

Master Lease Agreement

Master Lease Agreement No.: 076298439L

This Master Lease Agreement is made between IBM Credit LLC and COUNTY OF MONTEREY ("Undersigned").

Lessor and Lessee may from time to time execute Schedules pursuant to, and incorporating the terms of, this Master Lease Agreement ("Master Agreement") and such other terms and conditions as the Parties may agree to in writing.

1. Definitions. Unless otherwise defined, the following capitalized terms shall have the following meanings when used herein and in any document incorporating the terms of, or referring to, this Master Agreement.

"Acceptance Date" means the date specified as the "Acceptance Date" on the Certificate of Acceptance, which is the date Lessee accepts the Product and/or authorizes Lessor to pay Supplier;

"Affiliate" means any county, township, municipality, political subdivision or affiliate of the Undersigned authorized to enter into a Lease under this Master Agreement which by signing a Schedule referencing this Master Agreement will be bound to the terms and conditions of this Master Agreement as Lessee;

"Agreement" means, with respect to a Schedule, the Schedule executed by the Parties as such Schedule incorporates the terms of this Master Agreement, and as each may be amended, supplemented, or modified from time to time in writing by Lessor and Lessee;

"Alteration" means any change to an item of Equipment after the Commencement Date, including, without limitation, features and conversions installed on Equipment;

"Amount Funded" means the amount specified as the "Amount Funded" on the Schedule, or that is otherwise included in the "Total Amount Funded";

"Assignment" means the assignment of any rights and/or obligations under the Agreement from one Affiliate to another;

"Average Rent" means the average amount of Rent, on a per-month basis, calculated using the sum of the Rent payments during the applicable Term divided by the number of Payment Periods during such term.

"Business Day" means any calendar day, except a Saturday, Sunday or any other calendar day on which banks are authorized or required by law to close in New York;

"Certificate of Acceptance" or **"COA"** means a certificate issued by Lessor, and signed by Lessee, denoting Lessee's acceptance of the Products and/or authorizing Lessor to pay Supplier;

"Commencement Date" means the Commencement Date specified in Section 5.2;

"Conditions Precedent" means, with respect to a Schedule, all statements, certificates, documents, instruments, and additional terms and conditions required by Lessor under this Master Agreement and the Schedule to be provided or satisfied on or prior to the Commencement Date;

"Default" means an Event of Default or any event that upon notice or lapse of time or both would constitute an Event of Default;

"End of Lease Date" means the date that the Term of the Lease expires, terminates or is cancelled;

"End of Lease Notice" means the notice delivered by Lessee to Lessor in writing, or as otherwise agreed to by the Parties, specifying the end of Lease option selected by Lessee;

"End of Lease Purchase Option" means the option specified on the Schedule for Lessee to purchase an item of Equipment at the purchase price specified by Lessor, which shall be equal to either:

- a. the amount specified by Lessor, or
- b. the percentage specified by Lessor of the "Amount Funded" listed on the Schedule for such Equipment, or
- c. the Fair Market Value of such Equipment;

"Equipment" means a hardware device including its features, microcode, conversions, upgrades, elements, or accessories, or any combination thereof or any other item of equipment that is described on the Lease table of a Schedule, and on the COA, and which is leased by Lessor to Lessee hereunder;

"Event of Default" means an event of default as defined in Section 18.

"Fair Market Value" or "FMV" means, with respect to an item of Equipment, the fair market value of such Equipment as determined by Lessor to be the amount that would be realized for the same equipment, qualified for manufacturer's maintenance, in an arm's length sale between a willing buyer and a willing seller, under no compulsion by either party to perform the sale;

"Guarantor" means an Affiliate providing a guarantee of Lessee's obligations arising under the Agreement;

"IBM" means International Business Machines Corporation;

"Initial Payment Term" means the term consisting of the number of consecutive Payment Periods specified on the Schedule beginning with the initial Payment Period;

Master Lease Agreement

Master Lease Agreement No.: 076298439L

“Initial Term” means, with respect to an item of Equipment, the initial term of the Lease for such item, commencing on the Lease Commencement Date and expiring at the end of the Initial Payment Term;

“Lease” means a lease of Equipment under the Agreement as specified on the Lease table on the Schedule;

“Lessee” means, with respect to a Schedule, the Affiliate that signs the Schedule as Lessee;

“Lessor” means IBM Credit LLC;

“Part” means any original component or element of Equipment or any replacement to such original component or element provided under warranty or maintenance service or in connection with an Alteration;

“Party” means either Lessee or Lessor; and **“Parties”** means Lessee and Lessor;

“Payment” means the amount payable as the Rent under a Lease and/or any other amounts payable under the Agreement;

“Payment Date” means the date in each Payment Period on which Rent is due and payable; If the Payment Type for a Lease is “Advance”, the Payment Date for such Lease shall be the first day of each Payment Period, and, if the Payment Type for a Lease is “Arrears”, the Payment Date for such Lease shall be the last day of each Payment Period;

“Payment Period” means the period specified in a Schedule as the “Payment Period” and is the period for which a payment of Rent is due and payable (e.g., Month, Quarter);

“Payment Type” means the payment type specified on the Schedule as the “Payment Type”, which shall be either “Advance” or “Arrears”;

“Planned Commencement Month” means the month indicated on the Schedule as the “Planned Commencement Month”;

“Product(s)” means Equipment;

“Release Date” means the date specified as the “Release Date” on the Schedule, which is the date Lessor makes the Equipment available for pickup;

“Renewal Term” means, if applicable, the term of the Lease for Equipment consisting of a number of consecutive Payment Periods commencing on the day immediately following the last day of the preceding Term for such Equipment and expiring at the end of the last Payment Period in the Renewal Term. The number of Payment Periods in a Renewal Term shall be specified on the Schedule under “Renewal Term”, or otherwise agreed to in writing by the Parties;

“Rent” means the amount due and payable each Payment Period for the lease of Equipment; Rent for the Initial Term is the amount specified in the Schedule as “Rent” or is otherwise included in the “Total Periodic Payment”;

“Schedule” means a document that refers to and incorporates the terms and conditions of this Master Agreement and contains the details, including any additional terms and conditions, of the Lease subject to that Schedule;

“Supplier” means the entity supplying Product under a Supply Agreement;

“Supply Agreement” means the agreement between Supplier and Lessee for the acquisition of Product;

“State” means the state or commonwealth where Lessee is located.

