

## MASTER INSTALLMENT PURCHASE AGREEMENT

This Master Installment Purchase Agreement dated as of \_\_\_\_\_, and entered into between Mercedes-Benz Financial Services USA LLC, a Delaware limited liability company, and its successors, transferees and assigns ("Lender"), and \_\_\_\_\_, a body corporate and politic existing under the laws of the State of \_\_\_\_\_ ("Borrower").

1. **Agreement.** Borrower agrees to finance from Lender certain "Equipment" as described in each Equipment Schedule (Exhibit A), which together with an Installment Payment Schedule (Exhibit A-1) constitute a "Schedule", subject to the terms and conditions of and for the purposes set forth in each Contract. Items of equipment may be added to the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein. Each Schedule and the terms and provisions of this Agreement (which includes all exhibits hereto, together with any amendments and modifications pursuant thereto) which are incorporated by reference into such Schedule shall constitute a separate and independent contract and installment purchase of the Equipment therein described and are referred to herein as a "Contract".

2. **Term.** The "Commencement Date" for each Contract is the date when interest commences to accrue under such Contract which date shall be the earlier of (i) the date on which the Equipment listed in such Contract is accepted by Borrower in the manner described in Section 11, or (ii) the date on which sufficient monies to purchase the Equipment listed in such Contract are deposited for that purpose with an escrow agent, or (iii) the date sufficient monies are set aside for acquisition of Equipment as evidenced in Exhibit D, if applicable. The "Contract Term" for each Contract means the Original Term and all Renewal Terms therein provided and for this Agreement means the period from the date hereof until this Agreement is terminated. The "Original Term" means the period from the Commencement Date for each Contract until the end of Borrower's fiscal year or biennium (as the case may be) (the "Fiscal Period") in effect at such Commencement Date. The "Renewal Term" for each Contract is each term having a duration that is coextensive with the Fiscal Period.

3. **Representations and Covenants of Borrower.** Borrower represents, covenants and warrants for the benefit of Lender on the date hereof and as of the Commencement Date of each Contract as follows: (a) Borrower is a public body corporate and politic duly organized and existing under the constitution and laws of the State with full power and authority under the constitution and laws of the state where the Borrower is located ("State") to enter into this Agreement and each Contract and the transactions contemplated hereby and to perform all of its obligations hereunder and under each Contract; (b) Borrower has duly authorized the execution and delivery of this Agreement and each Contract by proper action of its governing body at a meeting duly called and held in accordance with State law, or by other appropriate official approval, and all requirements have been met and procedures have occurred to ensure the validity and enforceability of this Agreement and each Contract; (c) Borrower 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; (d) Borrower has complied with such public bidding requirements as may be applicable to this Agreement and each Contract and the acquisition by Borrower of the Equipment as provided in each Contract; (e) during the Contract Term, the Equipment will be used by Borrower solely and exclusively for the purpose of performing essential governmental or proprietary functions of Borrower consistent with the permissible scope of Borrower's authority; (f) Borrower will annually provide Lender with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Period, and such other financial information relating to the ability of Borrower to continue each Contract as may be requested by Lender; and (g) Borrower has an immediate need for the Equipment listed on each Schedule and expects to make immediate use of the Equipment listed on each Schedule.

4. **Tax and Arbitrage Representations.** Borrower hereby represents as follows: (a) the estimated total costs of the Equipment listed in each Schedule will not be less than the total principal portion of the Installment Payment listed in such Installment Payment Schedule; (b) the Equipment listed in each Schedule has been ordered or is expected to be ordered within 6 months of the Commencement Date, and all amounts deposited in escrow to pay for the Equipment, and interest earnings, will be expended on costs of the Equipment and the financing within 3 years of Commencement Date; (c) no proceeds of any Contract will be used to reimburse Borrower for expenditures made more than 60 days prior to the Commencement Date or, if earlier, more than 60 days prior to any official action taken to evidence an intent to finance; (d) Borrower has not created or established, and does not expect to create or establish, any sinking fund or similar fund (i) that is reasonably expected to be used to pay the Installment Payment, or (ii) that may be used solely to prevent a default in the payment of the Installment Payment; (e) the Equipment listed in each Schedule has not been and is not expected to be sold or otherwise disposed of by Borrower, either in whole or in part, prior to the last maturity of Installment Payment;

(f) Borrower will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended ("Code"), including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Installment Payments from gross income for purposes of federal income taxation; and (g) Borrower intends that each Contract not constitute a "true" lease for federal income tax purposes.

