

Resolution 2013-09

WHEREAS, the Town of Ashland City, a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of Tennessee, is authorized by the laws of the State to purchase, acquire and lease personal property for the benefit of the Town of Ashland City and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, in order to acquire such equipment, the Town of Ashland City proposes to enter into a lease-purchase transaction pursuant to that certain Governmental Equipment Lease-Purchase Agreement with Komatsu Financial, the form of which has been presented to the governing body of the Town of Ashland City at the previous meeting.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. Approval of Documents. The form, terms and provisions of the agreement and all other schedules and exhibits attached thereto are hereby approved in substantially the form presented at this meeting, with insertions, omissions and changes as shall be approved by Counsel of the Town of Ashland City or other members of the governing body of the Town of Ashland City executing the same, the execution of such documents being conclusive evidence of such approval; and the persons holding the titles listed below or any other officer of the Town of Ashland City who shall have the power to execute contracts on its behalf are hereby authorized and directed to execute, acknowledge, countersign and deliver the Agreement and all exhibits attached thereto, and the City Recorder of the Town of Ashland City is hereby authorized to attest to the foregoing and affix the seal of the Town of Ashland City to such documents.

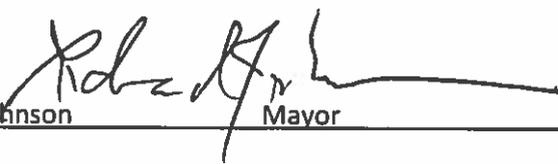
Section 2. Other Actions Authorized. The officers and employees of the Town of Ashland City shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby and to take all action necessary in conformity therewith, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement.

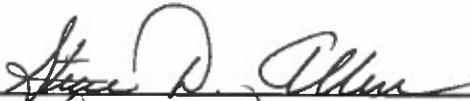
Section 3. No General Liability. Nothing contained in the Resolution, the Agreement, or any other instrument shall be construed with respect to the Town of Ashland City as incurring a pecuniary liability or charge upon the general credit of the Town of Ashland City or against its taxing power, nor shall the breach of any agreement contained in the Resolution, the Agreement, or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Town of Ashland City or any charge upon its general credit or against its taxing power, except to the extent that the payments payable under the Agreement are special limited obligations of the Town of Ashland City as provided in the Agreement.

Section 4. A copy of the agreement is attached to this resolution and is incorporated into this resolution as well as the amortization schedule setting forth payments and interest.

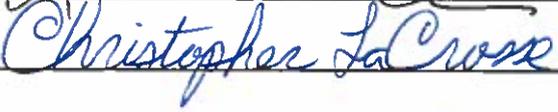
Section 5. Authorized Signatories. Following are the true names, correct titles and specimen signatures of the incumbent officers referred to in the foregoing Resolution:

Name	Title	Signature
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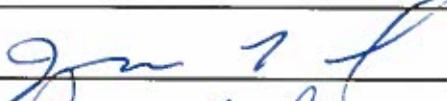
  
Richard Johnson Mayor

Steve Allen Vice-Mayor 

Lisa Walker Councilman 

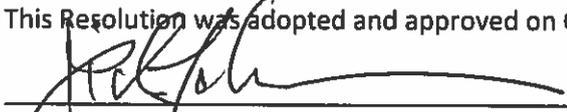
Christopher LaCrosse Councilman 

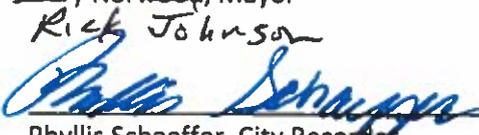
Alwilda Binkley Councilman

James Gill Councilman 

Roger Jackson Councilman 

Section 5. Effective Date. This Resolution shall take effect immediately upon its approval and adoption. This Resolution was adopted and approved on October 8, 2013.

  
Gary Norwood, Mayor

  
Phyllis Schaeffer, City Recorder

Date: October 8, 2013

Resolution 2013-09

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Richard Johnson Mayor

Steve Allen Vice-Mayor

Lisa Walker Councilman

Christopher LaCrosse Councilman

Alwilda Binkley Councilman

James Gill Councilman

Roger Jackson Councilman

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~~Gary Werwood~~, Mayor

Phyllis Schaeffer, City Recorder

Date: October 8, 2013

# KOMATSU FINANCIAL

## MUNICIPAL EQUIPMENT LEASE-PURCHASE AGREEMENT

THIS LEASE-PURCHASE AGREEMENT (hereinafter referred to as "Agreement") by and between Power Equipment Company a(n) Tennessee corporation (hereinafter referred to as "Lessor"), and Town of Ashland City - Water Department, a political subdivision of the State of Tennessee (hereinafter referred to as "Lessee").