“Term” means, with respect to a Lease, the Initial Term, any Renewal Term, or the term of any automatic extension under Section 15.1, as applicable; and

“Validity Date” means the date specified by Lessor in a Schedule as the “Validity Date”, which is the date by which the executed Schedule must be returned to Lessor.

2. Agreement Structure

2.1 An “Agreement” hereunder shall consist of this Master Agreement, the Schedule, and their applicable attachments and addenda, and represents the complete and exclusive agreement between the Parties regarding the subject matter of the Schedule, and replaces any prior oral or written communications between the Parties relating thereto. The Agreement for each Lease is effective when the Schedule containing such Lease is executed by the Parties thereto.

2.2 If there is a conflict of terms among the documents, the order of precedence will be as follows (from highest to lowest priority):

- a. attachments or addenda to the Schedule;
- b. the Schedule;
- c. attachments or addenda to this Master Agreement; and
- d. this Master Agreement.

2.3 An Affiliate member may, upon consent of Lessor, enter into Schedules incorporating the terms and conditions set out in this Master Agreement. Each Schedule shall constitute a separate lease agreement between the Parties thereto.

Master Lease Agreement

IBM Credit LLC

Master Lease Agreement No.: 076298439L

2.4. Amendments to this Master Agreement executed in writing by Lessor and the Undersigned shall only be effective with respect to any Schedules executed by such Lessee and any Affiliate member after the date of such amendment. No other change to this Master Agreement will be binding on the Parties, subject to the terms and priority of the documents listed in Section 2.2 with respect to an Agreement under this Master Agreement.

2.5. This Master Agreement becomes effective upon signature by Lessor and the Undersigned and shall continue until thirty (30) days notice of termination is given in writing by either Party to the other. The termination of this Master Agreement shall have no effect upon any Schedule executed by Lessor and Lessee prior to the date of termination of this Master Agreement.

2.6. This Master Agreement sets out the general terms and conditions under which, from time to time, Lessor, in its capacity as lessor, may lease Equipment to Lessee and Lessee, in its capacity as lessee, may lease Equipment from Lessor. As between Lessee and Lessor, Lessee is responsible for the delivery, installation and acceptance of the Equipment. Each Lease is a net lease. Without limiting any of Lessor's other rights under the Agreement, Lessor reserves the right to reject any invoice that is: i) not for information technology equipment, software and related services, or ii) dated more than 90 days prior to the date Lessor receives a COA from Lessee.

2.7. For used Equipment supplied by Lessor, the following provisions apply: The Equipment is subject to prior disposition at any time prior to Lessor's acceptance of a Lessee signed Schedule. The Equipment is provided "as is", without any warranty whatsoever by Lessor, in accordance with Section 6.2. However, provided that the Equipment is unmodified since the date of delivery; has been manufactured and assembled by or for IBM; and has been installed and maintained by IBM, Lessor guarantees Lessee's satisfaction with the quality of the Equipment for three (3) months following the Release Date. If Lessee is dissatisfied with the Equipment for any reason, Lessee may notify Lessor within three (3) months of the Release Date and, at Lessor's option, the Equipment will either be (a) replaced with equivalent Equipment or (b) returned to Lessor and the Lease for that item of Equipment terminated and any Rent payments made to Lessor refunded to Lessee. If Lessee cancels its commitment to Lease the Equipment after Lessor signs the applicable Schedule but before the Release Date, then Lessee shall be liable to Lessor for three (3) months Rent as liquidated damages.

3. Payment and Taxes

3.1. Rent shall be due and payable on the Payment Date of each consecutive Payment Period for the applicable number of Payment Periods. The initial Payment Period for a Lease shall begin on the first day of the month following the Commencement Date. Lessee will remit each Payment payable hereunder when due to the address specified in the invoice sent by Lessor to Lessee or elsewhere as otherwise instructed by Lessor in writing. If any Payment is due on a non-Business Day, then such Payment shall become due and payable on the next Business Day.

3.2. For any Payment not paid in full by its due date, Lessee also agrees to pay a fee in an amount equal to one and one-half percent (1.5%) of the unpaid Payment for each month or any part thereof that such Payment remains unpaid ("Unpaid Amount") from the due date until the actual date such Unpaid Amount is paid in full, subject to maximum limitations of applicable law (the "Late Payment Fee"). If it is determined that any amounts received from Lessee under the Agreement in respect of interest or finance charges were in excess of the highest rate allowed by applicable law then the amount representing such excess shall be credited to Lessee's other obligations to Lessor or, in the event such other obligations have been satisfied in full, refunded to Lessee.