5. **Finance of Equipment.** Upon the execution of each Contract, Lender demises, finances, transfers, and lets to Borrower, and Borrower acquires, rents, finances and hires from Lender, the Equipment in accordance with the terms thereof. The Contract Term for each Contract may be continued, solely at the option of Borrower, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Contract Term set forth in such Contract. At the end of the Original Term and at the end of each Renewal Term the Contract Term shall be automatically extended upon the successive appropriation by Borrower's governing body of amounts sufficient to pay Installment Payments and other amounts payable under the related Contract during the next succeeding Fiscal Period until all Installment Payments payable under such Contract have been paid in full, unless Borrower shall have terminated such Contract pursuant to Section 7 or Section 22. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Installment Payments shall be as provided in the applicable Contract.

6. **Continuation of Contract Term.** Borrower currently intends, subject to Section 7, to continue the Contract Term of each Contract through the Original Term and all Renewal Terms and to pay the Installment Payments thereunder. Borrower reasonably believes that legally available funds in an amount sufficient to make all Installment Payments during the maximum Contract Term of each Contract can be obtained. Borrower currently intends to do all things lawfully within its power to obtain and maintain funds from which the Installment Payments may be made, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable provisions of law. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds or to extend the applicable Schedule for any Renewal Term is within the discretion of the governing body of Borrower.

7. **Nonappropriation.** Borrower is obligated only to pay such Installment Payments under each Contract as may lawfully be made from funds budgeted and appropriated for that purpose. Should Borrower fail to budget, appropriate or otherwise make available funds to pay Installment Payments under any Contract following the then current Original Term or Renewal Term, such Contract or Contracts shall be deemed terminated at the end of the then current Original Term or Renewal Term. Borrower agrees to deliver notice to Lender of such termination at least 30 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If any Contract is terminated in accordance with this Section, Borrower agrees to peaceably deliver the Equipment to Lender at the location(s) to be specified by Lender.

8. **Conditions to Lender's Performance.** This Agreement is not a commitment by Lender to enter into any Contract not currently in existence, and nothing in this Agreement shall be construed to impose any obligation upon Lender to enter into any proposed Contract, it being understood that whether Lender enters into any proposed Contract shall be a decision solely within Lender's discretion. Borrower will cooperate with Lender in Lender's review of any proposed Contract. Borrower understands that Lender requires certain documentation and information necessary to enter into any Contract and Borrower agrees to provide Lender with any documentation or information Lender may request in connection with Lender's review of any proposed Contract. Such documentation may include, without limitation, documentation concerning the Equipment and its contemplated use and location and documentation or information concerning the financial status of Borrower and other matters related to Borrower.

9. **Installment Payments.** Borrower shall promptly pay "Installment Payments" as described in Exhibit A-1 to each Contract, exclusively from legally available funds, to Lender on the dates and in such amounts as provided in each Contract. Borrower shall pay Lender a charge on any Installment Payment not paid on the date such payment is due at the rate of 12% per annum or the maximum rate permitted by law, whichever is less, from such date until paid. Installment Payments consist of principal and interest portions. Lender and Borrower understand and intend that the obligation of Borrower to pay Installment Payments under each Contract shall constitute a current expense of Borrower and shall not in any way be construed to be a

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debt of Borrower in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Borrower, nor shall anything contained herein or in a Contract constitute a pledge of the general tax revenues, funds or monies of Borrower.

**10. INSTALLMENT PAYMENTS TO BE UNCONDITIONAL.** EXCEPT AS PROVIDED IN SECTION 7, THE OBLIGATIONS OF BORROWER TO MAKE INSTALLMENT PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED IN EACH LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION ANY FAILURE OF THE EQUIPMENT TO BE DELIVERED OR INSTALLED, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE EQUIPMENT OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES.

**11. Delivery; Installation; Acceptance.** Borrower shall order the Equipment, cause the Equipment to be delivered and installed at the location specified in each Contract, and pay any and all delivery and installation costs in connection therewith. When the Equipment listed in any Contract has been delivered and acceptance tested, Borrower shall immediately accept such Equipment and evidence said acceptance by executing and delivering to Lender an Acceptance Certificate (Exhibit B). Lender shall provide Borrower with quiet use and enjoyment of the Equipment during the Contract Term.

**12. Location; Inspection.** Once installed, no item of the Equipment will be moved from the location specified for it in the Contract on which such item is listed without Lender's consent, which consent shall not be unreasonably withheld. Lender shall have the right at all reasonable times during regular business hours to enter into and upon the property of Borrower for the purpose of inspecting the Equipment.

**13. Use; Maintenance.** Borrower will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by the related Contract. Borrower shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Borrower agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body. Borrower agrees that it will, at Borrower's own cost and expense, maintain, preserve and keep the Equipment in good repair and working order.

**14. Title.** Upon acceptance of the Equipment under a Contract by Borrower, title to the Equipment shall vest in Borrower subject to Lender's rights under the Contract, provided that title shall thereafter immediately and without any action by Borrower vest in Lender, and Borrower shall immediately surrender possession of the Equipment to Lender, upon (a) any termination of the applicable Contract other than termination pursuant to Section 22 or (b) the occurrence of an Event of Default. Transfer of title to Lender pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Borrower shall, nevertheless, execute and deliver any such instruments as Lender may request to evidence such transfer.