WITNESSETH: In consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. *Term and Payments.* Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the equipment described in Exhibit A hereto (hereinafter, with all replacement parts, substitutions, proceeds, increases, additions, accessions, repairs and accessories incorporated therein or affixed thereto, referred to as the "Equipment") for the amounts to be paid in the sums and on the dates set forth in Exhibit B hereto. Except as specifically provided in Paragraph 2 hereof, the obligation of the Lessee to make the payments called for in Exhibit B hereto shall be absolute and unconditional in all events and shall not be subject to any set-off, defense, counterclaim, or recoupment for any reason. The term of the lease hereunder shall commence upon the acceptance of possession of the Equipment by Lessee (or acceptance by Lessee of delivery of the first item of Equipment if this Agreement involves multiple items of Equipment) and shall continue until the end of the Lessee's current fiscal period and thereafter for such additional fiscal periods as are necessary to complete the anticipated total lease term as set forth in Exhibit B, unless earlier terminated as provided herein. In accordance with the Agreement, Lessee hereby certifies that all of the Equipment (i) has been received by Lessee, (ii) has been thoroughly examined and inspected to the complete satisfaction of Lessee, (iii) has been found by Lessee to be in good operating order, repair and condition, (iv) has been found to be of the size, design, quality, type and manufacture specified by Lessee, (v) has been found to be and is wholly suitable for Lessee's purpose, and (vi) is hereby unconditionally accepted by Lessee, in the condition received, for all purposes of the Agreement.

2. *Renewal and Nonappropriation.* Lessee agrees that it will take all necessary steps and make timely requests for the appropriation of funds to make all payments called for under Exhibit B and use its best efforts and take all steps to cause such appropriations to be made. In the event that (i) funds for the succeeding fiscal period cannot be obtained, (ii) Lessee has exhausted all legally available means for making the payment called for under this Agreement, (iii) Lessee has invoked and diligently pursued all legal procedures by which payment called for under this Agreement may be made, (iv) such failure to obtain funds has not resulted from any act or failure to act of Lessee, (v) Lessee has not acquired, and has no intent to acquire during the subsequent fiscal period, items of property having functions similar to those of the Equipment or which provide similar benefits to Lessee, and (vi) no funds have been appropriated for the acquisition of such property, then Lessee may terminate this Agreement at the end of any fiscal period during the payment schedule set forth in Exhibit B by giving notice to Komatsu Financial Limited Partnership, 1701 W. Golf Road, Rolling Meadows, IL 60008 or at such other place as Lessor or its successors and assigns may from time to time hereafter designate, at least 60 days prior to the first day of such fiscal period for which appropriations cannot be made. Such failure to obtain proper appropriation and approval of the full amount of funds necessary to make required payments hereunder during any fiscal period subsequent to the current fiscal period shall terminate all of Lessee's right, title and interest in obligations under this Agreement to all the Equipment, effective on the last day of the last fiscal period for which appropriation or approval was properly obtained.

3. *Taxes.* In addition to the payments to be made pursuant to Paragraph 1 hereof, Lessee agrees to indemnify and hold Lessor harmless from and against and to pay Lessor, as additional rent, on demand an amount equal to all license, assessments, sales, use, real or personal property, gross receipts or other taxes, levies, imposts, duties or charges, if any, together with any penalties, fines or interest thereon imposed against or on Lessor, Lessee or the Equipment by any governmental authority upon or with respect to the Equipment or the purchase, ownership, rental, possession, operation, return or sale of, or receipt of payments for, the Equipment, except any Federal or State income taxes, if any, payable by Lessor. Lessee may contest any such taxes prior to payment provided such contest does not involve any risk of sale, forfeiture or loss of the Equipment or any interest therein.

4. *Lessee's Covenants and Representations.* Lessee covenants and represents as follows:

(a) Lessee represents, and will provide an opinion of its counsel to the effect that, it has full power and authority to enter into this Agreement which has been duly authorized, executed, and delivered by Lessee and is a valid and binding obligation of Lessee enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Agreement have been, or will be, complied with in a timely manner;

(b) All payments hereunder have been, and will be, duly authorized and paid when due out of funds then on hand and legally available for such purpose; Lessee will, to the extent permitted by State law and other terms and conditions of this Agreement, include in its budget for each successive fiscal period during the term of this Agreement a sufficient amount to permit Lessee to discharge all its obligations hereunder; and, Lessee has budgeted and has available for the current fiscal period sufficient funds to comply with its obligations hereunder;

(c) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization or performance of, or expenditure of funds pursuant to this Agreement;

(d) Information supplied and statements made by Lessee in any financial statement or current budget prior to or contemporaneously with this Agreement are true and correct;

(e) Lessee has an immediate need for, and expects to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future; specifically, Lessee will not give priority or parity in the appropriation of funds for the acquisition or use of any additional property for purposes or functions similar to the Equipment's;

(f) The Equipment is essential to the proper, efficient and economic operation of the Lessee, and there are no circumstances presently affecting the Lessee that could reasonably be expected to alter its foreseeable need for the Equipment or adversely affect its ability or willingness to budget funds for the payment of sums due hereunder;

(g) Lessee's right to terminate this Agreement as specified in Paragraph 2 hereof was not an independently bargained for consideration, but was included solely for the purpose of complying with the requirements of the laws of the State in which Lessee is located; and

(h) Lessee shall execute and file any document required, pursuant to Section 149(e) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, to report the issuance of this Agreement.