3.3. Lessee agrees that, upon the Commencement Date, Lessee's obligations under the Agreement become irrevocable and independent of acceptance of the Product, and Lessee's obligation to make all Payments in full when due, becomes absolute and unconditional, without set off, counterclaim, withholding, deduction, abatement, recoupment, or defense of any kind, and irrespective of errors or deficiencies in or the performance or the quality of the Product, or the performance by the Supplier or any other third party. Notwithstanding the foregoing, if, during the then current Initial Term or Renewal Term, sufficient funds are not appropriated to make Payments required under a Schedule for the following fiscal year, Lessee shall be deemed to not have renewed such Schedule for the following fiscal year and the Schedule shall terminate at the end of the then current Initial Term or Renewal Term and Lessee shall not be obligated to make Payments under said Schedule beyond the then current fiscal year for which funds have been appropriated. Upon the occurrence of such nonappropriation (a "Nonappropriation Event") Lessee shall, no later than the end of the fiscal year for which Payments have been appropriated, deliver possession of the Product(s) under said Schedule to Lessor. If Lessee fails to deliver possession of the Product(s) to Lessor upon termination of said Schedule by reason of a Nonappropriation Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Payments, but failure to provide such notice shall not operate to extend the Term or result in any liability to Lessee. In the event of such nonappropriation, upon request from Lessor, Lessee agrees to provide in a timely manner, written evidence of such nonappropriation, a copy of the fiscal year budget in which such nonappropriation occurred and any other related documentation reasonably requested by Lessor.

3.4. At Lessor's discretion following the occurrence of a Default or an Event of Default, Payments received by Lessor will be applied in the following order: first to Late Payment Fees, second to overdue Rent, and third to other Payments.

3.5. Lessee is responsible for any taxes and charges arising in respect of any Lease, and/or any Product, except for Lessor's corporate income tax. "Taxes" shall include, but is not limited to, personal property taxes, sales taxes, use taxes, and all other indirect taxes of any nature, as applicable.

Master Lease Agreement

Master Lease Agreement No.: 076298439L

4. Supplier

4.1 For each item of Equipment, Lessee represents that it has the right to assign to Lessor, and hereby assigns to Lessor, effective upon signing the Schedule, but subject to the occurrence of the Commencement Date, its right to acquire from and its obligation to pay its Supplier for the Equipment up to the amount agreed by Lessor to be funded. All other obligations as defined in the Supply Agreement between Lessee and Supplier governing the acquisition of the Equipment shall remain with Lessee. As between Lessor and Lessee, the rights and obligations of Lessee in relation to the Equipment are set out exclusively in the Agreement. Nothing in the Agreement shall affect any remedies Lessee may have against, or any obligations Lessee may have to, the Supplier, manufacturer of the Equipment, or any other third party. Lessee shall make any claim solely against the Supplier, manufacturer of the Equipment, or such other third party if the Product is unsatisfactory for any reason, and Lessee will inform Lessor of any related legal proceedings beforehand.

The Parties agree that during the Term of the Lease, so long as Lessee is not in default, Lessee shall have the non-exclusive benefit of any warranties for such Equipment made available to Lessor under the Supply Agreement as the owner of the Equipment and that Lessee is authorized to act on Lessor's behalf and for Lessor's benefit, concerning any warranty service for the Equipment, to the extent permitted under the Supply Agreement or as otherwise agreed to by the Supplier. The aforementioned authority shall not detract from Lessor's rights in relation to the Equipment.

5. Lease Commencement

5.1 The Lease will commence as of the Commencement Date provided that:

- a. the Schedule is duly executed by Lessee and received by Lessor on or prior to the Validity Date and is accepted by Lessor;
- b. the Commencement Date occurs by the end of the Planned Commencement Month;
- c. Lessor receives a Supplier invoice reasonably satisfactory to Lessor;
- d. no Default or Event of Default has occurred and is continuing;
- e. Lessor receives a duly executed Certificate of Acceptance within ten (10) days of the Acceptance Date specified on such Certificate of Acceptance; and
- f. Lessee has satisfied all of the Conditions Precedent.

If any of the foregoing conditions are not satisfied, Lessor shall have no obligation or liability with respect to the Agreement or the Equipment, including any obligation to pay the purchase price of the Equipment. Provided Lessor has a duly executed Schedule and COA, Lessor, in its sole discretion, may commence the Lease.

5.2 For Equipment not supplied by Lessor, the Commencement Date will be the Acceptance Date on a duly executed Certificate of Acceptance provided that all the conditions in Section 5.1 above have been satisfied.

For used Equipment supplied by Lessor, the Commencement Date will be seven (7) days after the Release Date of the Equipment provided that all the conditions in Section 5.1 above except for (e) have been satisfied.

6. Ownership

6.1 Lessor is the owner of the Equipment and Lessee shall have no right, title or interest therein except as specified in the Agreement. Except for any purchase from Lessor during the Term of the Lease or at the end of the Term, if, for any reason Lessee does acquire title to the Equipment, including any Parts thereof, or to any replacement equipment acquired as a result of manufacturer's maintenance or warranty then Lessee shall be deemed to have transferred such title to Lessor immediately and will, at its own cost and expense, use all reasonable efforts to do such further acts and execute such documents as may be necessary to give effect to such transfer. Lessee agrees to take such further actions as may be required to protect Lessor's ownership against claims arising directly or indirectly from Lessee's possession or use of the Equipment. The Equipment is and shall at all times be and remain personal property and shall not become a fixture or realty. For any software installed on the Equipment and any software that Lessee acquires, Lessee shall enter into a separate software license or other agreement with the software licensor for the use of the software and such software shall remain the property of the licensor and be governed by the software license between licensor and Lessee. Such software license shall not be affected by or subject to the Lease and, with respect to the software license, Lessor shall have no rights or obligations thereunder. Such software shall not be included with any Equipment returned to Lessor hereunder.

6.2 EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, AS BETWEEN LESSOR AND LESSEE, LESSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INTERFERENCE, NON-INFRINGEMENT OR THE LIKE. AS TO LESSOR, LESSEE LEASES THE EQUIPMENT "AS IS".

7. Quiet Enjoyment

7.1 Lessor covenants to Lessee that Lessor will not interfere with Lessee's quiet enjoyment of the Equipment during the Term of the Lease so long as no Default or Event of Default shall have occurred.

