

LEASE WITH OPTION TO PURCHASE

This Lease With Option to Purchase ("Lease"), dated November 18, 2010 as of and entered into between PNCEF, LLC, dba PNC Equipment Finance authorized to do business in Michigan ("Lessor"), and the Michigan Department of Technology, Management and Budget, an agency of the State of Michigan ("Lessee") and the Michigan Department of Corrections, an agency of the State of Michigan.

1. **Lease.** Lessee agrees to lease from Lessor certain "Equipment" as described in the Equipment Schedule (Exhibit A), which, together, with a "Lease Payment Schedule" (Exhibit A-1) constitute a "Schedule," subject to the terms and conditions of and for the purposes set forth in this Lease.

2. **Term.** This Lease will consist of an "Initial Term" and subsequent "Renewal Terms." The "Commencement Date" for this Lease is the date on which the Equipment is accepted by Lessee in the manner described in Section 12. The "Initial Term" is the period from the Commencement Date, until the end of the first fiscal period for which funds have been appropriated to make lease payments under this Lease. A "Renewal Term" is a subsequent period for which funds have been appropriated to make lease payments under this Lease. The "Lease Term" for this Lease is the Initial Term and all Renewal Terms from the Commencement Date until this Lease is terminated.

3. **Representations and Covenants of Lessee.** Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof and as of the Commencement Date of this Lease as follows: (a) Lessee Michigan Department of Technology, Management and Budget is an agency of the State of Michigan, which is a department of state government duly organized and existing under the constitution and laws of the State of Michigan, with full power and authority under the constitution and laws of the state where the Lessee is located to enter into this Lease and to perform all of its obligations; (b) Lessee has complied with such public bidding requirements as may be applicable to this Lease and the acquisition by Lessee of the Equipment as provided in this Lease; (c) during the Lease Term, the Equipment will be used by Lessee solely and exclusively for the purpose of performing essential governmental functions of Lessee consistent with the permissible scope of Lessee's authority; (d) the equipment is and will remain personal property.

4. **Representations and Covenants of Lessor.** Lessor represents, covenants and warrants for the benefit of Lessee on the date hereof and as of the Commencement Date of this Lease as follows: (a) Lessor, at the request of the Lessee, will pay for the Equipment from and; (b) Pursuant to Section 22, Lessor will convey clear title for the Equipment to Lessee if and when Lessee exercises the purchase option.

5. **Tax Covenant.** It is the intention of Lessee and Lessor that the interest portion of the Lease Payments received by Lessor be and remain free from federal income taxation. Lessee covenants that it will not intentionally perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that shall have the effect of terminating the exemption from federal income taxation of the interest portion of the Lease Payments.

6. **IRS Reporting.** At Lessor's request, the parties shall cooperate to ensure compliance with IRS reporting requirements. Lessor shall prepare for the State's signature an IRS Form 8038G, or take such other action requested by other State agencies, including, but not limited to, the State Treasurer's Office. Lessor shall provide the State Purchasing Director of the Department of Management and Budget with a copy and filing date of any IRS Form 8038G filed with the IRS. However, the parties acknowledge that Lessor has the exclusive responsibility to file IRS Form 8038G and has exclusive liability for any penalties, costs, damages, or other consequences resulting from a failure to file.

7. **Lease of Equipment.** Upon the execution of this Lease, Lessor leases to Lessee, and Lessee leases from Lessor, the Equipment in accordance with the terms hereof. The Lease Term for this Lease may be continued, solely at the option of Lessee, at the end of the Initial Term or any Renewal Term, for the next succeeding Renewal Term up to the maximum Lease Term set forth in this Lease. At the end of the Initial Term and at the end of each Renewal Term, the Lease Term shall be automatically extended upon the successive appropriation by the Michigan State Legislature of amounts sufficient to pay Lease Payments and other amounts payable under this Lease during the next succeeding Fiscal Period, until all Lease Payments payable under this Lease have been paid in full, unless Lessee shall have terminated such Lease pursuant to Section 8 or Section 22. The Director of the Department of Technology, Management and Budget currently intends to use his/her best efforts in making recommendations to the State Budget Office for the necessary appropriations for this lease for inclusion in the Governor's Executive Budget in future fiscal years. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Initial Term, except that the Lease Payments shall be as provided in the applicable Lease Payment Schedule.

8. **Nonappropriation.** Lessee is obligated only to pay such Lease Payments under this Lease as may be appropriated for the Lease of the Equipment. Should the State Legislature fail to appropriate funds to pay Lease Payments, or should an appropriation be adopted which specifically prohibits the use of funds for this Lease, Lessee agrees to deliver notice to Lessor of such nonappropriation within thirty (30) business days of a final legislative action terminating funding for this Lease. Failure to give Lessor such notice shall not create any obligation on the part of the Lessee to make Lease payments beyond the period for which funds have been appropriated. If this Lease is terminated in accordance with this Section, Lessee agrees to peaceably deliver the Equipment to Lessor at the location(s) specified by Lessor or to allow Lessor to peaceably obtain possession of the Equipment. The parties have agreed and determined that the principal amount to be paid to Lessor under this Lease is not in excess of the total fair market value of the Equipment. In making such determination, consideration has been given to the costs of the Equipment, the uses and purposes served by the Equipment and the benefit that will accrue to the parties by reason of this Lease and to the general public by reason of Lessee's use of the Equipment. Lessor understands that as of the date of execution of this Lease, Lessee has an appropriation for the Equipment for the current fiscal year, as defined in 1984 PA 431, MCL 18.1491.

9. **Lease Payments.** Lessee shall promptly pay "Lease Payments" as described in Exhibit A-1 to this Lease, exclusively from funds appropriated for lease of the Equipment. Pursuant to 1984 PA 279, MCL 17.51-17.57, Lessee shall pay Lessor a charge on any Lease Payment, which remains unpaid on the date such Lease Payment is due. Lease Payments consist of principal and interest portions. *Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments under this Lease shall constitute a current expense of the State of Michigan and shall not in any way be construed to be a debt or general obligation of the State of Michigan in contravention of any applicable constitutional or statutory limitation or requirement*

concerning the creation of indebtedness by Lessee, including, but not limited to, Const 1963, art 9, §§12, 17, nor shall anything contained herein or in a Lease constitute a pledge of the general tax revenues, credit, funds or monies of the State.

10. **LEASE PAYMENTS TO BE UNCONDITIONAL.** EXCEPT AS PROVIDED IN SECTION 8, AND SUBJECT TO LESSEE'S ACCEPTANCE OF THE EQUIPMENT AS PROVIDED IN SECTION 12, THE OBLIGATIONS OF LESSEE TO MAKE LEASE PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED IN THIS LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING, WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE EQUIPMENT OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES.

11. **Delivery and Installation.** Lessee shall order the Equipment, cause the Equipment to be delivered and installed at the location agreed upon by the parties and pay any and all delivery and installation costs in connection therewith.

12. **Performance and Reliability Evaluation; Acceptance.** The parties agree and acknowledge that the obligations under this Lease are conditioned, in part, upon the successful completion of a Performance and Reliability Evaluation (PARE), described in Contract No. 071B1300085 between Chevron Energy Solutions Company a division of Chevron U.S.A. Inc. ("Vendor or ESCO") and the State of Michigan. Upon successful completion of the PARE, Lessee shall confirm to Lessor its written acceptance of the Equipment by executing a "Certificate of Acceptance." A blank, unexecuted copy of a Certificate of Acceptance is attached hereto as Exhibit B. The PARE shall commence when the Equipment has been delivered and installed as provided in Section 11.