5. *Use and Licenses.* Lessee shall pay and discharge all operating expenses and shall cause the Equipment to be operated by competent persons only. Lessee shall use the Equipment only for its proper purposes and will not install, use, operate or maintain the Equipment improperly, carelessly, or in violation of any applicable law, ordinance, rule or regulation of any governmental authority, or in a manner contrary to the nature of the Equipment or the use contemplated by its manufacturer. Lessee shall keep the Equipment at the location stated on Exhibit A, until Lessor in writing permits its removal, and the Equipment shall be used solely in the conduct of the Lessee's operations. Lessee shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Equipment. License plates used on the Equipment shall be issued in the name of the Lessee. If a certificate of title is issuable with respect to the Equipment, it shall be delivered to the Lessor showing the interest of the Lessor.

6. *Maintenance.* Lessor shall not be obligated to make any repairs or replacements. At its own expense, Lessee shall service, repair and maintain the Equipment in as good condition, repair, appearance and working order as when delivered to Lessee hereunder, ordinary wear and tear from proper use alone excepted, and shall replace any and all parts thereof which may from time to time become worn out, lost, stolen, destroyed, or damaged beyond repair or rendered unfit for intended use, for any reason whatsoever, all of which replacements shall be free and clear of all liens, encumbrances and claims of others, and shall become part of the Equipment and subject to this Agreement. Lessor may, at its option, discharge such costs, expenses and insurance premiums necessary for the repair, maintenance, and preservation of the Equipment, and all sums so expended shall be due from Lessee in addition to rental payments hereunder.

7. *Alterations.*

(a) Lessee may, at its own expense, install or place in or on, or attach or affix to, the Equipment such equipment or accessories as may be necessary or convenient to use the Equipment for its intended purposes provided that such equipment or accessories do not impair the value or utility of the Equipment. All such equipment and accessories shall be removed by Lessee upon termination of this Agreement, provided that any resulting damage shall be repaired at Lessee's expense. Any such equipment or accessories not removed shall become the property of Lessor.

(b) Without the written consent of Lessor, Lessee shall not make any other alterations, modifications or improvements to the Equipment except as required or permitted hereunder. Any other alterations, modifications or improvements to the Equipment shall immediately become part of the Equipment, subject to the provisions hereof. Without the prior written consent of Lessor, Lessee shall not affix or attach any of the Equipment to any real property. The Equipment shall remain personal property regardless of whether it becomes affixed or attached to real property or permanently rests upon real property or any improvement thereon.

(c) Lessee shall not remove, disable or impair in any manner the unit monitoring system, such as KOMTRAX or VHMS, if Equipment is so equipped with such system.

8. *Liens.* Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, security interest, pledge, lien, charge, encumbrance or claim on or with respect to the Equipment, title thereto, or any interest therein, except the respective rights of Lessor and Lessee hereunder.

9. *Damage to or Destruction of Equipment.* Lessee shall bear the entire risk of loss, damage, theft, or destruction of the Equipment from any and every cause whatsoever, and no loss, damage, destruction or other event shall release Lessee from the obligation to pay the full amount of the rental payments or from any other obligation under this Agreement.

(a) In the event that all or any part of the Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee shall replace the same with like property in good repair of like value, acceptable to Lessor, at Lessee's sole cost and expense as soon thereafter as possible and any such replacement shall become subject to this Agreement. If insurance is in effect with respect to the Equipment, insurance proceeds received by Lessor with respect to any such casualty shall be paid to Lessee if such Equipment is replaced by Lessee as required hereunder.

(b) If Lessee fails to replace such Equipment as required, Lessor may at its option terminate this Agreement as to that part of the Equipment lost, stolen, destroyed or damaged beyond repair, and recover from Lessee the amount of the unpaid principal balance applicable to Equipment lost, stolen, destroyed or damaged beyond repair as of the last date on which a payment was made pursuant to Paragraph 1 hereof, together with interest thereon at the rate specified in Exhibit B from such payment date to the date of such termination, and less insurance proceeds, if any, received and retained. If Lessor exercises its option hereunder, the principal portion of the payments required to be made thereafter by Lessee pursuant to Paragraph 1 and the subsequent Option to Purchase Values set forth in Exhibit B shall be reduced in the proportion which the original cash sale price of the part of the Equipment lost, stolen, destroyed or damaged beyond repair bore to the aggregate original cash sale price of the Equipment described in Exhibit A.