**15. Security Interest.** To secure the payment of all of Borrower's obligations under each Contract, upon the execution of such Contract, Borrower grants to Lender a security interest constituting a first and exclusive lien on the Equipment applicable to such Contract and on all proceeds therefrom. Borrower agrees to execute such additional documents, in form satisfactory to Lender, which Lender deems necessary or appropriate to establish and maintain its security interest in the Equipment. The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated.

**16. Liens, Taxes, Other Governmental Charges and Utility Charges.** Borrower shall keep the Equipment free of all levies, liens and encumbrances except those created by each Contract. The parties to this Agreement contemplate that the Equipment will be used for governmental or proprietary purposes of Borrower and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Borrower shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. Borrower shall pay all utility and other charges incurred in the use and maintenance of the Equipment. Borrower shall pay such taxes or charges as the same may become due.

**17. Insurance.** At its own expense, Borrower shall during each Contract Term maintain (a) casualty insurance insuring the Equipment 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 Lender, in an amount at least equal to the then applicable "Purchase Price" of the Equipment as described in Exhibit A-1 of each Contract; (b) liability insurance that protects Borrower from liability in all events in form and amount satisfactory to Lender; and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lender's prior written consent, Borrower may self-insure against the risks described in clauses (a) and (b). Borrower shall furnish to Lender evidence of such insurance or self-insurance coverage throughout each Contract Term. Borrower shall

not materially modify or cancel such insurance or self-insurance coverage without first giving written notice thereof to Lender at least 10 days in advance of such cancellation or modification. All such insurance described in clauses (a) and (b) above shall contain a provision naming Lender as a loss payee and additional insured.

**18. Advances.** In the event Borrower shall fail to keep the Equipment in good repair and working order, Lender may, but shall be under no obligation to, maintain and repair the Equipment and pay the cost thereof. All amounts so advanced by Lender shall constitute additional rent for the then current Original Term or Renewal Term and Borrower agrees to pay such amounts so advanced by Lender with interest thereon from the advance date until paid at the rate of 12% per annum or the maximum rate permitted by law, whichever is less.

**19. Damage, Destruction and Condemnation.** If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Borrower and Lender will cause the Net Proceeds to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment to substantially the same condition as existed prior to the event causing such damage, destruction, or condemnation, unless Borrower shall have exercised its option to purchase the Equipment pursuant to Section 22. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Borrower.

For purposes of this Section, the term "Net Proceeds" shall mean (y) the amount of insurance proceeds received by Borrower for replacing, repairing, restoring, modifying, or improving damaged or destroyed Equipment, or (z) the amount remaining from the gross proceeds of any condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof. If the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration, modification or improvement referred to herein, Borrower shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pursuant to Section 22 purchase Lender's interest in the Equipment and in any other Equipment listed in the same Contract. The amount of the Net Proceeds, if any, remaining after completing such replacement, repair, restoration, modification or improvement or after purchasing Lender's interest in the Equipment and such other Equipment shall be retained by Borrower. If Borrower shall make any payments pursuant to this Section, Borrower shall not be entitled to any reimbursement therefor from Lender nor shall Borrower be entitled to any diminution of the amounts payable under Section 9.

**20. DISCLAIMER OF WARRANTIES.** LENDER MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY WITH RESPECT THERETO WHETHER EXPRESS OR IMPLIED, AND BORROWER ACCEPTS SUCH EQUIPMENT AS IS AND WITH ALL FAULTS. IN NO EVENT SHALL LENDER BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF ANY LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR BORROWER'S USE OF ANY ITEM, PRODUCT OR SERVICE PROVIDED FOR IN ANY LEASE.

**21. Vendor's Warranties.** Lender hereby irrevocably appoints Borrower as its agent and attorney-in-fact during each Contract Term, so long as Borrower shall not be in default under the related Contract, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lender may have against Vendor. The term "Vendor" means any supplier or manufacturer of the Equipment as well as the agents or dealers of the manufacturer or supplier from whom Lender purchased or is purchasing such Equipment. Borrower's sole remedy for the breach of such warranty, indemnification or representation shall be against Vendor of the Equipment, and not against Lender. Any such matter shall not have any effect whatsoever on the rights or obligations of Lender with respect to any Contract, including the right to receive full and timely payments under a Contract. Borrower expressly acknowledges that Lender makes, and has made no representations or warranties whatsoever as to the existence or the availability of such warranties by Vendor of the Equipment.