Master Lease Agreement

Master Lease Agreement No.: 076298439L

8. Liens and Charges

8.1 Lessee hereby agrees to ensure that the Equipment shall at all times be kept free from any lien, charge or encumbrance of any kind, except those created by or through Lessor.

9. Inspection and Marking

9.1 Lessee shall permit Lessor, upon prior notice, to inspect any Equipment, Parts, and maintenance records during Lessee's normal business hours and subject to Lessee's normal security procedures. Upon Lessor's reasonable request, Lessee will promptly affix identifying labels, plates or tags to the Equipment or Part(s) identifying Lessor as the owner of such item(s).

10. Maintenance and Use

10.1 Lessee shall keep each item of Equipment in good condition and working order, ordinary wear and tear excepted, and shall operate it safely at a Lessee owned or leased business location in a proper environment as defined by the manufacturer and/or Supplier and in compliance with all applicable laws and regulations. As it relates to any software, embedded or otherwise, Lessee agrees to comply with the terms of the software license and the Agreement.

10.2 If required of the owner of the Equipment by IBM, Lessor agrees to (i) allow installation of any changes, additions, and/or capacity monitoring hardware or software on the Equipment, or permit manufacturer to monitor Equipment capacity; and (ii) comply with any other terms between Lessee and Equipment manufacturer, including, but not limited to, those that relate to Equipment capacity.

11. Insurance; Loss; Damage; Theft

11.1 Lessee shall be responsible for loss or damage to the Equipment and for carrying primary property damage insurance covering the Equipment naming Lessor and any assignee as loss payee.

11.2 Upon the Commencement Date and up to the time the Equipment is received by Lessor at its designated return location, Lessee shall keep the Equipment insured, at its expense, against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof. All such insurance shall be in commercially reasonable form and substance and from an insurer reasonably acceptable to Lessor. The occurrence of such loss or damage shall not relieve Lessee of any obligations hereunder. If there is loss or damage to, or theft of, Equipment, Lessee will promptly notify Lessor and, within five business days of such occurrence, either:

a. repair the Equipment at Lessee's expense, passing to Lessor full legal and beneficial title to any replacement parts, free of all liens and encumbrances of any kind, provided such replacement parts are acceptable to Lessor, or

b. pay an amount equal to (i) any and all Rent and other amounts, in each case, due or to become due under the Agreement with respect to such Equipment, and (ii) the Equipment's end of lease purchase price in accordance with the End of Lease Purchase Option if specified on the Schedule or, if such End of Lease Purchase Option is not specified on the Schedule, the end of Term FMV for such Equipment. Thereafter the portion of the Lease with respect to such Equipment shall be terminated and Lessee shall owe no further Rent with respect to such Equipment.

11.3 Throughout the Term, at its own expense, Lessee shall 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 Lessor in an amount equal to at least the outstanding principal component of Lease Payments, and (b) liability insurance that protects Lessor from liability in all events in an amount reasonably acceptable to Lessor, and (c) worker's compensation insurance covering all employees working on, in, near or about the Equipment; provided that Lessee may self-insure against all such risks. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Master Agreement. All such insurance shall be with insurers that are authorized to issue such insurance in the State. All such liability insurance shall name Lessor as an additional insured. All such casualty insurance shall contain a provision making any losses payable to Lessor and Lessee as their respective interests may appear. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification. Such changes shall not become effective without Lessor's prior written consent. Upon Lessor's request, Lessee shall, within thirty (30) days of such request, furnish to Lessor, for each Schedule, certificates evidencing such coverage, or, if Lessee self-insures, a written description of its self-insurance program together with a certification from Lessee's risk manager or insurance agent or consultant to the effect that Lessee's self-insurance program provides adequate coverage against the risks listed above.

11.4 Lessee shall furnish to Lessor, upon request by Lessor from time to time, evidence that the insurance coverage required by the Agreement is in effect.

12. Alterations

12.1 Lessee may modify or alter Equipment only subject to the following provisions:

a. any Parts owned by Lessor that are removed as a result of an Alteration shall remain Lessor's property and shall not be disposed of, exchanged, transferred or sold by Lessee without Lessor's prior written consent; the foregoing shall not apply to Parts removed due to a warranty repair or an engineering change by the manufacturer of the Equipment or its authorized service provider utilizing the manufacturer's genuine parts;

Master Lease Agreement

Master Lease Agreement No.: 076298439L

- b. In the event Lessee leases an upgrade with Lessor, Lessor may authorize the return to the Equipment manufacturer of any Part(s) removed from Lessor's leased Equipment as a result of such upgrade provided that the price of the upgrade is reduced by the value acceptable to Lessor of any removed Part(s) and such upgrade is provided by the manufacturer of the Equipment or its authorized service provider utilizing the manufacturer's genuine parts;
- c. prior to return to Lessor, Lessee shall remove any Alterations not owned by Lessor and restore the Equipment to its original condition using any removed Lessor owned Part(s), ordinary wear and tear excepted;
- d. if the Equipment is returned other than in its original condition, ordinary wear and tear excepted, then Lessee agrees to pay to Lessor i) an amount equal to any decrease in value of Equipment compared to the value of such equipment in its original condition and qualified for the manufacturer's maintenance agreement service or ii) the cost to restore the Equipment to its original condition, ordinary wear and tear excepted, qualified for the manufacturer's maintenance agreement service or, if manufacturer's maintenance agreement service is not available, then qualified as being in its original condition and working order, ordinary wear and tear excepted;
- e. the Alteration is permitted under the terms of the Supply Agreement; and
- f. without limiting any other rights of Lessor, all Parts or Alterations not owned by Lessor that are not removed before return of the Equipment to Lessor shall become, and Lessee shall cause such Parts or Alterations to become, Lessor's property, without charge, and free and clear of all liens and encumbrances.