13. **Marking; Inspection.** Lessor shall have the right to mark or affix a nonpermanent label on the Equipment for purposes of identifying it at a later date. Lessor or its agents shall have the right, from time to time, with prior written notice, during reasonable business hours, and subject to the needs of Lessee, to enter into and upon the property of Lessee for the purpose of inspecting the existence, condition and proper maintenance of the Equipment.

14. **Use; Maintenance.** Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair and working order.

15. **Title to the Equipment.** During the Term of this Lease, title to the Equipment shall remain in Lessor. Title to the Equipment shall be conveyed to Lessee upon the occurrence of one of the following: (a) the exercise by Lessee of the purchase option under Section 22; or (b) the payment by Lessee of all sums required to be paid under this Lease as specified in the Lease Payment Schedule. Upon Lessee's exercise of the purchase option or Lessee's payment of all sums due under the Lease Payment Schedule, Lessor shall transfer free and clear title to Lessee.

16. **Financing Statements.** At Lessor's request, Lessee shall join Lessor in executing any necessary or appropriate Financing Statements indicating its obligation under this Lease.

17. **Taxes, Other Governmental Charges and Utility Charges.** The parties to this Lease contemplate that the Equipment will be used for governmental purposes of Lessee and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with

respect to such Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee shall pay such taxes or charges as the same may become due.

18. **Insurance.** Lessee is self-insured for all risk, physical damage, and public liability and will provide proof of such self-insurance in letterform together with a copy of the statute authorizing this form of insurance.

19. **Risk of Loss or Damage.** Lessee shall assume all risk of loss, theft, damage to, or destruction of the Equipment for any cause ("Loss or Damage") upon acceptance, as described in Section 11. In the event of Loss or Damage to the Equipment, Lessee shall promptly report the same to Lessor and concerned governmental agencies. Lessee shall not be relieved of its obligation to pay Lease Payments or to perform any other obligations under this Lease by reason of any Loss or Damage. In the event of any Loss or Damage, Lessee shall either: (a) promptly replace lost Equipment or promptly repair damaged Equipment and place it in good repair and working condition and continue to make all Lease Payments; or (b) within sixty (60) business days of notifying Lessor that the Equipment will not be repaired, pay Lessor the outstanding principal balance and any unpaid accrued interest as of the payoff date, as described in the Lease Payment Schedule. Lessee shall have the right to retain any residual insurance benefit, which remains after payment to Lessor of the outstanding principal balance and unpaid accrued interest.

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

21. **Vendor's Warranties.** Upon execution of this Lease, Lessor irrevocably appoints Lessee as its agent and attorney-in-fact during this Lease, so long as Lessee shall not be in default under this Lease, to assert from time to time whatever claims and rights, including, but not limited to, warranties, relating to the Equipment that Lessor may have against Vendors. The term "Vendors" means any supplier or manufacturer of the Equipment, as well as agents or representatives of those suppliers or manufacturers. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against Vendors of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor with respect to this Lease, including the right to receive full and timely payments under this Lease. Lessee acknowledges that Lessor makes, and has made, no representations regarding the existence or availability of warranties made by Vendors.

22. **Purchase Option.** Lessee reserves the unilateral right to exercise a purchase option for the Equipment. Lessee may exercise this right by paying to Lessor a "Concluding Payment", based on the payment terms specified in the Lease Payment Schedule. The Concluding Payment for a given date shall be defined as the sum of the outstanding principal balance as of that date, plus any unpaid accrued interest as of that date, plus any prepayment premium, plus one dollar (\$1.00). Upon receiving payment of the Concluding Payment, Lessor shall transfer any and all of its rights, title, and interest to the Equipment and covenant to Lessee that the Equipment is free of any liens or encumbrances.

23. **Assignment.** Lessor's right, title and interest in and to this Lease, including Lease Payments and any other amounts payable by Lessee thereunder and all proceeds therefrom, may

only be assigned and reassigned to one or more assignees or subassignees by Lessor with the written consent of Lessee, which shall not be unreasonably withheld. Assignments may include without limitation assignment of all of Lessor's security interest in and to the Equipment listed in this Lease and all rights in, to and under the Lease related to such Equipment. Notwithstanding the above, Lessee hereby agrees that Lessor may, without the consent of Lessee, but with notice to Lessee, sell, dispose of, or assign this Lease through a pool, trust, limited partnership, or other similar entity, whereby one or more interests are created in this Lease, or in the Equipment listed in or the Lease Payments under a Lease. In accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended, Lessor shall keep a record of all such assignments and provide written notice to Lessee. Lessor agrees to continue servicing the Lease or arrange for a servicer with equal standards of high quality. Lessor also agrees remittance will remain with a single servicer.

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

24. Lessee Default. Any of the following events shall constitute an "Event of Default" under this Lease: (a) failure by Lessee to pay any Lease Payment due under the Lease Payment Schedule or other payment required to be paid under this Lease at the time specified therein; (b) failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of thirty (30) business days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor; or (c) any representation or warranty made by Lessee in or pursuant to this Lease proves to be false in any material respect when made and such breach of representation and warranty is not cured within ten (10) business days of Lessee's receipt of written notice of such breach.

25. Lessor Default. Any of the following events shall constitute an "Event of Default" under this Lease: (a) failure by Lessor to, at the request of the Lessee, promptly forward payment to the Vendor for the Equipment after receipt of fully executed documents including a Certificate of Acceptance, pursuant to Section 12; (b) failure by Lessor to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of thirty (30) business days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor; (c) failure to convey clear title; or (d) any representation or warranty made by Lessor in or pursuant to this Lease proves to be false in any material respect when made and such breach of representation and warranty is not cured within ten (10) business days of Lessee's receipt of written notice of such breach.

26. Lessor's Remedies on Default by Lessee. Whenever Lessee defaults, and the default is not cured within the period specified in Section 24, Lessor shall have the right, at its sole option without any further demand, to take one of the following remedial steps: (a) by written notice to Lessee, declare all Lease Payments payable to the end of the period for which an appropriation has been made, to be immediately due and payable; (b) take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Lease or as a secured party in any or all of the Equipment including peaceably obtaining possession of the Equipment

27. Lessee's Remedies on Default by Lessor. Whenever Lessor defaults and the default is not cured within the period specified in Section 25, Lessee shall have the right, at its sole option without any further demand, to take one of the following remedial steps: (a) procure

comparable equipment from other sources; (b) take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Lease.

28. **No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lessor or Lessee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease now or hereafter existing at law or in equity.

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

30. **Indemnification.** Lessor does hereby agree to indemnify, defend, and hold Lessee harmless from and against any and all claims, losses, costs, attorneys' fees, and expenses arising out of or related to the breach of Lessor's representations under this Lease.

31. **Miscellaneous Provisions.** This Lease constitutes the complete and exclusive agreement and understanding of the parties as it relates to this transaction. This Lease supersedes all proposals, or other prior agreements, and all other communications, oral or written, between the parties relating to this Lease and the Equipment described herein. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns. References herein to "Lessor" shall be deemed to include each of its assignees and subsequent assignees from and after the effective date of each assignment as permitted by Section 23. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof. This Lease may be amended by mutual written consent of Lessor and Lessee. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of this Lease.

32. **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State of Michigan.

33. **Statutory Obligations.** This Lease may be cancelled by Lessee provided Lessor is notified in writing at least thirty (30) business days prior to the effective date of cancellation and any of the following occur: (a) Lessor or any subcontractor, manufacturer, or supplier of Lessor appears in the register compiled by the Michigan Department of Labor pursuant to 1980 PA 278, as amended, MCL 423.321 et seq. (Employers Engaging in Unfair Labor Practices Act); (b) Lessor or any subcontractor, manufacturer, or supplier of Lessor is found liable for discrimination, pursuant to 1976 PA 453, as amended, MCL 37.2101 et seq (Elliott-Larsen Civil Rights Act) or 1976 PA 220, as amended, MCL 37.1101 et seq (Persons With Disabilities Civil Rights Act).

