XIII

**Section 13.01. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses on the front of this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party), to any assignee at its address as it appears on the registration books maintained by Lessee.

**Section 13.02. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

**Section 13.03. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 13.04. Entire Agreement.** This Agreement constitutes the entire agreement between Lessor and Lessee.

**Section 13.05. Amendments.** This Agreement may be amended in writing by Lessor and Lessee.

**Section 13.06. INTENTIONALLY OMITTED.**

**Section 13.07. Usury.** The parties hereto agree that the charges in this Agreement shall not be a violation of usury or other law. Any such excess charge shall be applied in such order as to conform this Agreement to such applicable law.

**Section 13.08. Jury Trial Waiver. TO THE EXTENT PERMITTED BY LAW, LESSEE AGREES TO WAIVE ITS RIGHT TO A TRIAL BY JURY.**

**Section 13.09. INTENTIONALLY OMITTED.**

**Section 13.10. Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 13.11. Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State.

**Section 13.12. Role of Lessor.** Lessor has not acted and will not act as a fiduciary for Lessee or as Lessee's agent or municipal advisor. Lessor has not and will not provide financial, legal, tax, accounting or other advice to Lessee or to any financial advisor or placement agent engaged by Lessee with respect to this Agreement. Lessee, its financial advisor, placement agent or municipal advisor, if any, shall each seek and obtain its own financial, legal, tax, accounting and other advice with respect to this Agreement from its own advisors (including as it relates to structure, timing, terms and similar matters).

**Section 13.13. Electronic Transactions.** Lessor, in its sole discretion, may permit Lessee to electronically copy and/or deliver by telecopier or other electronic means of transmission an executed counterpart of this Agreement, and any document, schedule, amendment, addendum, supplement or agreement related hereto or executed in connection herewith, with the exception of the IRS Form 8038-G which Lessee must execute using an original, manual signature (not e-Signature). By so copying and/or delivering any such document, Lessee hereby represents and agrees (a) that such transmission constitutes due delivery of such executed document, (b) that the counterpart of such executed document as printed by the recipient, including Lessee's signature thereon, shall be deemed to constitute an original and shall be admissible in any court or other legal proceeding as an original, and (c) to deliver to Lessor, promptly on request, such document bearing Lessee's original "wet ink" signature; provided that neither delivery nor failure to deliver the document bearing Lessee's original "wet ink" signature shall limit or modify the representations and agreements set forth in clauses (a) and (b). This Agreement, including any document, schedule, amendment, addendum, supplement or agreement related hereto or executed in connection herewith with the exception of the IRS Form 8038-G, may be executed in counterparts and any facsimile, photographic or other electronic transmission and/or electronic signing of the Agreement by the Lessee when manually countersigned by Lessor or attached to Lessor's original signature counterpart and/or in Lessor's possession shall constitute the sole original chattel paper as defined in the UCC for all purposes and will be admissible as legal evidence thereof. At Lessor's option, Lessor may require a manual signature.

# TEXAS ADDENDUM TO LEASE PURCHASE AGREEMENT

This Addendum to that certain Lease Purchase Agreement (together with all Exhibits and this Addendum, the "Agreement") dated as of APRIL 22, 2021, between DE LAGE LANDEN PUBLIC FINANCE LLC (together with its successors and assigns, "Lessor"), and CITY OF NORTH RICHLAND HILLS (together with its successors and assigns, "Lessee"), is incorporated in and is hereby made a part of the Agreement. Lessor and Lessee hereby agree that capitalized terms used herein and not otherwise defined herein shall have the meaning assigned to such terms in the Agreement and that the following changes and additions shall be made to the Agreement:

1. The definition of **Lease Term** in the Agreement is hereby amended by deleting the existing definition and inserting the following definition in lieu thereof:

"**Lease Term**" means, the Original Term and all Renewal Terms, but ending on the occurrence of the earliest event specified in **Section 3.02**, provided that the Lease Term shall not exceed 25 years.

2. **Section 3.03** of the Agreement is hereby deleted and the following **Section 3.03** is hereby inserted in lieu thereof:

**Section 3.03. Continuation of Lease Term.** The decision whether or not to budget or appropriate funds or to extend this Agreement for any Renewal Term is solely within the discretion of the then-current governing body of Lessee.

3. **Section 11.01** of the Agreement is hereby deleted and the following **Section 11.01** is hereby inserted in lieu thereof:

**Section 11.01. Assignment by Lessor.** Lessor's interest in, to and under this Agreement and the Property may, without notice to or the consent of Lessee, be assigned and reassigned in whole (but not in part) by Lessor. Lessee hereby appoints Municipal Registrar Services (the "Registrar") as its agent for the purpose of maintaining a written record of each such assignment in form necessary to comply with Section 149(a) of the Code. No such assignment shall be binding on Lessee until the Registrar has received written notice from Lessor of the name and address of the assignee. Lessee agrees to execute all documents, including chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Property and in this Agreement. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim, defense, set-off or other right Lessee may from time to time have against Lessor.