13. Leases for Alterations

13.1 Upon Lessee's request, Lessor may agree to lease new or used Alterations to Equipment that are or have been offered for sale by the manufacturer of the Equipment and that contains no Part that has been changed or altered since its original manufacture. Leases for Alterations will be at then current terms and conditions and must be coterminous with the Lease of the underlying Equipment. Lessee's selection of its end of Lease options for the underlying Equipment, as set forth in Section 15, shall apply to the applicable Alterations.

14. Relocation, Sublease and Assignment, Expenses and Responsibilities

14.1 Relocation

If Lessee is not in Default, Lessee may relocate Equipment to another of its business locations in the United States of America provided (i) Lessee gives Lessor prior written notice of the relocation, including a description of the Equipment, its effective date, the address of the new location of the Equipment, and such other information as Lessor may reasonably request, and (ii) Lessee shall remain the end user of the Equipment. Notwithstanding the foregoing, Lessee may relocate Equipment that is either a laptop or a mobile personal device without such notice to Lessor provided the relocation of such Equipment is the result of temporary trips taken in the ordinary course of business and such Equipment is returned to its original location.

14.2 Sublease and Assignment

Lessee may not sublease any Equipment or make an Assignment without Lessor's prior written consent. Any such sublease or Assignment approved by Lessor may require Lessee to accept additional terms and a change in Rent. No sublease shall relieve such Lessee of its obligations under the Lease. Any attempt to sublease or to make an Assignment without Lessor's prior written consent is void.

14.3 Lessee Expenses and Responsibilities

Lessor reserves the right to recover reasonable administrative fees and expenses related to any relocation, sublease or Assignment. Lessee is responsible for all costs, expenses, duties, taxes payable in connection with, and for ensuring regulatory compliance with any relocation, sublease or Assignment including transit insurance and risk of loss or damage in transit. Lessee shall not assign, lend, part with possession of, grant use of, sublease or relocate any Equipment other than as expressly permitted under this Agreement. Any relocation, sublease, or Assignment of Equipment shall be subject to all associated software license terms between software licensor and Lessee and it is expressly agreed that it is the Lessee's responsibility to obtain all necessary approvals. Lessee agrees that any Schedule, as amended, supplemented or otherwise modified under this Master Agreement, shall be binding upon Lessee's successors and permitted assigns.

15. End of Lease

15.1 Notice

At the end of the Term of the Lease, Lessee may select one of the end of Lease options listed below or as detailed in the Schedule by providing Lessor an End of Lease Notice. If Lessee fails to give its End of Lease Notice at least thirty (30) days but no more than ninety (90) days prior to the End of Lease Date, then the Lease Term will automatically continue on a month to month basis. Such Lease will continue under the same terms and conditions and at the Average Rent of the immediately preceding Term, until the later of the date that is thirty (30) days after the End of Lease Notice has been received by Lessor and the date on which Lessee has satisfied all the conditions of such selected end of lease option as described herein.

Master Lease Agreement

Master Lease Agreement No.: 076298439L

15.2 Renew the Lease

At the end of the Term of the Lease, so long as no Default or Event of Default has occurred and is continuing, Lessee may elect to renew the Lease on terms and conditions mutually agreed to between the Parties. In the event Lessee provides its End of Lease Notice in accordance with Section 15.1 selecting a mutually agreeable renewal option, the Lease will be renewed at the end of the applicable Term on such mutually agreed to terms and conditions. If Lessee and Lessor do not agree on the renewal option, then Lessee shall continue to pay Rent to Lessor in accordance with Section 15.1.

15.3 Return the Equipment

At the end of the Term of the Lease, Lessee may elect to return Equipment on the applicable End of Lease Date under the terms and conditions described in this Section 15 and Section 16. If Lessee provides its End of Lease Notice in accordance with Section 15.1 selecting this option but fails to return the Equipment at the end of the Term, or, in the case of the Initial Term or Renewal Term, within 14 days of the end of such Term, then Lessee shall pay Rent for such Equipment equal to the Average Rent from the End of Lease Date until the date such Equipment is received by Lessor. If Lessee returns the Equipment on or after the End of Lease Date without providing such End of Lease Notice, then Lessee shall continue to pay Rent for such Equipment equal to the Average Rent from the End of Lease Date until the date that is thirty (30) days following the date on which the Equipment is received by Lessor in accordance with Section 16.

15.4 Purchase

At the end of each Term of the Lease and so long as no Default or Event of Default has occurred and is continuing, if the Equipment has an End of Lease Purchase Option specified, then Lessee may elect to purchase the Equipment under the terms and conditions of such End of Lease Purchase Option. If Lessee provides its End of Lease Notice in accordance with Section 15.1 selecting such End of Lease Purchase Option, Lessee shall pay all amounts due under the Lease to Lessor, including any charges related to the End of Lease Purchase Option. Upon receipt of all such amounts, no further Rent will be payable for Equipment and Lessor shall transfer to Lessee WITHOUT RECOURSE OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AGAINST INTERFERENCE OR INFRINGEMENT OR THE LIKE, all of Lessor's right, title and interest in such Equipment, except that Lessor shall warrant the Equipment is free and clear of any liens or encumbrances created by or through Lessor.

16. Equipment Return

16.1 Upon expiration, termination or cancellation of the Lease, the exact item of Equipment (i.e., manufacturer, type/model and serial no.) shall be returned to Lessor at Lessee's expense, fully insured against risk of loss or damage, to the nearest IBM Credit LLC consolidation center for that type of Equipment located in the contiguous United States. Lessee shall be responsible for deinstallation, packing, and return of the Equipment and any associated costs. Risk of loss or damage remains with Lessee until receipt of Equipment by Lessor at such consolidation center location.