34. **Nondiscrimination.** Lessor shall comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq. and the Persons With Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 et seq. (Persons With Disabilities Civil Rights Act), and all other federal, state and local fair employment practices and equal opportunity laws, and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability

to perform the duties of a particular job or position. Lessor agrees to include in every subcontract entered into for the performance of this contract this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Lease.

35. **Electronic Payment Requirement.** Electronic transfer of funds is required for payments on State Contracts. Contractors are required to register with the State electronically at <http://www.cpexpress.state.mi.us>. As stated in Public Act 431 of 1984, all contracts that the State enters into for the purchase of goods and services shall provide that payment will be made by electronic fund transfer (EFT).

36. The Lease contemplates that the parties will enter into an escrow agreement with U.S. Bank National Association, as escrow agent "Escrow Agent", in which Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment ("Purchase Price"), being \$1,267,922.00 with Escrow Agent to be held in escrow and applied on the express terms of the Escrow Agreement. The deposit, together with all interest ("Escrow Fund") is to be applied to pay the Vendor its invoice cost (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee); and, if applicable, to reimburse Lessee for progress payments already made by it to the Vendor of the Equipment.

Lessor and Lessee have caused this Lease to be executed in their names by their duly authorized representatives as of the date first above written.

Lessor: **PNCFF, LLC, dba PNC Equipment Finance**

Name: _____

(signature)

DATE 11/17/2010

Name: Ralph M. Martinez

(print)

Title: COO

Fed. I.D. 22-1146430

Lessee: **MICHIGAN DEPARTMENT OF CORRECTIONS, AN
AGENCY OF THE STATE OF MICHIGAN**

Name: _____

(signature)

DATE 11/18/10

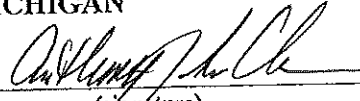
Name: Barry L Wickman

(print)

Title: Administrator

Michigan Department of Corrections

Lessee: MICHIGAN DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET AN AGENCY OF THE STATE
OF MICHIGAN

Name:  DATE 11/18/10
(signature)

Name: ANTHONY J. DES CHENES
(print)

Title: DIRECTOR, COMM. DIV.
Michigan Department of Technology, Management and Budget

Exhibit A

SCHEDULE OF PROPERTY NO. 1

RE: LEASE WITH OPTION TO PURCHASE AGREEMENT entered into as of November 18 2010, ("Lease"), between *PNCEF, LLC, dba PNC Equipment Finance* ("Lessor") and State of Michigan, Department of Technology, Management and Budget and State of Michigan Department of Corrections ("Lessee"). All terms used and not otherwise defined herein have the meaning ascribed to them in the Lease.

One hundred percent of the financing costs will be used to acquire assets that will be capitalized.

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

DESCRIPTION OF EQUIPMENT		
Qty	Model	Description
Energy Performance Contract Equipment as Described in Contract No. 071B1300085		
Total Cost \$1,366,057.80		

Lessee hereby represents warrants and covenants that its representations, warranties and covenants set forth in the Lease are true and correct as though made on the Commencement Date of Installment Payments under this Schedule. The terms and provisions of the Lease are hereby incorporated into this Schedule by reference and made a part hereof.

Dated Date:

Lessee: State of Michigan, Department of
Technology, Management and Budget

By: 

Name: ANTHONY J. SEB CHENEY
(PRINT)

Title: DIRECTOR, COMM. DIV.

Date: 11/18/10

Lessor: *PNCEF, LLC dba PNC Equipment Finance*

By: 

Name: Ralph M. Martinez
(PRINT)

Title: COO

Date: 11/17/2010

Lessee: State of Michigan, Department of
Corrections

By: 

Name: Barry L. Wickman
(PRINT)

Title: Administrator

Date: 11/18/10

EXHIBIT B

FINAL ACCEPTANCE CERTIFICATE

Re: Schedule of Property No. 1, dated November 18, 2010 to Lease, dated as of November 18, 2010, between PNC Equipment Finance, as Lessor, and State of Michigan, Department of Technology, Management and Budget, and State of Michigan Department of Corrections as Lessee.

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

- (1) All of the Equipment (as such term is defined in the Lease) listed in the above-reference Schedule of Property (the "Schedule") has been delivered, installed, and accepted on the date hereof.
- (2) Lessee has conducted such inspection and/or testing of the Equipment listed in the Schedule, as it deems necessary and appropriate pursuant to Section 12 of this Lease, and hereby acknowledges that it accepts the Equipment for all purposes.
- (3) Lessee is self insured as provided in Section 18 of the Lease.
- (4) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.

LESSEE

State of Michigan, Department of Technology, Management and Budget

By: _____

Title: _____

Acceptance Date: _____

And

State of Michigan, Department of Corrections

By: _____

Title: _____

Acceptance Date: _____

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

P.O. Box 30754
LANSING, MICHIGAN 48909

November 17, 2010

Sergio Paneque, Senior Deputy Director
Business Services Administration
Department of Technology, Management and Budget
2nd Floor – Stevens T. Mason Building
P.O. Box 30026
Lansing, MI 48909

Dear Mr. Paneque:

Re: Opinion of Counsel: Lease with Option to Purchase dated November 18, 2010 between PNCEF, LLC dba PNC Equipment Finance, as Lessor, and State of Michigan, Department of Technology, Management and Budget, as Lessee
Energy Conservation Measures Equipment Contract No. 071B1300085 with
Chevron Energy Solutions Company
Agency: Department of Corrections for Kinross Correctional Facility

In my capacity as an Assistant Attorney General, I have examined the referenced Lease with Option To Purchase (Lease), dated November 18, 2010, Lease Addendum, Escrow Agreement, and Exhibits between PNCEF, LLC dba PNC Equipment Finance (Lessor) and the State of Michigan, Department of Technology, Management and Budget (Lessee), including a completed copy of the Lease's Equipment Schedule, between Lessor and Lessee (Equipment Schedule). This opinion is based on, and limited to the review of, the documents described above for this lease transaction and assumes that the Lease and its exhibits will be properly executed by the Parties.

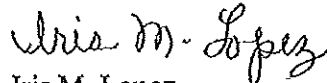
Based on the above, I am of the following opinion:

- (1) Lessee is one of the principal state departments of the State of Michigan.
- (2) Lessee has the requisite power and authority to: lease; acquire the Equipment with an option to purchase; execute and deliver the Lease, and perform its obligations under the Lease.
- (3) The Lease has been duly authorized, executed, and delivered by and on behalf of Lessee; the Lease is a valid and binding obligation of Lessee; and enforceable in accordance with its terms.

Sergio Paneque
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November 17, 2010

- (4) To the best of my knowledge, the authorization, execution, and delivery of the Lease and all other proceedings of Lessee relating to the Lease transaction have been performed in accordance with open meetings, public bidding and all other applicable state or federal laws.
- (5) The person signing the Lease for the State of Michigan is a duly authorized representative of Lessee pursuant to 1984 PA 431.

Sincerely,


Iris M. Lopez
Assistant Attorney General
State Operations Division
Tel: (517) 373-1162

IML/dab

Enc.

c: Anthony Des Chenes, DTMB ✓

2010-0932018-A/Equipment Lease Review PNC/Chevron/ Paneque Memo 111710



**ARTICLE 6. CONSTRUCTION SCHEDULE AND EQUIPMENT INSTALLATION;
APPROVAL**

Section 6.1. Construction Schedule; Equipment Installation

Construction and equipment installation must proceed in accordance with the construction schedule approved by DTMB and Agency and attached as Schedule G - Construction and Equipment Installation Schedule.