4. The following **Section 13.14** is hereby added to the Agreement:

**Section 13.14. No Engagement in Boycott of Israel.** Lessor certifies that it does not boycott Israel, and agrees that it will not boycott Israel during the term of this Agreement, with the term "boycott" having the meaning assigned in V.T.C.A., Government Code § 808.001.

Except as specifically set forth in this Addendum, all terms and conditions contained in the Agreement remain in full force and effect and are hereby ratified and confirmed.

LESSEE SIGNATURE	Legal Name of Lessee <u>CITY OF NORTH RICHLAND HILLS</u>
	Signature _____ Date _____
	Print Name _____
	Title _____
	(Seal)
	Attest _____
	Title _____ Date _____
LESSOR SIGNATURE	Name of Lessor <u>DE LAGE LANDEN PUBLIC FINANCE LLC</u>
	Lessor Signature _____ Date _____
	Print Name _____
	Title _____
	Lease Number _____

21TEIA023

Payment Schedule

LESSOR: DE LAGE LANDEN PUBLIC FINANCE LLC

LESSEE: CITY OF NORTH RICHLAND HILLS

LEASE NUMBER: 500-50262058

LEASE DATE: APRIL 22, 2021

Rental Payment Number	Rental Payment Due Date	Rental Payment	Interest Portion	Principal Portion	Balance	Purchase Price
Loan	4/22/2021	0	0.00	0.00	63,750.00	-
1	5/22/2021	21,250.00	0.00	21,250.00	42,500.00	43,775.00
2	5/22/2022	21,250.00	0.00	21,250.00	21,250.00	21,887.50
3	5/22/2023	21,250.00	0.00	21,250.00	0.00	-
Grand Totals		63,750.00	0.00	63,750.00		-

Sales tax of \$0.00 is included in the financed amount shown above.

LESSEE ACKNOWLEDGES THAT THE AMOUNT FINANCED BY LESSOR IS \$61,955.71 AND THAT SUCH AMOUNT, IS THE ISSUE PRICE FOR FEDERAL INCOME TAX PURPOSES. THE DIFFERENCE BETWEEN THE PRICIPAL AMOUNT ( EQUIPMENT COST) IN THIS SCHEDULE AND THE ISSUE PRICE IS ORIGINAL ISSUE DISCOUNT ("OID"), AS DEFINED IN THE INTERNAL REVENUE CODE. THE YIELD FOR THIS SCHEDULE FOR FEDERAL INCOME TAX PURPOSE IS 2.69%. SUCH ISSUE PRICE AND YIELD WILL BE STATED IN THE APPLICABLE IRS FORM 8038-G.

Lessee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_



**Caution:** If the issue price of the issue is \$100,000 or more, use Form 8038-G.

<b>Part I</b>	<b>Reporting Authority</b>
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Check box if **Amended Return** ☐

1	Issuer's name	2	Issuer's employer identification number (EIN)
3	Number and street (or P.O. box if mail is not delivered to street address)		Room/suite
4	City, town, or post office, state, and ZIP code	5	Report number (For IRS Use Only)
6	Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information	7	Telephone number of officer or legal representative

**Part II** **Description of Obligations** Check one: a single issue ☐ ~~or a consolidated return~~ ☒

<b>8a</b>	Issue price of obligation(s) (see instructions)	XXXXXXX
<b>b</b>	Issue date (single issue) <b>or</b> calendar date (consolidated). Enter date in mm/dd/yyyy format (for example, 01/01/2009) (see instructions) ▶	
<b>9</b>	Amount of the reported obligation(s) on line 8a that is:	
<b>a</b>	For leases for vehicles	XXXXXXX
<b>b</b>	For leases for office equipment	XXXXXXX
<b>c</b>	For leases for real property	XXXXXXX
<b>d</b>	For leases for other (see instructions)	XXXXXXX
<b>e</b>	For bank loans for vehicles	XXXXXXX
<b>f</b>	For bank loans for office equipment	XXXXXXX
<b>g</b>	For bank loans for real property	XXXXXXX
<b>h</b>	For bank loans for other (see instructions)	XXXXXXX
<b>i</b>	Used to refund prior issue(s)	XXXXXXX
<b>j</b>	Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	XXXXXXX
<b>k</b>	Other	XXXXXXX
<b>10</b>	If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▶	<input type="checkbox"/>
<b>11</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▶	<input type="checkbox"/>
<b>12</b>	Vendor's or bank's name:	
<b>13</b>	Vendor's or bank's employer identification number:	X X X X X X X X X X X X X X X X

## Signature and Consent

~~Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.~~

~~XX~~

<del>Signature of issuer's authorized representative</del>	<del>Date</del>
--	-----------------

**SAMPLE DOCUMENT**  
Type or print name and title

**Paid  
Preparer  
Use Only**

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name			Firm's EIN	
Firm's address			Phone no.	