16.2 Lessee is responsible for the removal of all information and data contained within the Equipment prior to its return. Lessor shall have no obligation or liability in respect of any such information or data.

16.3 The Equipment shall be complete and in such condition as will qualify the Equipment for the manufacturer's maintenance agreement service, if available, or, if not available, then in good condition and working order (ordinary wear and tear excepted). Lessee shall pay all costs and expenses incurred by Lessor to restore the Equipment to the condition described above.

16.4 The return of the Equipment to Lessor at any time shall constitute a full release by Lessee, and a transfer to Lessor, of any interest Lessee may have in the Equipment, including any leasehold rights or possessory interests. The foregoing shall not relieve Lessee of any of its Payment obligations under the Agreement.

17. This Section intentionally left blank**18. Events of Default**

18.1 If any of the following events occur it shall be an "Event of Default" by Lessee:

- a. Lessee fails to pay in full any amount under the Agreement when due and such failure continues for a period of seven days or, if under a direct debit arrangement, a direct debit entry from Lessee's specified business deposit account is refused for any reason;
- b. Lessee fails to perform or breaches any obligation, term or condition under the Agreement (to the extent not otherwise an Event of Default under any of the other provisions in this Section 18.1) and such non-performance or breach continues for a period of fifteen (15) days after Lessee receives written notice thereof from Lessor;
- c. any information provided, or representation made, by or on behalf of Lessee or any Guarantor is inaccurate, false, or misleading in any material respect;
- d. Lessee sells, assigns, transfers, relocates, subleases or disposes of an item of Equipment or a Part, or makes an Assignment in violation of the terms of the Agreement;

Master Lease Agreement

Master Lease Agreement No.: 076298439L

- e. any guarantee of the Agreement required by and provided to Lessor shall cease to be, or shall be asserted by Guarantor not to be, in full force and effect;
- f. (i) any petition or proceeding is filed by or against Lessee or any Guarantor under any bankruptcy, liquidation, insolvency, receivership or similar law, and, if such petition or proceeding is filed against Lessee or Guarantor, is not dismissed within sixty (60) days after such filing, or (ii) Lessee or any Guarantor admits in writing its insolvency or inability to pay its debts as they come due;
- g. Lessee or Guarantor becomes insolvent, or suspends or threatens to suspend payment of its debts, or fails to pay its debts generally as they become due, or is deemed to be unable to do so;
- h. Lessee or Guarantor takes any action in connection with its dissolution, liquidation or the winding up of its affairs, including, without limitation, the commencement of any proceeding therefor, ceases doing business as a going concern, or sells or disposes of all or substantially all its assets or makes a bulk transfer of its assets, makes an assignment for the benefit of creditors, or consents to the appointment of a trustee or receiver or if either shall be appointed for Lessee or Guarantor or for a substantial part of its property without its consent; or
- i. Lessee or Guarantor defaults under any agreement with Lessor or under any other Lease under this Master Agreement beyond any applicable cure period.

19. Remedies

19.1 Following the occurrence of an Event of Default, Lessor may:

- a. terminate any and all agreements with Lessee and declare all amounts then due and to become due hereunder and thereunder, including any applicable End of Lease Purchase Option for each item of Equipment not returned to Lessor by Lessee, immediately due and payable; provided, however, that following the occurrence of an Event of Default pursuant to Section 18.1(f), the Agreement and any and all other Agreements with Lessee under this Master Agreement shall automatically terminate and all amounts then due and to become due shall automatically become immediately due and payable;
- b. demand the return of or take or recover immediate possession of each item of Equipment together with all related software (embedded therein or otherwise) and all additions, attachments, accessories, accessions and upgrades thereto and any and all substitutions, replacements or exchanges for any such Equipment or software and any and all proceeds of any of the foregoing, including, without limitation, payments under insurance or any indemnity or warranty relating to loss or damage to such Equipment, and remove any software and data from such Equipment, without any liability for this action; and
- c. pursue any remedy at law or equity.

No right or remedy is exclusive of any other provided herein or permitted by law or equity; all such rights and remedies shall be cumulative and may be enforced concurrently or individually. Lessee shall pay all costs and expenses, including reasonable legal fees, costs and expenses, incurred by Lessor in enforcing the terms and conditions of the Agreement.

19.2 Upon repossession or return of any item of Equipment, Lessor may retain, sell, lease or dispose of such item of Equipment, with or without notice and on public or private bid. Any net proceeds thereof shall be applied by Lessor to amounts due by Lessee under the Lease, but only after deducting: (i) in the case of sale, the estimated fair market sales value of the Equipment as of the scheduled expiration of the Lease, or (ii) in the case of any replacement lease, the rent due for any period beyond the scheduled expiration of the Lease, and (iii) in either case, all reasonable expenses, including reasonable legal fees and expenses, incurred in connection therewith. Any excess proceeds shall be retained by Lessor. If under applicable law, Lessor is required to comply with standards of commercial reasonableness applicable to secured financings in disposing of the Equipment, Lessee agrees that 10 days prior written notice shall constitute adequate notice of disposition, and any disposition of the Equipment may be conveyed on an "AS IS" basis and Lessor may disclaim any and all warranties.