All equipment/installation work associated with this Contract, such as construction contracts for installation of energy saving equipment, must comply with all applicable federal, state and local Laws including health and safety regulations, environmental protection, permits and licensing.

Section 6.2. Systems Startup and Equipment Commissioning

The ESCO must conduct a thorough and systematic performance test of each element and total system of the installed Equipment in accordance with the procedures specified in Schedule H - Systems Start-Up and Commissioning of Equipment; Operating Parameters of Installed Equipment and prior to acceptance of the project by DTMB and Agency as specified in Exhibit II (ii) - Certificate of Acceptance - Installed Equipment. Testing must be designed to determine if the Equipment is functioning in accordance with both its published specifications and the Schedules to this Contract, and to determine if modified building systems, subsystems or components are functioning properly within the new integrated environment. The ESCO must provide notice to DTMB and Agency of the scheduled test(s) and DTMB and Agency and/or its designees have the right to be present at all the tests conducted by ESCO and/or manufacturers of the Equipment. The ESCO is responsible for correcting and/or adjusting all deficiencies in systems and Equipment operations that may be observed during system commissioning procedures as specified in Schedule H - Systems Start-Up and Commissioning of Equipment; Operating Parameters of Installed Equipment. The Contractor is responsible for correcting and/or adjusting all deficiencies in Equipment operation that may be observed during system testing procedures. Prior to DTMB and Agency acceptance ESCO must also provide DTMB and Agency with reasonably satisfactory documentary evidence that the Equipment installed is the Equipment specified in Schedule A - Equipment to be Installed by ESCO.

ARTICLE 7. EQUIPMENT WARRANTIES - Refer to Section 2.120 Warranties

ESCO warrants that all equipment acquired and installed as part of this Contract is new, materially free from defects in materials or workmanship, will be installed properly in a good and workmanlike manner, and will function properly for a period of one (1) year from the date of the Substantial Completion for the particular energy conservation measure if operated and maintained in accordance with the procedures established per building. Substantial Completion shall be defined as the stage in the progress of the Work where the Work is sufficiently complete in accordance with the Contract Documents so that the Agency can utilize and take beneficial use of the Work for its intended use or purpose. Substantial Completion does not occur until the Equipment or system has been commissioned, accepted, and the "Substantial Completion" form fully executed.



SCHEDULE G. CONSTRUCTION AND INSTALLATION SCHEDULE

Contract Term: 10/19/10 – 10/31/13
 Construction Period: 10/19/10 – 10/31/11
 M & V Period: 11/1/11 – 10/31/13

ID	Task Name	Duration	Start	Finish
1	Mobilization	30 days	10/19/2010	11/10/2010
2	Engineering/Design	45 days	10/19/2010	12/15/10
3	Permitting & Approvals	60 days	11/4/2010	1/26/11
4	Implement Lighting Retrofits	60 days	1/27/2011	4/20/11
5	Implement Water Retrofits	45 days	1/27/2011	3/30/11
6	Implement Controls Retrofits	90 days	1/27/2011	6/1/11
7	Implement Steam Plant Decoupling	150 days	1/27/2011	8/24/11
8	Commissioning & Substantial Completion	35 days	8/25/2011	10/12/11
9	Training	5 days	10/13/2011	10/19/11
10	Final Completion	3 days	10/27/2011	10/31/11

SCHEDULE H. SYSTEMS START-UP AND COMMISSIONING OF EQUIPMENT; OPERATING PARAMETERS OF INSTALLED EQUIPMENT

All equipment installed by Chevron ES under this contract will have factory start-up and will be commissioned to ensure that all equipment is functioning properly before final completion. Warranty is parts and labor for one year from receiving beneficial use and manufacturers' warranties.

Refer to Schedule A – Equipment to be Installed by ESCO for equipment information.

KINROSS CORRECTIONAL FACILITY EQUIPMENT SCHEDULE

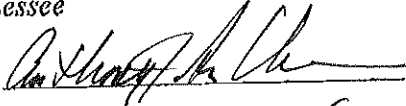
<u>Description</u>	<u>Manufacturer</u>	<u>Quantity</u>	<u>Model #</u>	<u>Total Cost</u>
Unit Heater	Trane	34	HBAC-45	\$ 144,806
Furnace	Trane	10	GSAA-40	\$ 92,340
AC Unit	Trane	9	TTA-090	\$ 70,803
Boiler	Aerco	5	BMK3 GF116	\$ 224,390
DDC Controllers & Software	ALC	11	ME-LRG	\$ 472,908
DDC Ctrl Devices	Siemens	296	GMA Series	\$ 251,600
Induction Lighting Fixtures	Everlast	66	EFL-ED-100W	\$ 11,075
				\$ 1,267,922.50

Payment Schedule – Exhibit A-1
Lease With Option To Purchase Agreement dated as of November 18, 2010

	Date	Payment	Interest	Principal	Balance	Termination Value
1	12/18/2010	0.00	2,240.00	2,240.00-	1,270,162.00	1,295,565.24
2	1/18/2011	0.00	2,243.95	2,243.95-	1,272,405.95	1,297,854.07
3	2/18/2011	0.00	2,247.92	2,247.92-	1,274,653.87	1,300,146.95
4	3/18/2011	0.00	2,251.89	2,251.89-	1,276,905.76	1,302,443.88
5	4/18/2011	0.00	2,255.87	2,255.87-	1,279,161.63	1,304,744.86
6	5/18/2011	0.00	2,259.85	2,259.85-	1,281,421.48	1,307,049.91
7	6/18/2011	0.00	2,263.84	2,263.84-	1,283,685.32	1,309,359.03
8	7/18/2011	0.00	2,267.84	2,267.84-	1,285,953.16	1,311,672.22
9	8/18/2011	0.00	2,271.85	2,271.85-	1,288,225.01	1,313,989.51
10	9/18/2011	0.00	2,275.86	2,275.86-	1,290,500.87	1,316,310.89
11	10/18/2011	0.00	2,279.88	2,279.88-	1,292,780.75	1,318,636.37
12	11/18/2011	0.00	2,283.91	2,283.91-	1,295,064.66	1,320,965.95
13	12/18/2011	22,767.63	2,287.95	20,479.68	1,274,584.98	1,300,076.68
14	1/18/2012	22,767.63	2,251.77	20,515.86	1,254,069.12	1,279,150.50
15	2/18/2012	22,767.63	2,215.52	20,552.11	1,233,517.01	1,258,187.35
16	3/18/2012	22,767.63	2,179.21	20,588.42	1,212,928.59	1,237,187.16
17	4/18/2012	22,767.63	2,142.84	20,624.79	1,192,303.80	1,216,149.88
18	5/18/2012	22,767.63	2,106.40	20,661.23	1,171,642.57	1,195,075.42
19	6/18/2012	22,767.63	2,069.90	20,697.73	1,150,944.84	1,173,963.74
20	7/18/2012	22,767.63	2,033.34	20,734.29	1,130,210.55	1,152,814.76
21	8/18/2012	22,767.63	1,996.71	20,770.92	1,109,439.63	1,131,628.42
22	9/18/2012	22,767.63	1,960.01	20,807.62	1,088,632.01	1,110,404.65
23	10/18/2012	22,767.63	1,923.25	20,844.38	1,067,787.63	1,089,143.38
24	11/18/2012	22,767.63	1,886.42	20,881.21	1,046,906.42	1,067,844.55
25	12/18/2012	22,767.63	1,849.53	20,918.10	1,025,988.32	1,046,508.09
26	1/18/2013	22,767.63	1,812.58	20,955.05	1,005,033.27	1,025,133.94
27	2/18/2013	22,767.63	1,775.56	20,992.07	984,041.20	1,003,722.02
28	3/18/2013	22,767.63	1,738.47	21,029.16	963,012.04	982,272.28
29	4/18/2013	22,767.63	1,701.32	21,066.31	941,945.73	960,784.64
30	5/18/2013	22,767.63	1,664.10	21,103.53	920,842.20	939,259.04
31	6/18/2013	22,767.63	1,626.82	21,140.81	899,701.39	917,695.42
32	7/18/2013	22,767.63	1,589.47	21,178.16	878,523.23	896,093.69
33	8/18/2013	22,767.63	1,552.06	21,215.57	857,307.66	874,453.81
34	9/18/2013	22,767.63	1,514.58	21,253.05	836,054.61	852,775.70
35	10/18/2013	22,767.63	1,477.03	21,290.60	814,764.01	831,059.29
36	11/18/2013	22,767.63	1,439.42	21,328.21	793,435.80	809,304.52
37	12/18/2013	22,767.63	1,401.74	21,365.89	772,069.91	787,511.31
38	1/18/2014	22,767.63	1,363.99	21,403.64	750,666.27	765,679.60
39	2/18/2014	22,767.63	1,326.18	21,441.45	729,224.82	743,809.32
40	3/18/2014	22,767.63	1,288.30	21,479.33	707,745.49	721,900.40
41	4/18/2014	22,767.63	1,250.35	21,517.28	686,228.21	699,952.77
42	5/18/2014	22,767.63	1,212.34	21,555.29	664,672.92	677,966.38
43	6/18/2014	22,767.63	1,174.26	21,593.37	643,079.55	655,941.14
44	7/18/2014	22,767.63	1,136.11	21,631.52	621,448.03	633,876.99
45	8/18/2014	22,767.63	1,097.89	21,669.74	599,778.29	611,773.86