10. *Insurance.* Lessee shall either be self-insured with regard to the Equipment or shall purchase and maintain insurance with

regard to the Equipment. If Lessee elects to be self-insured with regard to this Agreement, it may do so only with the prior consent of Lessor. Whether Lessee is self-insured or company insured, Lessee shall, for the term of this Agreement, at its own expense, provide comprehensive liability insurance with respect to the Equipment, insuring against such risks, and such amounts as are customary for lessees of property of a character similar to the Equipment. In addition, Lessee shall, for the term of this Agreement, at its own expense, provide casualty insurance with respect to the Equipment, insuring against customary risks coverage at all times not less than the amount of the unpaid principal portion of the payments required to be made pursuant to Paragraph 1 as of the last preceding payment date specified in Exhibit B on which a payment was made. If insurance policies are provided with respect to the Equipment, all insurance policies shall be with insurers authorized to do business in the State where the Equipment is located and shall name both Lessor and Lessee as insureds as their respective interest may appear. Insurance proceeds from casualty losses shall be payable solely to the Lessor, subject to the provisions of Paragraph 9. Lessee shall, upon request, deliver to Lessor evidence of the required coverages together with premium receipts, and each insurer shall agree to give Lessor written notice of nonpayment of any premium due and ten (10) days notice prior to cancellation or alteration of any such policy. Lessee shall also carry and require any other person or entity working on, in or about the Equipment to carry workmen's compensation insurance covering employees working on, in or about the Equipment. In the event Lessee fails, for any reason, to comply with the requirements of this Paragraph, Lessee shall indemnify and save harmless, and, at Lessee's sole expense, defend Lessor and its agents, employees, officers and directors, and the Equipment against all risk of loss not covered by insurance.

11. *Indemnification.* Lessee shall indemnify and save harmless Lessor and its agents, employees, officers and directors from and, at Lessee's expense, defend Lessor and its agents, employees, officers and directors against all liability, obligations, losses, damages, penalties, claims, actions, costs and expenses (including but not limited to reasonable attorneys' fees) of whatsoever kind or nature which in any way relate to or arise out of this Agreement or the ownership, rental, possession, operation, condition, sale or return of the Equipment. All amounts which become due from Lessee under this Paragraph 11 shall be credited with any amounts received by the Lessor from insurance provided by the Lessee and shall be payable by Lessee within thirty (30) days following demand therefor by Lessor and shall survive the termination or expiration of this Agreement.

12. *No Warranty.* EXCEPT FOR REPRESENTATIONS, WARRANTIES, AND SERVICE AGREEMENTS RELATING TO THE EQUIPMENT MADE OR ENTERED INTO BY THE MANUFACTURERS OR SUPPLIERS OF THE EQUIPMENT, ALL OF WHICH ARE HEREBY ASSIGNED TO LESSEE, LESSOR HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE EQUIPMENT DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO SPECIFICATIONS OR PURCHASE ORDER, ITS DESIGN, DELIVERY, INSTALLATION OR OPERATION. All such risks shall be borne by Lessee without in any way excusing Lessee from its obligations under this Agreement, and Lessor shall not be liable to Lessee for any damages on account of such risks. All claims or actions on any warranty so assigned shall be made or prosecuted by Lessee, at its sole expense, upon prior written notice to Lessor. Lessor may, but shall have no obligation whatsoever to, participate in such claim or action on such warranty, at Lessor's expense. Any recovery under such a warranty shall be made payable jointly to Lessee and Lessor.

13. *Option to Purchase.* Provided Lessee has complied with the terms and conditions of this Agreement, Lessee shall have the option to purchase not less than all the Equipment which is then subject to this Agreement "as is" at the payment date and for the Option to Purchase Values set forth in Exhibit B or such adjusted Option to Purchase Value as may have been determined in accordance with Paragraph 9 hereof by giving written notice to Lessor not less than sixty (60) days prior to the date specified in Exhibit B for the exercise of such option; provided that upon Lessee's timely payment of all payments specified in Exhibit B and the Final Purchase Option Price, Lessee shall be deemed to have properly exercised its option to purchase the Equipment and shall be deemed to have acquired all of Lessor's right, title and interest in and to the Equipment, free of any lien, encumbrance or security interest except such liens, encumbrances or security interest as may be created, or permitted and not discharged, by Lessee but without other warranties. Payment of the applicable Option to Purchase Value shall occur on the applicable purchase date specified in Exhibit B hereto at which time Lessor shall, unless not required hereunder, deliver to Lessee a quitclaim bill of sale transferring Lessor's interest in the Equipment to Lessee free from any lien, encumbrance or security interest except such as may be created, or permitted and not discharged, by Lessee but without other warranties. Upon Lessee's actual or constructive payment of the Option to Purchase Value and Lessor's actual or constructive delivery of a quitclaim bill of sale covering the Equipment, this Agreement shall terminate except as to obligations or liabilities accruing hereunder prior to such termination.