**22. Purchase Option.** Borrower shall have the option to purchase Lender's interest in all of the Equipment listed in any Contract, upon giving written notice to Lender at least 60 days before the date of purchase, at the following times and upon the following terms: (a) on the Installment Payment dates specified in each Contract, upon payment in full of the Installment Payments then due under such Contract plus the then applicable Purchase Price as referenced in Exhibit A-1; or (b) in the event of substantial damage to or destruction or condemnation of substantially all of the Equipment listed in a Contract, on the day specified in Borrower's notice to Lender of its exercise of the purchase option upon payment in full to Lender of the Installment Payments then due under such Contract plus the then applicable Purchase Price plus accrued interest from the immediately preceding Installment Payment date to such purchase date.

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**23. Assignment.** Lender's right, title and interest in and to each Contract, including Installment Payments and any other amounts payable by Borrower thereunder and all proceeds therefrom, may be assigned and reassigned to one or more assignees or subassignees by Lender without the necessity of obtaining the consent of Borrower. During the term of this Agreement, Borrower shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. For this purpose, Borrower appoints Lender to act as its registration agent, which appointment Lender hereby accepts. Lender agrees on Borrower's behalf to maintain such record of all assignments. Borrower agrees to execute all documents that may be reasonably requested by Lender or any assignee to protect its interests and property assigned pursuant to this Section. Borrower shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Borrower may have against Lender or Vendor. Assignments may include without limitation assignment of all of Lender's security interest in and to the Equipment listed in a particular Contract and all rights in, to and under the Contract related to such Equipment. Borrower hereby agrees that Lender may, without notice to Borrower, sell, dispose of, or assign this Agreement or any particular Contract or Contracts through a pool, trust, limited partnership, or other similar entity, whereby one or more interests are created in this Agreement or in a Contract or Contracts, or in the Equipment listed in or the Installment Payments under a particular Contract or Contracts.

None of Borrower's right, title and interest in, to and under any Contract or any portion of the Equipment listed in each Contract may be assigned, subleased, or encumbered by Borrower for any reason without obtaining prior written consent of Lender.

**24. Events of Default.** Any of the following events shall constitute an "Event of Default" under a Contract: (a) failure by Borrower to pay any Installment Payment or other payment required to be paid under a Contract at the time specified therein, (b) failure by Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Borrower by Lender; (c) any statement, representation or warranty made by Borrower in or pursuant to any Contract shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made; or (d) Borrower institutes any proceedings under any bankruptcy, insolvency, reorganization or similar law or a receiver or similar official is appointed for Borrower or any of its property.

**25. Remedies on Default.** Whenever any Event of Default exists, Lender 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 Borrower, Lender may declare all Installment Payments payable by Borrower pursuant to such Contract and other amounts payable by Borrower under such Contract to the end of the then current Original Term or Renewal Term to be immediately due and payable; (b) with or without terminating the Contract Term under such Contract, Lender may enter the premises where the Equipment listed in such Contract is located and retake possession of such Equipment or require Borrower at Borrower's expense to promptly return any or all of such Equipment to the possession of Lender at such place within the United States as Lender shall specify, and sell or finance such Equipment or, for the account of Borrower, sublease such Equipment, continuing to hold Borrower liable for the difference between (i) the Installment Payments payable by Borrower pursuant to such Contract and other amounts related to such Contract of the Equipment listed therein that are payable by Borrower to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lender in exercising its remedies under such Contract, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's

fees), subject, however, to the provisions of Section 7 hereof. The exercise of any such remedies in respect of any such Event of Default shall not relieve Borrower of any other liabilities under any other Contract or the Equipment listed therein; and (c) Lender may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under such Contract or as a secured party in any or all of the Equipment. Any net proceeds from the exercise of any remedy under a Contract (after deducting all costs and expenses referenced in the Section) shall be applied as follows: (i) if such remedy is exercised solely with respect to a single Contract, Equipment listed in such Contract or rights thereunder, then to amounts due pursuant to such Contract and other amounts related to such Contract or such Equipment; or (ii) if such remedy is exercised with respect to more than one Contract, Equipment listed in more than one Contract or rights under more than one Contract, then to amounts due pursuant to such Contracts pro-rata.

**26. No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lender is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under a Contract now or hereafter existing at law or in equity.

**27. Notices.** All notices or other communications under any Contract shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties hereto at the addresses listed below (or at such other address as either party hereto shall designate in writing to the other for notices to such party), or to any assignee at its address as it appears on the registration books maintained by Borrower.

**28. Release and Indemnification.** To the extent permitted by State law, and subject to Section 7, Borrower shall indemnify, release, protect, hold harmless, save and keep harmless Lender from and against any and all liability, obligation, loss, claim, tax and damage whatsoever, regardless of cause thereof, and all expenses in connection therewith (including, without limitation, attorney's fees and expenses, penalties connected therewith imposed on interest received) arising out of or as result of (a) entering into any Contract, (b) the ownership of any item of Equipment, (c) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of Equipment resulting in damage to property or injury to or death to any person, and/or (e) the breach of any covenant or any material representation contained in a Contract. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under all Contracts or the termination of the Contract Term under all Contracts for any reason.