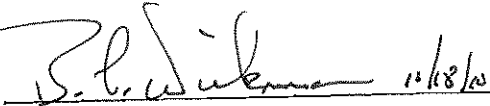
45	8/18/2014	22,767.63	1,097.89	21,669.74	599,778.29	611,773.86
46	9/18/2014	22,767.63	1,059.61	21,708.02	578,070.27	589,631.68
47	10/18/2014	22,767.63	1,021.26	21,746.37	556,323.90	567,450.38
48	11/18/2014	22,767.63	982.84	21,784.79	534,539.11	545,229.89
49	12/18/2014	22,767.63	944.35	21,823.28	512,715.83	522,970.15
50	1/18/2015	22,767.63	905.80	21,861.83	490,854.00	500,671.08
51	2/18/2015	22,767.63	867.18	21,900.45	468,953.55	478,332.62
52	3/18/2015	22,767.63	828.48	21,939.15	447,014.40	455,954.69
53	4/18/2015	22,767.63	789.73	21,977.90	425,036.50	433,537.23
54	5/18/2015	22,767.63	750.90	22,016.73	403,019.77	411,080.17
55	6/18/2015	22,767.63	712.00	22,055.63	380,964.14	388,583.42
56	7/18/2015	22,767.63	673.04	22,094.59	358,869.55	366,046.94
57	8/18/2015	22,767.63	634.00	22,133.63	336,735.92	343,470.64
58	9/18/2015	22,767.63	594.90	22,172.73	314,563.19	320,854.45
59	10/18/2015	22,767.63	555.73	22,211.90	292,351.29	298,198.32
60	11/18/2015	22,767.63	516.49	22,251.14	270,100.15	275,502.15
61	12/18/2015	22,767.63	477.18	22,290.45	247,809.70	252,765.89
62	1/18/2016	22,767.63	437.80	22,329.83	225,479.87	229,989.47
63	2/18/2016	22,767.63	398.35	22,369.28	203,110.59	207,172.80
64	3/18/2016	22,767.63	358.83	22,408.80	180,701.79	184,315.83
65	4/18/2016	22,767.63	319.24	22,448.39	158,253.40	161,418.47
66	5/18/2016	22,767.63	279.58	22,488.05	135,765.35	138,480.66
67	6/18/2016	22,767.63	239.85	22,527.78	113,237.57	115,502.32
68	7/18/2016	22,767.63	200.05	22,567.58	90,669.99	92,483.39
69	8/18/2016	22,767.63	160.18	22,607.45	68,062.54	69,423.79
70	9/18/2016	22,767.63	120.24	22,647.39	45,415.15	46,323.45
71	10/18/2016	22,767.63	80.23	22,687.40	22,727.75	23,182.31
72	11/18/2016	22,767.63	39.88	22,727.75		1.00
Grand Totals		1,366,057.80	98,135.80	1,267,922.00		

State of Michigan, Department of
Technology, Management and Budget,
as Lessee

By: 

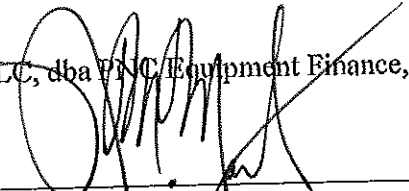
Name: ANTHONY J. SANCHEZ
Title: DIRECTOR, COMM. DIV.

State of Michigan, Department of Corrections,
as Lessee

By:  11/18/16

Name: Barry L. Wickman
Title: Administrator

PNCER, LLC, dba PNC Equipment Finance,
as Lessor

By: 

Name: Ralph M. Martinez
Title: COO

LEASE PAYMENT INSTRUCTIONS

LESSEE NAME: State of Michigan

INVOICE MAILING ADDRESS:

Department of Corrections
Finance
PO Box 30003
Lansing, MI 48909

Mail invoices to the attention of: Chief Accountant

Approval of Invoices required by: N/A

Phone () Fax ()

Accounts Payable Contact: Same as above

Phone () Fax ()

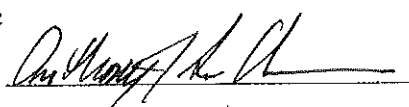
Processing time for
Invoices: Approval: Checks:

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

Do your Purchase order numbers change annually? No _____ Yes ☒ at the beginning of every fiscal year.

Processing time for new purchase orders: October 1st of every year.

LESSEE:

By: 

Title: Dir. Comm. Div.

Date: 11/18/10

LEASE ESCROW ADDENDUM
Dated As of November 18, 2010

Lease with Option to Purchase No. 071B1300122 Dated November 18, 2010

Lessee: State of Michigan

Reference is made to the above Lease with Option to Purchase ("Lease") by and between PNCEF, LLC dba PNC Equipment Finance ("Lessor") and the above lessee ("Lessee"). This Addendum amends and modifies the terms and conditions of the Lease and is hereby made a part of the Lease. Unless otherwise defined herein, capitalized terms defined in the Lease shall have the same meaning when used herein.