14. *Default and Lessor's Remedies.*

(a) The occurrence of one or more of the following events shall constitute an Event of Default, whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:

- (1) Lessee's failure to make any payment hereunder when due or within ten (10) days thereafter;
- (2) Lessee's failure to comply with any other covenant, condition or agreement of Lessee hereunder for a period of ten (10) days after notice thereof;
- (3) Any representation or warranty made by Lessee hereunder shall be untrue in any material respect as of the date made;

(4) Lessee shall make, permit or suffer any unauthorized assignment, transfer or other disposition of this Agreement or any interest herein, or any part of the Equipment or any interest therein; or

(5) Lessee becomes insolvent; or admits in writing its inability to pay its debts as they mature; or applies for, consents to, or acquiesces in the appointment of a trustee, receiver or custodian for the Lessee or a substantial part of its property; or, in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed for Lessee or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding is instituted by or against Lessee and, if instituted against Lessee, is consented to or acquiesced in by Lessee or is not dismissed within sixty (60) days

(b) Upon the occurrence of any Event of Default specified herein, Lessor may at its sole discretion exercise any or all

of the following remedies:

(1) Enforce this Agreement by appropriate action to collect amounts due or to become due hereunder, by acceleration or otherwise, or to cause Lessee to perform its other obligations hereunder in which event Lessee shall be liable for all costs and expenses incurred by Lessor;

(2) Take possession of the Equipment, without demand or notice and without court order or any process of law, and remove and relet the same for Lessee's account, in which event Lessee waives any and all damages resulting therefrom and shall be liable for all costs and expenses incurred by Lessor in connection therewith and the difference, if any, between the amounts to be paid pursuant to Paragraph 1 hereof and the amounts received and to be received by Lessor in connection with any such reletting;

(3) Terminate this Agreement and repossess the Equipment, in which event Lessee shall be liable for any amounts payable hereunder through the date of such termination and all costs and expenses incurred by Lessor in connection therewith;

(4) Sell the Equipment or any portion thereof for Lessor's account at public or private sale, for cash or credit, without demand on or notice to Lessee of Lessor's intention to do so or relet the Equipment for a term and a rental which may be equal to, greater than or less than the rental and term provided herein. If the proceeds from any such sale or rental payments received under a new agreement made for the periods prior to the expiration of this Agreement are less than the sum of (i) the costs of such repossession, sale, relocation, storage, reconditioning, reletting and re-installation (including but not limited to reasonable attorneys' fees), (ii) the unpaid principal balance derived from Exhibit B as of the last preceding payment date specified in Exhibit B, and (iii) any past due amounts hereunder (plus interest on such unpaid principal balance at the rate specified in Paragraph 19 hereof, prorated to the date of such sale), all of which shall be paid to Lessor, Lessor shall retain all such proceeds and Lessee shall remain liable for any deficiency; or

(5) Pursue and exercise any other remedy available at law or in equity, in which event Lessee shall be liable for any and all costs and expenses incurred by Lessor in connection therewith. "Costs and expenses", as that term is used in this Paragraph 14, shall mean to the extent allowed by law; (i) reasonable attorneys' fees if this Agreement is referred for collection to an attorney not a salaried employee of Lessor or the holder of this Agreement; (ii) court costs and disbursements including such costs in the event of any action necessary to secure possession of the Equipment; and (iii) actual and reasonable out-of-pocket expenses incurred in connection with any repossession or foreclosure, including costs of storing, reconditioning and reselling the Equipment, subject to the standards of good faith and commercial reasonableness set by the applicable Uniform Commercial Code. Lessee waives all rights under all exemption laws.

(6) Under no circumstance shall Lessee be liable under Paragraph 14(b) for any amount in excess of the sum appropriated pursuant to Paragraph 1 hereof for the previous and current fiscal years, less all amounts previously due and paid during such previous and current fiscal years from amounts so appropriated.

15. *Termination.* Unless Lessee has properly exercised its option to purchase pursuant to Paragraph 13 hereof, Lessee shall, upon the expiration of the term of this Agreement or any earlier termination hereof pursuant to Paragraph 14 hereof, deliver the Equipment to Lessor unencumbered and in at least as good condition and repair as when delivered to Lessee, ordinary wear and tear resulting from proper use alone excepted, by loading the Equipment, at Lessee's sole expense, on such carrier, or delivering the Equipment to such location, as Lessor shall provide or designate at or within a reasonable distance from the general location of the Equipment. If Lessee fails to deliver the Equipment to Lessor, as provided in this Paragraph 15, on or before the date of termination of this Agreement, Lessee shall pay to Lessor upon demand, for the hold-over period, a portion of the total payment for the applicable period as set forth in Exhibit B prorated from the date of termination of this Agreement to the date Lessee either redelivers the Equipment to Lessor or Lessor repossesses the Equipment. Lessee hereby waives any right which it now has or which may be acquired or conferred upon it by any law or order of any court or other governmental authority to terminate this Agreement or its obligations hereunder, except in accordance with the express provisions hereof.

16. *Assignment and Sublease.*

(a) Without the prior written consent of Lessor, Lessee shall not (i) assign, transfer, pledge or hypothecate or otherwise dispose of this Agreement, the Equipment, or any part thereof or any interest therein, (ii) sublet the Equipment or any part thereof, or (iii) permit the Equipment to be used for any purpose not permitted by Paragraph 5 hereof.