**29. Miscellaneous Provisions.** Each Contract shall inure to the benefit of and shall be binding upon Lender and Borrower and their respective successors and assigns. References herein to "Lender" shall be deemed to include each of its assignees and subsequent assignees from and after the effective date of each assignment as permitted by Section 23. In the event any provision of any Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof. Each Contract may be amended by mutual written consent of Lender and Borrower. Each Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The captions or headings in this Agreement and in each Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement or any Contract. This Agreement and each Contract shall be governed by and construed in accordance with the laws of the State.

**30. Waiver of Jury Trial.** Borrower expressly waives any and all right to a jury trial in any dispute regarding or arising out of this Agreement.

IN WITNESS WHEREOF, Lender and Borrower have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

(LENDER)  
Mercedes-Benz Financial Services USA LLC  
13650 Heritage Parkway  
Fort Worth, TX 76177

(BORROWER)  
GILA COUNTY  
1400 E. ASH ST  
GLOBE, AZ 85501

By X \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

By X \_\_\_\_\_  
Name Tommie C. MARTIN  
Title CHAIRMAN BOARD OF SUPERVISORS

By X \_\_\_\_\_  
Name BRYAN B. CHAMBERS  
Title CHIEF DEPUTY COUNTY ATTORNEY

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## EXHIBIT C

(To be put on Attorney's Letterhead)

Mercedes-Benz Financial Services USA LLC  
13650 Heritage Parkway  
Fort Worth, TX 76177

Re: Schedule of Property No. 1, dated \_\_\_\_\_, to Master Installment Purchase Agreement dated as of \_\_\_\_\_, between Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns, as Lender, and \_\_\_\_\_, as Borrower.

Ladies and Gentlemen:

As legal counsel to \_\_\_\_\_, (the "Borrower"), I have examined (a) an executed counterpart of a certain Master Installment Purchase Agreement, dated as of \_\_\_\_\_, and Exhibits thereto by and between Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns (the "Lender") and Borrower, (the "Agreement") and an executed counterpart of Schedule of Property No. 1, dated \_\_\_\_\_, by and between Lender and Borrower (the "Schedule"), which, among other things, provides for the financing of certain property listed in the Schedule (the "Equipment"), (b) an executed counterpart of the ordinances or resolutions of Borrower which, among other things, authorize Borrower to execute the Agreement and the Schedule and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinion. The Schedule and the terms and provisions of the Agreement incorporated therein by reference together with the Installment Payment Schedule attached to the Schedule are herein referred to collectively as the "Contract".

In rendering this opinion, we have assumed without inquiry:

- (a) The authenticity of all documents submitted to us as copies of the originals, and the conformity of such copies to the originals as they are finally executed and delivered by Borrower and Lender;
- (b) That the Contract has been or will be duly authorized, executed and delivered by Lender;
- (c) That the Contract constitutes valid, legal and binding obligations of Lender enforceable against Lender in accordance with its terms; and
- (d) That the Contract accurately describes and contains the mutual understandings of the parties, and that there are not oral or written statements or agreements that modify, amend or vary, or purport to modify, amend or vary, any of the terms thereof.

Based on the foregoing, I am of the following opinion:

- (1) Borrower is a public body corporate and politic, duly organized and existing under the laws of the State, or has a substantial amount of one the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, or (c) police power;

- (2) The name of the Borrower contained in the Contract is the correct legal name of the Borrower;
- (3) Borrower has the requisite power and authority to acquire and finance the Equipment and to execute and deliver the Contract and to perform its obligations under the Contract;
- (4) The Contract has been duly authorized, approved, executed, and delivered by and on behalf of Borrower and the Contract is a legal, valid and binding obligation of Borrower enforceable in accordance with its terms, subject to (i) all applicable bankruptcy, reorganization, insolvency, fraudulent conveyance, moratorium and other similar laws; (ii) the qualification that certain waivers, restrictions and remedies provided for in this Contract, including without limitation certain indemnification obligations, may be wholly or partially unenforceable under \_\_\_\_\_ law; and (iii) general principles of equity.
- (5) The authorization, approval, execution, and delivery of the Contract and all other proceedings of Borrower relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state laws; and
- (6) To the best of my knowledge, there is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Contract or the security interest of Lender or its assigns, as the case may be, in the Equipment thereunder.

All of the opinions set forth above are also subject to the following qualifications, limitations and exceptions:

- (a) The opinions expressed herein are limited to matters governed by the laws of the State of \_\_\_\_\_ . No opinion is expressed regarding the laws of any other jurisdiction.
- (b) The opinions expressed herein are based upon the law in effect on the date hereof, and we assume no obligation to revise or supplement them if the law is changed by legislative action, judicial decision or otherwise.