NOW, THEREFORE, as part of the valuable consideration to induce the execution of the Lease, Lessor and Lessee hereby agree to amend the Lease as follows:

1. *Escrow Agreement* means the Escrow Agreement relating to a Lease, dated the Commencement Date under such Lease among Lessor, Lessee and the escrow agent therein identified, with respect to the Escrow Fund established and to be administered thereunder. *Escrow Fund* means the fund of that name established pursuant to an Escrow Agreement.
2. Lessee and Lessor together with a mutually acceptable escrow agent agree to enter into an escrow agreement (Escrow Agreement) establishing a fund ("Equipment Acquisition Fund") from which the Purchase Price of the Equipment will be paid. The terms and conditions of the Escrow Agreement shall be satisfactory in form and substance, to Lessor and Lessee.
3. In order to provide financing to pay the costs to acquire and install the Equipment ("*Total Amount Financed*") as described in a Lease, Lessor and Lessee hereby agree to execute and deliver an Escrow Agreement relating to such Lease on the date on which the funding conditions for such Lease are satisfied. If Lessee signs and delivers a Lease and an Escrow Agreement and if all funding conditions have been satisfied in full, then Lessor will deposit or cause to be deposited into an Escrow Fund under the related Escrow Agreement an amount (which may include estimated investment earnings thereon) equal to the Purchase Price for the Equipment to be financed under the related Lease.
4. Lessee shall, at its sole expense, arrange for the transportation, delivery and installation of all Equipment to the location specified in the Lease ("*Location*") by Equipment suppliers ("*Suppliers*") selected by Lessee. Lessee shall accept Equipment for purposes of the related Lease as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor a Certificate of Acceptance in the form and manner required by the applicable Escrow Agreement.
5. If a Non-Appropriation Event or an Event of Default occurs prior to Lessee's acceptance of all the Equipment under the related Lease, the amount then on deposit in the Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in whole on the first business day of the month next succeeding the occurrence of either such Event plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 5 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds and other moneys available for such purpose as a result of the

exercise by Lessor of its rights and remedies under the related Lease. Any funds on deposit in the Escrow Fund on the prepayment date described in this Section 5 in excess of the unpaid principal component of the Rent Payments to be prepaid plus accrued interest thereon to the prepayment date shall be paid promptly to Lessee.

6. To the extent that Lessee has not accepted items of Equipment before the eighteen-month anniversary of the Commencement Date identified on the related Lease, the amount then on deposit in the related Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in part, in inverse order of Rent Payments, on the first business day of the next month plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 6 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds. Notwithstanding any such partial prepayment, the related Lease shall remain in full force and effect with respect to the portion of the Equipment accepted by Lessee during such eighteen-month period, and the portion of the principal component of Rent Payments remaining unpaid after such prepayment plus accrued interest thereon shall remain payable in accordance with the terms of the related Lease. Upon Lessor's request, Lessee shall execute an amendment to the related Payment Lease that reflects the change to the Rent Payments as a result of such partial prepayment.
7. At Lessor's request, Lessee shall join Lessor in executing any necessary or appropriate Financing Statements indicating its obligation under the Lease. Notwithstanding this Section 7, the provisions of Section 1 of the Escrow Agreement remain in force.
8. The Lease Term of the Lease shall commence on the earlier of the date specified in the Payment Schedule to the Lease or the date of Lessor's deposit of funds into the Equipment Acquisition Fund. Notwithstanding the statements regarding delivery and acceptance of the Equipment in the Lease, the parties acknowledge that the Equipment will be delivered or installed as provided in the Escrow Agreement.
9. The delivery of documents and the satisfaction of any other conditions required by the Escrow Agreement or this Addendum shall be additional Funding Conditions for the Lease.
10. Upon Lessee's execution of the Escrow Agreement, Lessee hereby represents to Lessor that:
 - (a) Lessee has full power, authority and legal right to execute and deliver the Escrow Agreement and to perform its obligations under the Escrow Agreement, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;
 - (b) the Escrow Agreement has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligations of Lessee, enforceable in accordance with its terms; and
 - (c) the Escrow Agreement is authorized under, and the authorization, execution and delivery of the Escrow Agreement complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and public investment (laws) and all applicable judgments and court orders.
11. The opinion of Lessee's legal counsel will include the following statements:
 - Lessee is one of the principal state departments of the State of Michigan.

- Lessee has the requisite power and authority to: lease; to acquire the Equipment with an option to purchase; to execute and deliver the Lease, and to perform its obligations under the Lease.
- The Lease has been duly authorized, executed, and delivered by and on behalf of Lessee; the Lease is a valid and binding obligation of Lessee; and enforceable in accordance with its terms.
- To the best of my knowledge, the authorization, execution, and delivery of the Lease and all other proceedings of Lessee relating to the Lease transaction have been performed in accordance with open meetings, public bidding and all other applicable state or federal laws.
- The person signing the Lease for the State of Michigan is a duly authorized representative of Lessee pursuant to 1984 PA 431.


12. It shall be an additional event of default under the Lease if lessee fails to pay or perform any of its obligations under the Escrow Agreement or this Addendum or if any of the representations of Lessee in the Escrow Agreement or this Addendum prove to be false, misleading or erroneous in any material respect.

Except as expressly amended by this Addendum and other modifications signed by Lessor, the Lease remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first referenced above.

(Lessee)

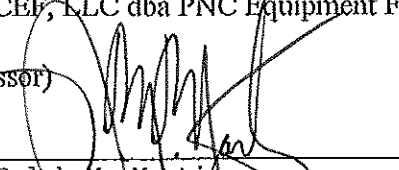
By:


Dir. Comm. Div.
11/18/10

PNCEF, LLC dba PNC Equipment Finance

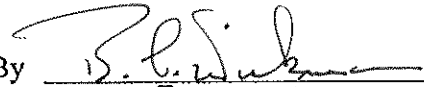
(Lessor)

By


Ralph M. Martinez

«LesseeName», as Lessee

By

 11/18/10
Name: Barry L. Wreckman
Title: Administrator

Address: «LesseeStreet»

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("*Escrow Agreement*") is made as of November 18, 2010 by and among PNCEF, LLC, DBA PNC EQUIPMENT FINANCE ("*Lessor*"), State of Michigan, Department of Technology, Management and Budget ("*Lessee*") and U.S. BANK NATIONAL ASSOCIATION, as escrow agent ("*Escrow Agent*"). Lessor and Lessee have heretofore entered into that certain equipment lease; Lease with Option To Purchase Agreement dated as of November 18, 2010 (the "*Lease*") and a Schedule of Property No 141755000 thereto dated November 18, 2010 (the "*Schedule*" the "*Lease*"). The Lease contemplates that certain equipment described therein (the "*Equipment*") is to be acquired from Energy Systems Group, LLC for an energy performance contract ("*Vendor*"). After acceptance of the Equipment by Lessee, the Equipment is to be leased by Lessor to Lessee pursuant to the terms of the Lease.

The Lease further contemplates that Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment (the "*Purchase Price*"), being \$1,267,922.00, with Escrow Agent to be held in escrow and applied on the express terms set forth herein. Such deposit, together with all interest (hereinafter the "*Escrow Fund*") is to be applied to pay the Vendor its invoice cost (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee); and, if applicable, to reimburse Lessee for progress payments already made by it to the Vendor of the Equipment.

The parties desire to set forth the terms on which the Escrow Fund is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. (a) Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. (b) The moneys and investments held in the Escrow Fund are irrevocably held in trust for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor. Lessor, Lessee and Escrow Agent intend that the Escrow Fund constitute an escrow account in which Lessee has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement of funds by the Escrow Agent therefrom. However, if the parties' intention that Lessee shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that Lessor have a security interest in the Escrow Fund, and such security interest is hereby granted by Lessee to secure payment to the Lessor of all obligations in accordance with the Lease terms. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Escrow Fund, the Lessor's interest therein.

2. On such day as is determined to the mutual satisfaction of the parties (the "*Closing Date*"), Lessor shall deposit with Escrow Agent cash in the amount of the Purchase Price, to be held in escrow by Escrow Agent on the express terms and conditions set forth herein.