(b) Lessor intends to sell, assign or transfer all of its right, title and interest in, to and under this Agreement (including, without limitation, rights in the Equipment and all payments of any kind due or which are to become due to Lessor hereunder) to Komatsu Financial Limited Partnership (hereinafter referred to as "Assignee"), and Lessee hereby agrees and consents to such sale, assignment or transfer, and agrees to make payments due under this Agreement directly to Assignee pursuant to Assignee's instructions. Assignee shall not further sell, assign or transfer this Agreement. Upon such sale, assignment or transfer to Assignee, Assignee shall thereafter be deemed to be the Lessor hereunder, except that Lessor and Lessee agree and acknowledge that Assignee will have made no representation or warranty, and therefore will assume no obligation, with respect to the title, merchantability, condition, quality or fitness of the Equipment for any particular purpose, or for the enforcement of any warranties or service agreement made or assigned to Lessee by the initial Lessor named herein. Lessee shall, during the term of this Agreement, keep a complete and accurate record of such sale, assignment or transfer in form necessary to comply with Section 149(a) of the Internal Revenue Code, as amended, and the regulations, promulgated thereunder.

17. *Personal Property.* The Equipment is and shall at all times be and remain personal property.

18. *Lessor's Right to Perform for Lessee.* If Lessee fails to make any payment or perform or comply with any of its covenants or obligations hereunder, Lessor may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of Lessee, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by Lessor in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate, shall be payable by Lessee upon demand.

19. *Interest on Default.* If Lessee fails to pay any payments specified in Paragraph 1 hereof within ten (10) days after the due date thereof, Lessee shall pay to Lessor charges at the highest rate permitted by law, but not to exceed 1.5% per month.

EXHIBIT B

09/16/2013

ACCOUNT # 777-0058410-000

\$104,232.00

60

3.50%

EQUIPMENT COST

TERM

INTEREST RATE

LESSEE'S FISCAL PERIOD: June

DATE	PAYMENT NUMBER	INTEREST PAYMENT	PRINCIPLE PAYMENT	PAYMENT AMOUNT	OPTION TO PURCHASE VALUE
09/16/2013	1	\$0.00	\$1,890.63	\$1,890.63	\$102,341.37
10/16/2013	2	\$298.50	\$1,592.13	\$1,890.63	\$100,749.24
11/16/2013	3	\$293.85	\$1,596.78	\$1,890.63	\$99,152.46
12/16/2013	4	\$289.19	\$1,601.44	\$1,890.63	\$97,551.02
01/16/2014	5	\$284.52	\$1,606.11	\$1,890.63	\$95,944.92
02/16/2014	6	\$279.84	\$1,610.79	\$1,890.63	\$94,334.13
03/16/2014	7	\$275.14	\$1,615.49	\$1,890.63	\$92,718.64
04/16/2014	8	\$270.43	\$1,620.20	\$1,890.63	\$91,098.44
05/16/2014	9	\$265.70	\$1,624.93	\$1,890.63	\$89,473.51
06/16/2014	10	\$260.96	\$1,629.67	\$1,890.63	\$87,843.84
07/16/2014	11	\$256.21	\$1,634.42	\$1,890.63	\$86,209.43
08/16/2014	12	\$251.44	\$1,639.19	\$1,890.63	\$84,570.24
09/16/2014	13	\$246.66	\$1,643.97	\$1,890.63	\$82,926.27
10/16/2014	14	\$241.87	\$1,648.76	\$1,890.63	\$81,277.51
11/16/2014	15	\$237.06	\$1,653.57	\$1,890.63	\$79,623.94
12/16/2014	16	\$232.24	\$1,658.39	\$1,890.63	\$77,965.55
01/16/2015	17	\$227.40	\$1,663.23	\$1,890.63	\$76,302.32
02/16/2015	18	\$222.55	\$1,668.08	\$1,890.63	\$74,634.23
03/16/2015	19	\$217.68	\$1,672.95	\$1,890.63	\$72,961.29
04/16/2015	20	\$212.80	\$1,677.83	\$1,890.63	\$71,283.46
05/16/2015	21	\$207.91	\$1,682.72	\$1,890.63	\$69,600.74
06/16/2015	22	\$203.00	\$1,687.63	\$1,890.63	\$67,913.11
07/16/2015	23	\$198.08	\$1,692.55	\$1,890.63	\$66,220.56
08/16/2015	24	\$193.14	\$1,697.49	\$1,890.63	\$64,523.08
09/16/2015	25	\$188.19	\$1,702.44	\$1,890.63	\$62,820.64
10/16/2015	26	\$183.23	\$1,707.40	\$1,890.63	\$61,113.24
11/16/2015	27	\$178.25	\$1,712.38	\$1,890.63	\$59,400.85
12/16/2015	28	\$173.25	\$1,717.38	\$1,890.63	\$57,683.48
01/16/2016	29	\$168.24	\$1,722.39	\$1,890.63	\$55,961.09
02/16/2016	30	\$163.22	\$1,727.41	\$1,890.63	\$54,233.68
03/16/2016	31	\$158.18	\$1,732.45	\$1,890.63	\$52,501.23
04/16/2016	32	\$153.13	\$1,737.50	\$1,890.63	\$50,763.73
05/16/2016	33	\$148.06	\$1,742.57	\$1,890.63	\$49,021.16
06/16/2016	34	\$142.98	\$1,747.65	\$1,890.63	\$47,273.51
07/16/2016	35	\$137.88	\$1,752.75	\$1,890.63	\$45,520.76
08/16/2016	36	\$132.77	\$1,757.86	\$1,890.63	\$43,762.90
09/16/2016	37	\$127.64	\$1,762.99	\$1,890.63	\$41,999.91
10/16/2016	38	\$122.50	\$1,768.13	\$1,890.63	\$40,231.78
11/16/2016	39	\$117.34	\$1,773.29	\$1,890.63	\$38,458.49
12/16/2016	40	\$112.17	\$1,778.46	\$1,890.63	\$36,680.03
01/16/2017	41	\$106.98	\$1,783.65	\$1,890.63	\$34,896.39
02/16/2017	42	\$101.78	\$1,788.85	\$1,890.63	\$33,107.54