All capitalized terms herein shall have the same meanings as in the Contract unless otherwise provided herein. Lender, its successors and assigns, and any counsel rendering an opinion on the tax-exempt status of the interest components of the Installment Payments, are entitled to rely on this opinion.

Printed Name

Bryan B. Chambers  
Chief Deputy County Attorney

Signature X

EXHIBIT A

SCHEDULE OF PROPERTY NO. 1

RE: MASTER INSTALLMENT PURCHASE AGREEMENT entered into as of \_\_\_\_\_, ("Agreement"), between Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns ("Lender") and GILA COUNTY ("Borrower"). All terms used and not otherwise defined herein have the meanings ascribed to them in the Agreement.

The following items of Equipment are hereby included under this Schedule to the Agreement.

**Ninety five percent of the financing costs are being used to acquire assets that will be capitalized.**

DESCRIPTION OF EQUIPMENT:

New/Used	Make	Model	Serial Number	Body Type	Model Year

Borrower hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the Commencement Date of Installment Payments under this Schedule. **The terms and provisions of the Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated into this Schedule by reference and made a part hereof.**

Borrower hereby designates the Schedule 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 Borrower and all subordinate entities thereof during the calendar year in which the Schedule is executed is not reasonably expected to exceed \$30,000,000. Borrower and all subordinate entities thereof will not issue in excess of \$30,000,000 of tax-exempt obligations (including the Schedule but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year in which this Schedule is executed without first obtaining an opinion of nationally recognized counsel acceptable to Lender that the designation of the Schedule as a "qualified tax-exempt obligation" will not be adversely affected. The aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued or to be issued by Borrower and all subordinate entities thereof during the calendar year in which this Schedule is executed is not reasonably expected to exceed \$5,000,000. Borrower and all subordinate entities thereof will not issue in excess of \$5,000,000 of tax-exempt obligations (including the Schedule but excluding private activity bonds) during the calendar year in which this Schedule is executed without first obtaining an opinion of nationally recognized counsel acceptable to Lender that the excludability of the interest under the Schedule from gross income for federal income tax purposes will not be adversely affected.

Dated: \_\_\_\_\_

Borrower: GILA COUNTY, ARIZONA

Lender: Mercedes-Benz Financial Services USA LLC

By X  
Name Tommie C. MARTIN  
Title Chairman of Board of Supervisors

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

EXHIBIT A-1  
INSTALLMENT PAYMENT SCHEDULE

Due Date	Payment Amount	Interest	Principal	Purchase Price

COMMENCEMENT DATE: \_\_\_\_\_

By X \_\_\_\_\_  
Title \_\_\_\_\_

SAMPLE

# EXHIBIT B

PLEASE COMPLETE EITHER FINAL OR PARTIAL ACCEPTANCE, AS RELEVANT

## FINAL ACCEPTANCE CERTIFICATE

Re: Schedule of Property No. 1, dated \_\_\_\_\_, to Master Installment Purchase Agreement, dated as of \_\_\_\_\_, between Mercedes-Benz Financial Services USA LLC and its successors, transferees and assigns, as Lender, and GILA COUNTY Borrower, as Borrower.

In accordance with the Master Installment Purchase Agreement (the "Agreement"), the undersigned Borrower hereby certifies and represents to, and agrees with Lender as follows:

- (1) All of the Equipment (as such term is defined in the Agreement) listed in the above-referenced Schedule of Property (the "Schedule") has been delivered, installed and accepted on the date hereof.
- (2) Borrower has conducted such inspection and/or testing of the Equipment listed in the Schedule as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
- (3) Borrower is currently maintaining the insurance coverage required by Section 17 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.

BORROWER

By **X**: \_\_\_\_\_

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

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

> OR <

## PAYMENT REQUEST and PARTIAL ACCEPTANCE CERTIFICATE

Mercedes-Benz Financial Services USA LLC is hereby requested to pay the person or entity designated below as Payee, the sum set forth below in payment of a portion or all of the cost of the acquisition described below. The amount shown below is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition of the equipment and has not formed the basis of any prior request for payment. The equipment described below is part or all of the "Equipment" listed in Exhibit A to the Master Installment Purchase Agreement referenced above.

Quantity	Serial Number/Description:	Amount:

Payee: GILA County

Payee's Federal ID Number: 86-6000444

Borrower hereby certifies and represents to and agrees with Lender as follows: (i) the equipment described above has been delivered, installed and accepted on the date hereof; (ii) Borrower has conducted such inspection and/or testing of said equipment as it deems necessary and appropriate and hereby acknowledges that it accepts said equipment for all purposes; (iii) Borrower is currently maintaining the insurance coverage required by Section 17 of the Agreement; (iv) no event or condition that constitutes, or with notice or lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

Dated: \_\_\_\_\_

BORROWER  
GILA COUNTY

By **X** \_\_\_\_\_

Title CHAIRMAN of the Board of Supervisors

PLEASE RETURN PAYMENT REQUEST TO:

Mercedes-Benz Financial Services USA LLC  
13650 Heritage Parkway  
Fort Worth, TX 76177

EXHIBIT D  
ACCEPTANCE OF INSTALLMENT PAYMENT OBLIGATION

Re: Schedule of Property No. 1, dated \_\_\_\_\_ to Master Installment Purchase Agreement, dated as of \_\_\_\_\_ between Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns, as Lender, and GILA COUNTY, as Borrower.