On the Closing Date, Escrow Agent agrees to accept the deposit of the Purchase Price by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto, as the Escrow Fund hereunder, in escrow on the express terms and conditions set forth herein.

3. Escrow Agent shall at all times segregate the Escrow Fund into an account maintained for that express purpose, which shall be clearly identified on the books and records of Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the Escrow Fund from time to time shall be held or registered in the name of Escrow Agent (or its nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. The cash comprising the Escrow Fund from time to time shall be invested and reinvested by Escrow Agent in one or more investments as directed by Lessee in Exhibit 1. Escrow Agent will use due diligence to collect amounts payable under a check or other instrument for the payment of money comprising the Escrow Fund and shall promptly notify Lessee and Lessor in the event of dishonor of payment under any such check or other instruments.. Interest or other amounts earned and received by Escrow Agent with respect to the Escrow Fund shall be deposited in and comprise a part of the Escrow Fund.

5. Upon request by Lessee and Lessor, Escrow Agent shall send monthly statements of account to Lessee and Lessor, which statements shall set forth all withdrawals from and interest earnings on the Escrow Fund, as well as the investments in which the Escrow Fund is invested.

6. Escrow Agent shall take the following actions with respect to the Escrow Fund:

(a) Upon Escrow Agent's acceptance of the deposit of the Purchase Price, an amount equal to Escrow Agent's set-up fee, as set forth on Exhibit 2 hereto, shall be disbursed from the Escrow Fund to Escrow Agent in payment of such fee.

(b) From time to time, Escrow Agent shall pay to the Vendor of the Equipment payments then due and payable with respect thereto upon receipt of duly executed Requisition Request and Certificate of Acceptance form attached as Exhibit 3 hereto, subject to Lessor's prior written approval of each such Requisition Request and Certificate of Acceptance.

(c) If an Event of Default or Non-Appropriation Event occurs under the Lease prior to the Lessee's acceptance of all the Equipment or to the extent that funds have not been disbursed from the Escrow Fund within the eighteen-month period identified in the Lease, funds then on deposit in the Escrow Fund shall be applied to the prepayment of Rent Payments under the Lease as instructed by Lessor.

(d) Upon receipt by Escrow Agent of written notice from Lessor that the purchase price of the Equipment has been paid in full, Escrow Agent shall apply the then remaining Escrow Fund, first, to all outstanding fees and expenses incurred by Escrow Agent in connection herewith as evidenced by its statement forwarded to Lessor and Lessee, and, second, to Lessor for application against the interest component of Rent Payments under the Lease as provided therein, unless otherwise agreed by Lessor.

(e) If the Escrow is canceled in accordance with provisions of Section 15, prior to the Lessee's acceptance of all the Equipment, or if the Escrow is canceled prior to the disbursement of all funds from the Escrow Fund, then any Funds in the Escrow Fund shall be used solely as a prepayment of Rent Payments under the Lease.

7. The fees and expenses, including any legal fees, of Escrow Agent incurred in connection herewith shall be the responsibility of Lessee. The basic fees and expenses of Escrow Agent shall be as set forth on Exhibit 2 hereto and Escrow Agent is hereby authorized to deduct such fees and expenses from the Escrow Fund as and when the same are incurred without any further authorization from Lessee or Lessor. Escrow Agent may employ legal counsel and other experts as it deems necessary for advice in connection with its obligations hereunder. Escrow Agent waives any claim against Lessor with respect to compensation hereunder.

8. Escrow Agent shall have no liability for acting upon any written instruction presented by Lessor in connection with this Escrow Agreement, which Escrow Agent in good faith believes to be genuine. Furthermore, Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own negligence, willful misconduct or bad faith. Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investments made by Escrow Agent.

9. Escrow Agent may resign at any time by giving thirty (30) days' prior written notice to Lessor and Lessee. Lessor may at any time remove Escrow Agent as Escrow Agent under this Escrow Agreement upon written notice. Such removal or resignation shall be effective on the date set forth in the applicable notice. Upon the effective date of resignation or removal, Escrow Agent will transfer the Escrow Fund to the successor Escrow Agent selected by Lessor.

10. This Escrow Agreement and the escrow established hereunder shall terminate upon receipt by Escrow Agent of the written notice from Lessor specified in Section 6(c) or Section 6(d) or Section 6(e) or terminated as provided in Section 15.

11. In the event of any disagreement between the undersigned or any of them, and/or any other person, resulting in adverse claims and demands being made in connection with or for any moneys involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall continue, and in so refusing Escrow Agent may refrain from making any delivery or other disposition of any moneys involved herein or affected hereby and in so doing Escrow Agent shall not be or become liable to the undersigned or any of them or to any person or party for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(a) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the moneys involved herein or affected hereby; or

(b) all differences shall have been adjusted by agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.

12. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, and shall be sufficiently given and served upon the other party if delivered (a) personally, (b) by United States registered or certified mail, return receipt requested, postage prepaid, (c) by an overnight delivery by a service such as Federal Express or Express Mail from which written confirmation of overnight delivery is available, or (d) by facsimile with a confirmation copy by regular United States mail, postage prepaid, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

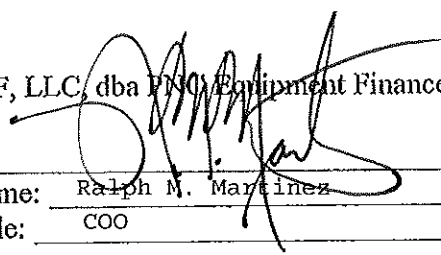
13. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor.

14. This Escrow Agreement shall be governed by and construed in accordance with the laws in the State of Michigan. This Escrow Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

15. Statutory Obligations. Subject to the provisions of Section 6(e), Lessee shall provide written notice to Lessor and Escrow Agent of any of the following; (a) Lessor or any subcontractor, manufacturer, or supplier of Lessor appears in the register compiled by the Michigan Department of Labor pursuant to 1980 PA 278, as amended, MCL 423.321 et seq. (Employers Engaging in Unfair Labor Practices Act); (b) Lessor or any subcontractor, manufacturer, or supplier of Lessor is found liable for discrimination, pursuant to 1976 PA 453, as amended, MCL 37.2101 et seq (Elliott-Larsen Civil Rights Act) or 1976 PA 220, as amended, MCL 37.1101 et seq (Persons With Disabilities Civil Rights Act). The written notice shall provide Lessor or Escrow Agent, as appropriate, with 30 days to cure its violation of subsections (a) or (b) above to the satisfaction of Lessee. If the Lessor and if appropriate, Escrow Agent, are unable to cure the violations of subsections (a) or (b), then at that time Lessee shall be entitled to, at its option, cancel this Escrow Agreement.

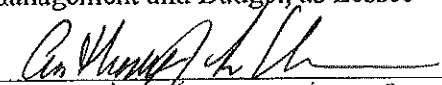
IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

PNCEF, LLC, dba PNC Equipment Finance, as Lessor

By 
Name: Ralph M. Martinez
Title: COO

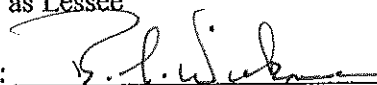
Address: 995 Dalton Avenue
Cincinnati, OH 45203

State of Michigan, Department of Technology,
Management and Budget, as Lessee

By 
Name: Anthony J. Ses Greenes
Title: DIR. COMA. DIV.