## ~~General Instructions~~

~~Section references are to the Internal Revenue Code unless otherwise noted.~~

## What's New

The IRS has created a page on [www.irs.gov/form8038](http://www.irs.gov/form8038) for information about the Form 8038 series and its instructions, at [www.irs.gov/form8038](http://www.irs.gov/form8038). Information about any future developments affecting the Form 8038 series (such as legislation enacted after we release it) will be posted on that page.

## Purpose of Form

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

## ~~Who Must File~~

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Obligations.

**Filing a separate return for a single issue.**

Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate (see the line 11 instructions).

## Filing a consolidated return for multiple

**issues.** For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

## When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the second calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15th of the calendar year following the year in which the issue is issued.

**Late filing.** An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time is not due to willful neglect. Type or print at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form was not submitted to the IRS on time. Also indicate whether the obligation in question is under examination by the IRS. Do not submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

## Where To File

File Form 8038-GC, and any attachments, with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

**Private delivery services.** You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

## Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal Government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

## Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar.

## Definitions

**Obligations.** This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to

multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

**Tax-exempt obligation.** This is any obligation including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

**Tax-exempt governmental obligation.** A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

**Private activity bond.** This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

**Issue.** Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

**Arbitrage rebate.** Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

**Construction issue.** This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and

2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

## Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

## Part I—Reporting Authority

**Amended return.** An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the "Amended Return" box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

**Line 1.** The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

**Line 2.** An issuer that does not have an employer identification number (EIN) should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

**Lines 3 and 4.** Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office does not deliver mail to the street address and the issuer has a P.O. box, show the box number instead of the

street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

**Note.** The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

**Line 5.** This line is for IRS use only. Do not make any entries in this box.

## Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

**Line 8a.** The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

**Line 8b.** For a single issue, enter the date of issue (for example, 03/15/2010 for a single issue issued on March 15, 2010), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2010, enter 01/01/2010).

**Lines 9a through 9h.** Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Do not complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

**Lines 9i and 9j.** For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

**Line 9k.** Enter on line 9k the amount on line 8a that does not represent an obligation described on lines 9a through 9j.

**Line 10.** Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(II).

**Line 11.** Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

**Line 12.** Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

**Line 13.** Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

## Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also print the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

**Note.** If the issuer authorizes in line 6 the IRS to communicate with a person other than an officer or other employee of the issuer, (such authorization shall include contact both in writing regardless of the address entered in lines 3 and 4, and by telephone) by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

## Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

## Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Learning about the law or the form** . . . . 4 hr., 46 min.

**Preparing the form** . . . . 2 hr., 22 min.

**Copying, assembling, and sending the form to the IRS** . . 2 hr., 34 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File*.

BILLING INFORMATION

PLEASE COMPLETE THIS FORM AND RETURN WITH DOCUMENTS

In order for DE LAGE LANDEN PUBLIC FINANCE LLC to properly bill and credit your account, it is necessary that you complete this form and return it with the signed documents.

Billing Name:

If you would like your invoices emailed to you in place of regular mail, please provide an email address(es) below:

\*YOUR INVOICES WILL BE EMAILED FROM INVOICEDELIVERY@PAYEREXPRESS.COM  
Subject line will read: Your Lease Direct Invoice is ready to view online!

Billing Address:

Attention:

Telephone Number:

FEDERAL TAX ID#:

Lease/Contract Signer Name: Date of Birth (only provide if requested)

SPECIAL INSTRUCTIONS

Do you require a Purchase Order Number on the invoice? If yes, please provide PO# ☐ YES ☐ NO

Is a new purchase order required for each new fiscal period? ☐ YES ☐ NO

If yes, provide month/year PO expires

Are you sales tax exempt? If yes, please attach a copy of exempt certificate or direct pay permit. ☐ YES ☐ NO

Do you require any special information to establish a vendor number for ? ☐ YES ☐ NO

If yes, please advise:

Additional Comments:

CONTACT INFORMATION AND QUESTIONNAIRE FOR FORM 8038-G FILINGS  
(required for all State and Local Government transactions)

Contact Name:

Title:

Contact Address:

Contact Telephone Number:

Email Address:

If you have further questions, please consult your regular bond or legal counsel.



# ACCEPTANCE CERTIFICATE

De Lage Landen Public Finance LLC  
1111 Old Eagle School Rd  
Wayne, PA 19087

Ladies and Gentlemen:

Re: Lease Purchase Agreement dated as APRIL 22, 20 21 of between De Lage Landen Public Finance LLC, as Lessor, and CITY OF NORTH RICHLAND HILLS, as Lessee.

In accordance with the Lease Purchase Agreement (the "Agreement"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

(1) All of the Property (as such term is defined in the Agreement) has been delivered, installed or is otherwise fully accessible by the Lessee and the Property is accepted on the date hereof.

(2) Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes.

(3) Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.

(4) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

<b>LESSEE</b>	Lessee Name <u>CITY OF NORTH RICHLAND HILLS</u>	
	Signature	Date
	Title	

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