In accordance with the Master Installment Purchase Agreement (the "Agreement"), the undersigned hereby acknowledges and represents that:

All or a portion of the Equipment (as such term is defined in the Agreement) listed in the above-referenced Schedule of Property (the "Schedule") has not been delivered, installed, or available for use and has not been placed in service as of the date hereof;

Borrower acknowledges that Lender has agreed to set aside funds in an amount sufficient to provide financing (to the extent requested by Borrower and agreed to by Lender) for the Equipment listed in the Schedule (the "Financed Amount");

The Financed Amount is set forth as the "Principal Component" of Installment Payments in the Installment Payment Schedule attached to the Schedule as Exhibit A-1 ("Exhibit A-1"); and

Borrower agrees to execute a Payment Request Form, attached to the Agreement as Exhibit B, authorizing payment of the Financed Amount, or a portion thereof, for each disbursement of funds. P.O.

NOTWITHSTANDING that all or a portion of the Equipment has not been delivered to, or accepted by, Borrower on the date hereof, Borrower warrants that:

(a) Borrower's obligation to commence Installment Payments as set forth in Exhibit A-1 is absolute and unconditional as of the Commencement Date of the Schedule and on each date set forth in Exhibit A-1 thereafter, subject to the terms and conditions of the Agreement;

(b) Immediately upon delivery and acceptance of all the Equipment, Borrower will notify Lender of Borrower's final acceptance of the Equipment by delivering to Lender a "Final Acceptance Certificate" in the form set forth as Exhibit B to the Agreement;

(c) In the event that any surplus amount remains from the funds set aside or an event of nonappropriation under the Agreement occurs, any amount then remaining shall be applied or distributed in accordance with Lender's standard servicing procedures, which includes, but is not limited to, application of the remaining amount to the next Installment Payment and other amounts due; and

(d) Regardless of whether Borrower delivers a Final Acceptance Certificate, Borrower shall be obligated to pay all Installment Payments (including principal and interest) as they become due as set forth in Exhibit A-1.

AGREED TO on \_\_\_\_\_

Tommie C. Martin

By X \_\_\_\_\_

Title CHAIRMAN of BOARD of Supervisors

## INSURANCE COVERAGE REQUIREMENTS

LENDER: Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns

BORROWER: GILA COUNTY

1. In accordance with Section 17 of the Agreement, we have instructed the insurance agent named below:  
**(Please fill in name, address and telephone number).**

Arthur J. Gallagher & Co. Ins. Brokers of California, Inc Telephone: (602) 244-2233  
15 Enterprise, STE 200 Fax: (602) 244-2242  
Aliso Viejo, CA 92656 To issue: ( )

- a. All Risk Physical Damage Insurance on the leased equipment evidenced by a Certificate of Insurance and Long Form Loss Payable Clause naming Mercedes-Benz Financial Services USA LLC and/or its successors, transferees and assigns, as loss payee.

Coverage Required: Full Replacement Value

- b. Public Liability Insurance evidenced by a Certificate of Insurance naming Mercedes-Benz Financial Services USA LLC and/or its successors, transferees and assigns as Additional Insured.

Minimum Coverage Required:  
 \$500,000.00 per person; \$500,000.00 aggregate bodily injury liability; \$100,000.00 property damage liability

OR

2. Pursuant to Section 17 of the Agreement, we are self-insured for all risk, physical damage, and public liability and will provide proof of such self-insurance in letter form together with a copy of the statute authorizing this form of insurance.

*Proof of insurance coverage will be provided prior to the time the Equipment is delivered to us.*

### PAYMENT INSTRUCTIONS

Pursuant to the Master Installment Purchase Agreement dated \_\_\_\_\_ (the "Agreement"), Schedule of Property No. 1, dated \_\_\_\_\_, between Mercedes-Benz Financial Services USA LLC, and its successors, transferees and assigns (the "Lender") and GILA COUNTY (the "Borrower"), Borrower hereby acknowledges the obligations to make Installment Payments promptly when due, in accordance with Exhibit A-1 to the Agreement.