Address: 530 West Allegan
Lansing, MI 48933

State of Michigan, Department of Corrections, _
as Lessee

By 
Name: Barry L. Wickman
Title: Administrator

U.S. BANK NATIONAL ASSOCIATION, as Escrow
Agent

By _____
Name: _____
Title: _____

Address: 10 W. Broad St., 12th Floor
CN OH BD12
Columbus, OH 43215

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

PNCEF, LLC, dba PNC Equipment Finance, as Lessor

By _____
Name: _____
Title: _____

Address: 995 Dalton Avenue
Cincinnati, OH 45203

State of Michigan, Department of Technology,
Management and Budget, as Lessee

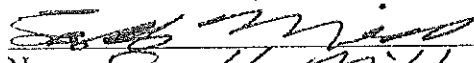
By _____
Name: _____
Title: _____

Address: 530 West Allegan
Lansing, MI 48933

State of Michigan, Department of Corrections,
as Lessee

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION, as Escrow
Agent

By 
Name: Scott Milby
Title: Vice President

Address: 10 W. Broad St., 12th Floor
CN OH BD12
Columbus, OH 43215

EXHIBIT 1

INVESTMENT DIRECTION LETTER

U.S. Bank National Association
10 W. Broad Street, 12th Floor
CN OH BD12
Columbus, OH 43215

Re: Escrow Agreement dated as of «Escrowdate»,
among PNCEF, LLC, dba PNC Equipment Finance, as Lessor,
State of Michigan, Department of Technology, Management and Budget, as Lessee, and
U.S. Bank National Association, as Escrow Agent

Ladies and Gentlemen:

Pursuant to the above-referenced Escrow Agreement, \$1,267,922.00 will be deposited in escrow with you on or about November 18, 2010. Such funds shall be invested in one or more of the following qualified investments in the amounts indicated:

- | | PLEASE CHECK DESIRED QUALIFIED INVESTMENTS: | AMOUNT OF INVESTMENT |
|----|--|----------------------|
| 1. | <input type="checkbox"/> Direct general obligations of the United States of America; | \$ _____ |
| 2. | <input type="checkbox"/> Obligations – the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; | \$ _____ |
| 3. | <input type="checkbox"/> General obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor; | \$ _____ |
| 4. | <input checked="" type="checkbox"/> Money market funds whose investment parameters target investments in securities as described above; | \$1,267,922.00 _____ |

IF NONE OF THE ABOVE BOXES ARE CHECKED, INVESTMENT SHALL BE MADE IN MONEY MARKET FUNDS AS DESCRIBED IN THE FOURTH CATEGORY ABOVE, UNTIL LESSEE DIRECTS OTHERWISE.

Very truly yours,

STATE OF MICHIGAN, DEPARTMENT OF TECHNOLOGY,
MANAGEMENT AND BUDGET, AS LESSEE

By: 
Name: S.R. Chandra
Title: S.R. Chandra, SIV.

EXHIBIT 2

ESCROW AGENT FEES AND EXPENSES

SET-UP FEES

N/A waived by Lessor - payable from the Escrow Fund upon acceptance of escrow deposit.

EXPENSES

Any and all out-of-pocket expenses incurred by Escrow Agent will be the responsibility of Lessee and paid from the Escrow Fund.

EXHIBIT 3

REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE No. _____
(to be submitted with each requisition request for payment to the vendor)

-or-

____ (√) FINAL REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE
(to be submitted with the final requisition request upon acceptance of the Equipment)

The Escrow Agent is hereby requested to pay from the Escrow Fund established and maintained under that certain Escrow Agreement dated as of November 18, 2010 (the "*Escrow Agreement*") by and among PNCEF, LLC, dba PNC Equipment Finance (the "*Lessor*"), State of Michigan, Department of Technology, Management and Budget (the "*Lessee*"), and U.S. Bank National Association (the "*Escrow Agent*"), the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee) with respect to equipment being leased under that certain Lease With Option To Purchase Agreement dated as of November 18 2010 (the "*Lease*") and Lease Schedule 141755000 thereto dated November 18, 2010 (the "*Schedule*" and, together with the terms and conditions of the Lease incorporated therein, the "*Lease*"), by and between the Lessor and the Lessee, and has not formed the basis of any prior requisition request.

PAYEE

AMOUNT

Total requisition amount \$ _____

The undersigned, as Lessee under the Lease hereby certifies:

1. The items of the Equipment, as such term is defined in the Lease, fully and accurately described on the Equipment List attached hereto have been delivered and installed at the location(s) set forth therein.

2. A present need exists for the Equipment which need is not temporary or expected to diminish in the near future. The Equipment is essential to and will be used by the Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority.

3. The estimated useful life of the Equipment based upon the manufacturer's representations and the Lessee's projected needs is not less than the Lease Term of lease with respect to the Equipment.

4. The Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes as of the date of this Certificate.

5. The Equipment is covered by insurance in the types and amounts required by the Lease.

6. No Event of Default or Non-Appropriation Event, as each such term is defined in the Lease, and no event which with the giving of notice or lapse of time, or both, would become such an Event of Default or Non-Appropriation Event has occurred and is continuing on the date hereof.

7. Sufficient funds have been appropriated by the Lessee for the payment of all Rent Payments due under the Lease during Lessee's current fiscal year.

8. Based on the foregoing, Lessor is hereby authorized and directed to fund the acquisition of the Equipment set forth on the Equipment List by paying, or causing to be paid, the manufacturer(s)/vendor(s) the amounts set forth on the attached invoices.

9. The following documents are attached hereto and made a part hereof:

- (a) Original Invoice(s);
- (b) Copies of Certificate(s) of Origin designating Lessor as lienholder if any part of the Equipment consists of motor vehicles, and evidence of filing; and
- (c) Requisition for Payment.

10. If this is the final acceptance of Equipment, then as of the Acceptance Date stated below and as between the Lessee and the Lessor, the Lessee hereby agrees that: (a) the Lessee has received and inspected all of the Equipment described in the Lease; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specification; (c) the Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) the Lessee waives any right to revoke such acceptance.

If Lessee paid an invoice prior to the commencement date of the Lease and is requesting reimbursement for such payment, also attach a copy of evidence of such payment together with a copy of Lessee's Declaration of Official Intent and other evidence that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. §1.150-2.

Acceptance Date: _____

State of Michigan, Department of Technology,
Management and Budget
as Lessee

By _____

Name: _____

Title: _____

Date: _____

State of Michigan, Department of Correction,
as Lessee

By _____
Name: _____
Title: _____
Date: _____

PNCEF, LLC dba PNC Equipment Finance,
as Lessor

By: _____
Title: _____
Date: _____

EXAMPLE

**U.S. BANK NATIONAL ASSOCIATION
MONEY MARKET ACCOUNT
DESCRIPTION AND TERMS**

The U.S. Bank Money Market account is an U.S. Bank National Association ("U.S. Bank") interest-bearing time deposit account designed to meet the needs of U.S. Bank's Corporate Trust Services Escrow Group and other Corporate Trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366) by applying a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank's discretion, and may be tiered based on customer deposit amount.

The owner of the account is U.S. Bank as Agent for its trust customers. U.S. Bank's trust department performs all account deposits and withdrawals. The deposit account is insured by the Federal Deposit Insurance Corporation up to \$100,000.

AUTOMATIC AUTHORIZATION

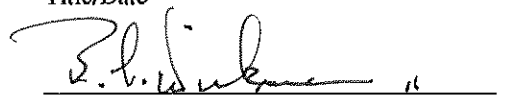
In the absence of specific written direction to the contrary, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Account.

State of Michigan, Department of Technology,
Management and Budget


Signature of Authorized Directing Party

DIRECTOR, COM. DIV.
Title/Date

State of Michigan, Department of Corrections


Signature of Authorized Directing Party
Administrator 11-18-10
Title/Date

144479000
Trust Account Number -- includes existing
and future sub-accounts unless otherwise directed