777-0058410-000

**EXHIBIT A**

**DESCRIPTION OF EQUIPMENT**

**TOWN OF ASHLAND CITY - WATER DEPARTMENT  
LESSEE**

<b><u>QUANTITY</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>SERIAL NUMBER</u></b>	<b><u>SALES PRICE</u></b>
One (1)	PC88MR-8 Hydraulic Excavator with 24", 36", & 48" Buckets & Tag Hydraulic thumb	6308	\$104,232.00
		Cash Down	\$0.00
		<b>Total Amount to Finance:</b>	<b>\$104,232.00</b>

**EQUIPMENT LOCATION AND PRIMARY USE**

**233 TN Waltz Parkway, Ashland City, TN 37015**

**Primary Use: General Excavation**

20. *Notices.* Any notices to be given or to be served upon any party hereto in connection with this Agreement must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail, and if given otherwise shall be deemed to have been given when delivered to and received by the party to whom it is addressed. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Agreement or at such other address as either party may hereafter designate.

21. *Security Interest.* As security for Lessee's covenants and obligations hereunder, Lessee hereby grants to Lessor, and its heirs, successors, assigns and personal representatives, a security interest in the Equipment, all accessions thereto and proceeds therefrom, and, in addition to Lessor's rights hereunder, all of the rights and benefits of a secured party under the Uniform Commercial Code as in effect from time to time hereafter in the State in which the Equipment is located or any other State which may have jurisdiction over the Equipment. Lessee agrees to execute, acknowledge and deliver to Lessor in recordable form upon request financing statements or any other instruments with respect to the Equipment or this Agreement considered necessary or desirable by Lessor to perfect and continue the security interest granted herein in accordance with the laws of the applicable jurisdiction.

22. *Miscellaneous.*

(a) Lessee shall, whenever requested, advise Lessor of the exact location and condition of the Equipment and shall give Lessor immediate notice of any attachment or other judicial process affecting the Equipment, and indemnify and save Lessor harmless from any loss or damage caused thereby. Lessor may, for the purpose of inspection, at all reasonable times enter upon any job, building or place where the Equipment and the books and records of the Lessee with respect thereto are located.

(b) Time is of the essence. No covenant or obligations hereunder to be performed by Lessee may be waived except by the written consent of Lessor and a waiver of any such covenant or obligation or a forbearance to invoke any remedy on any occasion shall not constitute or be treated as a waiver of such covenant or obligation or any other covenant or obligation as to any other occasion and shall not preclude Lessor from invoking such remedy at any later time prior to the Lessee's cure of the condition giving rise to such remedy. Lessor's rights hereunder are cumulative and not alternative.

(c) This Agreement shall be construed in accordance with, and governed by, the laws of the State in which the Equipment is located.

(d) This Agreement constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both Lessor and Lessee.

(e) Any term or provision of this Agreement found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, invalidating the remainder of the Agreement.

(f) The Lessor hereunder shall have the right at any time or times, by notice to Lessee, to designate or appoint any person or entity to act as agent or trustee for Lessor for any purposes hereunder.

(g) All transportation charges shall be borne by Lessee. Lessee will immediately notify Lessor of any change occurring in or to the Property, of a change in Lessee's address, or in any fact or circumstance warranted or represented by Lessee to Lessor, or if any Event of Default occurs.

(h) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and include the masculine or feminine gender whenever and wherever appropriate.

(i) The captions set forth herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

(j) Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 16th day of September, 2013.