20. General

20.1 Exclusions

EXCEPT WITH RESPECT TO SECTION 20.11 INDEMNITY, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR, NOR SHALL LESSEE HAVE ANY REMEDY AGAINST LESSOR FOR, INDIRECT OR CONSEQUENTIAL DAMAGES, ANY LOSS OF PROFITS, BUSINESS, REVENUE OR ANTICIPATED SAVINGS, LOSS OF USE, OR ANY OTHER COMMERCIAL LOSS. THE FOREGOING DOES NOT LIMIT, AMEND, MODIFY OR ALTER LESSEE'S OBLIGATIONS TO PAY RENT, TAXES OR ANY OTHER PAYMENT OBLIGATIONS (INCLUDING WITHOUT LIMITATION, LESSEE'S INDEMNITY OBLIGATIONS) UNDER THE AGREEMENT. The limitation of liability in this Section shall in no way affect Lessee's rights under the Supply Agreement against Supplier or the manufacturer of the Equipment. The foregoing shall not exclude any liability in respect of death or personal injury resulting from the negligence of either Party, its employees or agents. Lessor shall not be liable for any claim, damage or loss arising from the Products. Under no circumstances shall Lessor be liable for loss of, or damage to, Lessee's records or data.

Master Lease Agreement

Master Lease Agreement No.: 076298439L

20.2 Lessee Representations and Warranties

Lessee represents and warrants to Lessor that as of the date it enters into any Agreement:

- a. it has obtained the necessary internal and external approvals, consents and authorizations to enable it to enter into this Agreement;
- b. the Lessee's signatory to the Agreement has the authority to bind the Lessee and does so by its signature;
- c. the Agreement is a legally valid and binding obligation of Lessee, enforceable in accordance with its terms;
- d. all representations made, and any information supplied to Lessor (including those related to its financial status, and each Product, including the prices thereof) are true, accurate and complete;
- e. there exists no material default as to any other agreement to which Lessee is a party, and no potential liability of Lessee, legal or otherwise, that might impair its ability to comply with the Agreement;
- f. the execution and delivery of the Agreement by Lessee and performance of its obligations hereunder will not violate any judgment, order, law, or governmental regulation affecting Lessee or any provision of Lessee's documents or organization, nor result in a breach or default of any instrument or agreement to which Lessee is a party or to which Lessee may be bound;
- g. Lessee has selected each Product and accepts responsibility for its use and the results obtained therefrom; and
- h. Lessee is a public body corporate and politic duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Master Agreement and the Schedule and the transactions contemplated thereby and to perform all of its obligations thereunder. Lessee has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.

20.3 Security

As a condition of entering into the Agreement, Lessor may require security with respect to Lessee's obligations as specified in the Schedule, which security must be in form and substance acceptable to Lessor. As it relates to any security deposit, Lessor may apply such deposit against any payment default or hold it until all of Lessee's obligations hereunder are satisfied.

20.4 Survival

All of Lessee's representations and warranties shall survive execution and delivery of the Agreement and commencement of any Lease under the Agreement. Lessee's obligations under the Agreement, which by their nature would continue beyond the expiration of the Agreement, shall survive the expiration or termination of the Agreement.

20.5 Notices

Any notice shall be in writing, signed on behalf of the Party giving it and served by delivering it in person or by courier, by certified or registered mail, or regular mail to the office of the other Party, as listed in the Schedule or as otherwise agreed in writing. Notices shall be deemed to be delivered, if personally at the time of delivery or within three Business Days after being deposited in the U.S. mail. Notices of an Event of Default shall be delivered by certified or registered mail.

20.6 Waiver and Severability

Any failure or delay in exercising a right or remedy at law or in equity shall not constitute a waiver of that right or remedy, nor a waiver of any other rights or remedies, in or under the Agreement, at any time. To be effective, any waiver of a right or remedy is required to be in writing signed by the Party waiving such right or remedy. If any provision of the Agreement is or becomes illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining provisions of the Agreement shall not be affected or impaired.

20.7 Benefit of Agreement (Third Party Rights)

Except in the event of a permitted assignment, no term of the Agreement is intended to confer a benefit on, or be enforceable by, any third party or person.

20.8 Further Assurance

Each Party will, at its own cost and expense, use reasonable efforts to do such further acts and execute such documents as may be necessary to give effect to the provisions of the Agreement.

20.9 Announcements and Publicity

Neither Party will make any public announcement relating to the Agreement, or the subject matter therein, without the prior written approval of the other Party, except as required by law or by any legal or regulatory authority, in which case it shall notify the other Party of the announcement as soon as reasonably practicable.

Master Lease Agreement

Master Lease Agreement No.: 076298439L

20.10 Accounting

Neither IBM nor Lessor makes any representation whatsoever regarding Lessee's accounting treatment applicable to this Agreement. IBM accounts for the Agreement under local accounting standards and under U.S. generally accepted accounting principles ("GAAP") for U.S. reporting purposes.

20.11 Indemnity

Lessee shall not be required to indemnify or hold Lessor harmless against liabilities arising from the Agreement. However, as between Lessor and Lessee, and to the extent permitted by law, Lessee shall defend Lessor in full against any losses, claims, settlement payments, interest, awards, judgments, damages (including consequential or special damages), fines, fees (including reasonable legal fees and disbursements), expenses and penalties (collectively, "Losses") arising out of or relating to the Agreement or from Lessee's possession and use of the Products that are (i) ordered to be paid by Lessor to a third party by a court, governmental agency, or regulatory body, (ii) incurred or paid by Lessor in connection with legal proceedings in respect of third party claims, (iii) incurred or paid by Lessor in connection with any settlement by Lessor that has been consented to by Lessee, or (iv) incurred or paid by Lessor in connection with any environmental claim or liability. This indemnity shall not apply to Losses caused solely by the gross negligence or willful misconduct of Lessor. Lessee agrees that upon written demand by Lessor, Lessee shall assume full responsibility for the defense of such claim.