BORROWER NAME: GILA COUNTY TAX ID#: 86-6000444

INVOICE MAILING ADDRESS: 1400 E-ASH ST, GLOBE, AZ, 85501

Mail invoices to the attention of: ACCOUNTS PAYABLE Phone (928) 402-4218 Fax ( )

Approval of Invoices required by: PUBLIC WORKS Phone (928) 402-8521 Fax ( )

Accounts Payable Contact: Amanda Rody Phone (928) 402-4219 Fax ( )

Processing time for Invoices: 30 days Approval: 1 week Checks: 3 weeks

Do you have a Purchase Order Number that you would like included on the invoice? No  Yes  PO# \_\_\_\_\_

Do your Purchase order numbers change annually? No  Yes  Processing time for new purchase orders: \_\_\_\_\_

BORROWER: Gila County

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

Title: CHAIRMAN of Board of Supervisors

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

CERTIFICATE OF SIGNATURE AUTHORITY OF BORROWER

June 22, 2011

Mercedes-Benz Financial Services USA LLC  
13650 Heritage Parkway  
Fort Worth, TX 76177

RE: Master Installment Purchase Agreement dated \_\_\_\_\_, ("Agreement"), by and between  
GILA COUNTY ("Borrower") and  
Mercedes-Benz Financial Services USA LLC, ("Lender").

Dear Mercedes-Benz Financial Services USA LLC,

I, the undersigned, do hereby certify

(i) that Tommie C. MARTIN  
(name of person who signed the documents)

the officer of Borrower who executed the foregoing Agreement on behalf of Borrower and whose genuine signature appears thereon, is the duly qualified and acting officer of Borrower as stated beneath his or her signature and has been authorized to execute the foregoing Agreement on behalf of Borrower, and

(ii) that the budget year of Borrower is from 7/01/2011 to 6/30/2012

Sincerely,

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

Title: DON McDaniel  
Gila County MANAGER

Dated: \_\_\_\_\_

---

**The Certificate of Signature Authority of Borrower should be executed by an authorized individual confirming the execution of the remaining documents is authorized. This document cannot be signed by the person signing the contract documents.**

AMENDMENT TO GOVERNMENTAL LEASE-PURCHASE AGREEMENT

This is an Amendment to Governmental Lease-Purchase Agreement ("Amendment") dated as of \_\_\_\_\_, \_\_\_\_\_ is by and between \_\_\_\_\_ ("Lessor") and the GILA COUNTY in the State of Arizona ("Lessee").

WHEREAS, Lessee executed that certain Governmental Lease-Purchase Agreement with Lessor (the "Agreement"), dated as of \_\_\_\_\_; and

WHEREAS, Lessee and Lessor desire to amend the Agreement with respect to the matters hereinafter specified.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessee and Lessor agree to amend the Agreement as follows:

1. Capitalized terms used herein and not defined herein shall have the meanings ascribed to them in the Agreement.
2. Section \_\_\_\_\_ of the Agreement is hereby amended by adding the following at the end:  
"This Agreement shall be subject to the cancellation provisions of A.R.S. § 38-511."
3. In the event of any conflict or inconsistency between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall control. Except as provided herein, the Agreement shall remain unchanged and in full force and effect in accordance with its terms. It is specifically understood and agreed that the foregoing shall not be deemed to be a waiver or amendment of any other provision of the Agreement or any of Lessor's rights or remedies under the Agreement.
4. This Amendment shall be effective as of the date first set forth above.

*[Signature page follows]*

Jim-

This is the Amendment  
the County Attorney  
would like to include.

Thank you,

Shannon Coons

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective duly authorized officers as of the date first set forth above.

Lessee:  
GILA COUNTY, ARIZONA  
BOARD OF SUPERVISORS

Lessor:

\_\_\_\_\_  
Tommie C. Martin  
Chairman of the Board of Supervisors

\_\_\_\_\_  
Signature

ATTEST:

\_\_\_\_\_  
Please Print Name

\_\_\_\_\_  
Marian Sheppard  
Chief Deputy Clerk

\_\_\_\_\_  
Title

APPROVED AS TO FORM:

\_\_\_\_\_  
Bryan B. Chambers, Chief Deputy County Attorney  
*for Daisy Flores, Gila County Attorney*

**EXCERPT OF BOARD MINUTES  
FROM A BOARD OF DIRECTORS MEETING**

**Board Name ("the Board"):**

**Date of Board Meeting:**

**Borrower:**

**Lender:**

**Equipment to be purchased:**

**Cost not to exceed:**

**Rate of interest:**

A motion was offered by \_\_\_\_\_ seconded by \_\_\_\_\_ and carried by a vote of \_\_\_\_\_ to \_\_\_\_\_ to approve entering into a Master Installment Purchase Agreement with Mercedes-Benz Financial Services USA LLC for the purpose of purchasing, via a financing contract, the equipment listed on "Exhibit A". The cost shall not exceed the figure specified above.

*I certify that this represents a true and correct excerpt of the Board of Directors minutes from the above-referenced meeting of the Board.*

\_\_\_\_\_  
Board Member Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title