LESSOR: Power Equipment Company

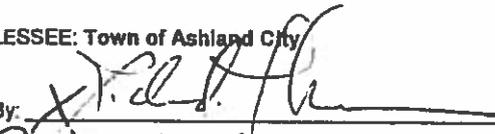
By:   
Matthew Spence  
(Print Name)

Territory Manager  
(Title)

3300 Alcoa Hwy  
(Address of Lessor)

Knoxville, Knox County, TN 37920  
(City, County, State, Zip Code)

LESSEE: Town of Ashland City

By:   
Richard Johnson  
(Print Name)

Mayor  
(Title)

PO Box 36  
(Address of Lessor)

Ashland City, Cheatham County, TN 37015  
(City, County, State, Zip Code)

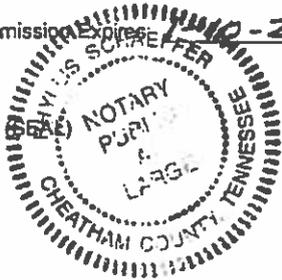
THE STATE OF Tennessee  
COUNTY OF Chatham

Before me, the undersigned authority, on this day personally appeared Richard Johnson of the Town of Ashland City known to me to be the person whose name is subscribed to the foregoing instrument on behalf of Lessee, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act deed of said corporation.

Given under my hand and seal of office this 20 day of September, 2013

Notary Public in and for the State of Tennessee

My Commission Expires 11-10-2015



(over)

EXHIBIT B

09/16/2013

ACCOUNT # 777-0058410-000

\$104,232.00

60

3.50%

EQUIPMENT COST

TERM

INTEREST RATE

LESSEE'S FISCAL PERIOD: June

DATE	PAYMENT NUMBER	INTEREST PAYMENT	PRINCIPLE PAYMENT	PAYMENT AMOUNT	OPTION TO PURCHASE VALUE
03/16/2017	43	\$96.56	\$1,794.07	\$1,890.63	\$31,313.47
04/16/2017	44	\$91.33	\$1,799.30	\$1,890.63	\$29,514.17
05/16/2017	45	\$86.08	\$1,804.55	\$1,890.63	\$27,709.63
06/16/2017	46	\$80.82	\$1,809.81	\$1,890.63	\$25,899.82
07/16/2017	47	\$75.54	\$1,815.09	\$1,890.63	\$24,084.73
08/16/2017	48	\$70.25	\$1,820.38	\$1,890.63	\$22,264.34
09/16/2017	49	\$64.94	\$1,825.69	\$1,890.63	\$20,438.65
10/16/2017	50	\$59.61	\$1,831.02	\$1,890.63	\$18,607.63
11/16/2017	51	\$54.27	\$1,836.36	\$1,890.63	\$16,771.28
12/16/2017	52	\$48.92	\$1,841.71	\$1,890.63	\$14,929.56
01/16/2018	53	\$43.54	\$1,847.09	\$1,890.63	\$13,082.48
02/16/2018	54	\$38.16	\$1,852.47	\$1,890.63	\$11,230.00
03/16/2018	55	\$32.75	\$1,857.88	\$1,890.63	\$9,372.13
04/16/2018	56	\$27.34	\$1,863.29	\$1,890.63	\$7,508.83
05/16/2018	57	\$21.90	\$1,868.73	\$1,890.63	\$5,640.10
06/16/2018	58	\$16.45	\$1,874.18	\$1,890.63	\$3,765.92
07/16/2018	59	\$10.98	\$1,879.65	\$1,890.63	\$1,886.28
08/16/2018	60	\$4.35	\$1,886.28	\$1,890.63	(\$0.00)

Option to Purchase: \$1.00

LESSEE: TOWN OF ASHLAND CITY - WATER DEPARTMENT

LESSOR: POWER EQUIPMENT COMPANY

BY: [Signature]  
(Title)

BY: [Signature] Territory Manager  
(Title)

KOMATSU FINANCIAL  
P.O. BOX 99303  
CHICAGO, IL 60693

# KOMATSU FINANCIAL

INVOICE

DATE OF INVOICE: 09/13/2013

Town of Ashland City - Water Department  
PO Box 36  
Ashland City, TN 37015

CONTRACT NO	DESCRIPTION	CONTRACT PAYMENT	SALES/USE TAX	OTHER CHARGES	TOTAL DUE
777-0058410-000	PC88MR-8 s/n 6308 Payment due 09/16/2013	\$1,890.63			\$1,890.63
	Dee Fees			\$500.00	<del>\$500.00</del>
<b>TOTAL DUE</b>					<b>\$2,390.63</b>

*Waived  
Per Matthew  
Spence  
MO 9/20*

**1890.63**

**RETURN THIS PORTION WITH CHECK PAYABLE TO:**

KOMATSU FINANCIAL  
P.O. BOX 99303  
CHICAGO, IL 60693

Contract # 777-0058410-000  
Application #

Town of Ashland City - Water Department  
PO Box 36  
Ashland City, TN 37015

**Please include this payment with signed lease documents**

~~TOTAL DUE~~

~~\$2,390.63~~

**1890.63**