20.12 Tax Indemnification

Lessor and Lessee agree that Lessor shall be entitled to certain federal and state tax benefits available to an owner of Equipment, including, under the Internal Revenue Code of 1986, as amended (the "Code"), the maximum Modified Accelerated Cost Recovery System deductions for 5-year property and deductions for interest expense incurred to finance the purchase of the Equipment ("Tax Benefits"). Lessee represents and warrants that: (a) at no time will Lessee take or omit to take any action which would result in a loss, reduction, disallowance, recapture or other unavailability ("Loss") to Lessor (or the consolidated group with which Lessor files tax returns) of the Tax Benefits, and (b) Lessee will take no position inconsistent with the assumption that Lessor is the owner of the Equipment for federal income tax purposes. Upon Lessor's written notice to Lessee that a Loss of Tax Benefits has occurred, Lessee shall reimburse Lessor an amount that shall make Lessor's after-tax rate of return and cash flows ("Financial Returns") over the Term of the Lease equal to the expected Financial Returns that would have been otherwise available. Lessee shall have no obligation to reimburse Lessor for a Loss of Tax Benefits resulting from: (i) a determination that a Lease does not constitute a true lease for federal income tax purposes provided such determination is not the result of an act of Lessee, or (ii) a change in the tax law after the applicable Commencement Date.

20.13 Business Contact Information

Lessee agrees that IBM and Lessor may process the business contact information of Lessee's employees and contractors and information about Lessee as a legal entity ("Contact Information") in connection with IBM's products and services or in furtherance of IBM's or Lessor's business relationship with Lessee. This Contact Information can be stored, disclosed internally and processed by IBM and its subsidiaries, business partners and subcontractors wherever they do business, solely for the purpose described above provided that these companies comply with applicable data privacy laws related to this processing. Where required by applicable law, Lessee has notified and obtained the consent of the individuals whose Contact Information may be stored, disclosed internally and processed and will forward their requests to access, update, correct or delete their Contact Information to IBM who will then comply with those requests.

20.14 Financial Statements

Upon request, if not publicly available, Lessee agrees to provide to Lessor annual audited financial statements or, with Lessor's approval, unaudited financial statements, in each case, prepared in accordance with U.S. GAAP.

20.15 Direct Debit

When Lessor requires or Lessee requests a direct debit arrangement, Lessee shall execute applicable documentation requested by Lessor to effect such arrangement.

20.16 Copies

This Master Agreement, any Schedule, any Certificate of Acceptance, and any documents related thereto may be sent to Lessee by Lessor in soft copy format, such as a PDF file. Where Lessee has printed any such document for signature from such soft copy format, Lessee represents and warrants that no changes have been made to the text (including dates and charges). Any such changes are void.

Any copy of this Master Agreement, any Schedule, any Certificate of Acceptance, and any documents related thereto made by reliable means (for example photocopy, image or facsimile) shall in all respects be considered equivalent to an original.

20.17 Primary Use

Products will be used by Lessee primarily for its business purposes and not for personal, family or household purposes.

Master Lease Agreement

Master Lease Agreement No.: 076298439L

20.18 Counterparts

The Master Agreement, any Schedule, any Certificate of Acceptance, and any documents related thereto may be executed in any number of counterparts, each of which shall constitute an original, but all of the counterparts shall constitute only one and the same document.

20.19 Lessor Assignment

Lessor may assign or otherwise transfer in whole or part its right, title and interest in the Agreement and the Equipment under the Agreement to any third party. Lessee shall not assert against any such assignee or transferee any setoff, defense or counterclaim that Lessee may have against Lessor or any other entity.

20.20 Lessor's Payment

If Lessee fails to pay taxes as required under the Agreement, discharge any liens or encumbrances on the Equipment (other than those created by or through Lessor), or otherwise fails to perform any other obligation under the Agreement, Lessor may act in Lessee's stead so as to protect Lessor's interests, in which case Lessee shall immediately reimburse Lessor the cost thereof.

20.21 Finance Lease

The parties agree that each Lease is a "finance lease" as defined in Article 2A of the Uniform Commercial Code and shall be construed as such for all purposes under law. Lessee hereby waives any and all rights and remedies under Sections 508 through 522 of such Article 2A.

20.22 Authorization to File Financing Statements; Security Interest

Lessee hereby authorizes Lessor to file Uniform Commercial Code financing statements relating to, and hereby grants Lessor a security interest in, the Equipment and all additions, attachments, accessions, accessories and upgrades thereto, any software imbedded therein, and any and all replacements, substitutions and exchanges for any item of Equipment and all proceeds of the foregoing, including without limitation, payments under insurance or any indemnity or warranty relating to loss or damage to such Equipment to secure Lessee's obligations to Lessor under the Agreement.

21. Governing Law; Compliance with Laws

21.1 The Agreement will be governed by, and construed in accordance with Lessee's state laws.

21.2 Each Party will comply with applicable United States import and export control and sanctions laws and regulations, including those that prohibit or limit export or services for certain uses or to certain end users.

22. Amendments and Modifications

THE PARTIES AGREE THAT NO TERM OF THIS MASTER AGREEMENT OR ANY AGREEMENT MAY BE AMENDED, CHANGED, MODIFIED OR WAIVED, EXCEPT IN WRITING SIGNED BY THE PARTIES THERETO.

Lessee initial

P.R.C.
Lessor initial

By signing below, the Parties agree to the terms of this Master Agreement.

Agreed to:
COUNTY OF MONTEREY

By: _____
Authorized Signature

Name (type or print):

Title (type or print):

Date:

Email Address:

Agreed to:
IBM Credit LLC

By: Pamela R. Colernan
Authorized Signature

Name (type or print): Pamela R. Colernan

Title (type or print): Commercial Financing Ops. Manager.

Date: 3/18/16

APPROVED AS TO FORM AND LEGALITY

Kay Reenan

Z126-5754-US-01 (09/2013)
COUNTY COUNSEL
COUNTY OF MONTEREY

Reviewed as to fiscal provisions

[Signature]
Auditor-Controller
County of Monterey 4/1/16