



APPROVED
11/4/2019

Nolan M. Fields IV
Assistant District Attorney | Civil Division
TULSA COUNTY DISTRICT ATTORNEY'S OFFICE
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TO: Board of County Commissioners
Karen Keith, Chairman
Stan Sallee
Ron Peters

DATE: October 31, 2019

REFERENCE: Agreement with ImageNet Consulting for the Addition of Panasonic Software to an Existing Equipment Leases, Reference No. 318537

Please place this item on the agenda for the next meeting of the Board of County Commissioners. It will not be necessary to review this matter in executive session. This document is presented for this Board's review and potential action. Please let me know if you have any questions.

Respectfully,

Nolan M. Fields IV

Nolan M. Fields IV
Assistant District Attorney

CC:
Gary Fisher, Admin. Servs. Director

CMF# 20190979

Lessee Information

| | | | | |
|--|-----------------|-------------------|--------------|------------------------------|
| Lessee Legal Name Board of County Commissioners Tulsa County, OK | | | | |
| Street Address Tulsa County Administrative Services Carol Crowson Annex Bldg. 633 West 3 rd Street | | | | |
| City Tulsa | County Tulsa | State Oklahoma | Zip 74127 | Phone Number 918-596-7746 |

Equipment Description

| Make and Type | Quantity | Model | Attachments | Serial Number |
|---------------|----------|----------|---|---------------|
| Panasonic | 5 | Software | 4x-500,000 & 1x1.25M Images a Month Compression Software with Support/Assurance | |
| Panasonic | 8 | Software | 8x1M Images Compression Software | |

| | | | | | |
|----------|--------------------------|----------------|------------------|--------------|---------------|
| Location | Address: 633 West 3rd | City: Tulsa | County: Tulsa | State: OK | Zip: 74127 |
|----------|--------------------------|----------------|------------------|--------------|---------------|

Terms and Payment Schedule

| | |
|-----------------------------|----------------------------------|
| Term in Months 30 | Lease Payment \$670.90 |
|-----------------------------|----------------------------------|

Lessee (Full Legal Name)
Board of County Commissioners Tulsa County, OK

By **X** *Nolan M. Fields IV* Chairman
Authorized Signature Title

Tulsa County Approval:

Approved as to form:

Nolan M. Fields IV Digitally signed by Nolan M. Fields IV
Date: 2019.10.31 12:45:09 -0500

Asst. District Attorney

Attest:

Michael Willis
Michael Willis, County Clerk



Certificate of Acceptance of Leased Equipment
We hereby acknowledge that on the date indicated below we received delivery of all the equipment described in the lease numbered above. The equipment is accepted by us as the Equipment described in the Lease and is satisfactory in all respects for the purposes of said Lease.

Lessee **X** _____
Authorized Signature Date

Terms and Conditions

The words YOU and YOUR mean the Lessee. The words WE, US, and OUR refer to the Lessor.

1. RENTAL ("AGREEMENT"): We agree to rent to you and you agree to rent from us the equipment listed above (Equipment). You promise to pay us the rental payment according to the payment schedule shown above. The parties intend this Agreement to be a finance lease under Article 2A of the Uniform Commercial Code and equipment will be quoted at fair market values at the end of the rental term unless otherwise specified in this Agreement. This Agreement is non-cancelable.

2. TERM AND RENT: The initial term shall commence on the day that any of the Equipment is delivered to you (the Commencement Date). The installments of rent shall be payable in advance, at the time and in the amounts provided above, commencing on the Commencement Date and subsequent payments shall be due on the same date of each successive period thereafter until all rent and any additional rent or expenses chargeable under this Agreement shall have been paid in full. Lessee obligation to pay the rent and other obligations hereunder shall be absolute and unconditional and are not subject to any abatement, set-off, defense or counter-claim for any reason whatsoever.

3. NO WARRANTIES: We are renting the Equipment to you "AS IS". WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THIS AGREEMENT. We transfer to you for the term of this Agreement any warranties made by manufacturer or supplier to us. NEITHER SUPPLIER NOR ANY AGENT OF SUPPLIER IS AN AGENT OF LESSOR OR IS AUTHORIZED TO WAIVE OR MODIFY ANY TERM OR CONDITION OF THE AGREEMENT.

4. OWNERSHIP: We are the owner of the Equipment and have title to the Equipment. To protect our rights in the Equipment, in the event this Agreement is determined to be a security agreement, you hereby grant to us a security interest in the Equipment and all proceeds, products, rents or profits therefrom. In state where permissible, you hereby authorize us to cause this Agreement or any statement or other instrument in respect to this Agreement showing our interest in the Equipment, including Uniform Commercial Code Financing Statements, to be filed or recorded and re-filed and re-recorded and grant us the right to execute your name thereto. You agree to execute and deliver any statement or instrument requested by us for such purpose. You agree to pay or reimburse us for any searches, filings, recordings, stamp fees or taxes related to the filing or recording of any such instrument or statement.

5. MAINTENANCE, RISK OF LOSS AND INSURANCE: You are responsible for installing and keeping the Equipment in good working order. Except for ordinary wear and tear, you are responsible for protecting the Equipment from damage and loss of any kind. If the equipment is damaged or lost you agree to continue to pay rent. You agree during the term of this Agreement, to keep the Equipment fully insured against damage and loss, naming us as the loss payee, to obtain a general public liability insurance policy from a company acceptable to us, including us as an additional insured on the policy. You agree to provide us certificates or other evidence of insurance. If you do not, you agree that we have the right but not the obligation to obtain such insurance, in which event you agree to pay us for all costs thereof.

7. TAXES AND FEES: You agree to pay when due or reimburse us for all taxes (including, but not limited to, any property taxes), fees, fines and penalties relating to use or ownership of the Equipment or to this Agreement, now or hereafter imposed, levied or assessed by any state, federal or local government or agency.

8. LOCATION OF EQUIPMENT: You will keep and use the Equipment only at your address shown above. You agree that the Equipment will not be removed from that address unless you get our written permission in advance to move it.

9. RENEWAL TERM: THIS LEASE IS IRREVOCABLE UNTIL TERMINATED AS PROVIDED HEREIN and Lessee's obligations hereunder shall not abate by reason of Lessor's taking of possession of the equipment or for any other reason. The term of this Lease shall be effective upon the delivery of the equipment to Lessee, shall continue for the number of months specified above (the term) following the delivery of the equipment to Lessee and may be renewed annually upon mutual agreement of both parties. All of the terms and conditions of this Lease remain in full force and effect until this Lease is terminated as provided herein.

10. RETURN: Unless this Agreement renews or you purchase the Equipment as provided in this Agreement, you shall, at the termination of this Agreement, return the Equipment at its sole cost and expense in good operating condition, ordinary wear and tear resulting from proper use excepted, to a location specified by us.

11. DEFAULT AND REMEDIES: If you (a) fail to pay rent or any other payment hereunder when due; or (b) fail to perform any of the other terms, covenants or conditions of this Agreement after ten (10) days written notice; or (c) become insolvent or make an assignment for the benefit of creditors; or (d) a receiver, trustee, conservator or liquidator is appointed with or without your consent, you shall be in default under the Agreement and, we may, to extent permitted by applicable law, exercise any one or more of the following remedies: (i) declare due, sue for and receive from you the sum of all rental payments for the unpaid term of this Agreement or any schedule hereto discounted at the rate of 6% per annum and (y) the anticipated value of the Equipment at the end of the initial term or applicable renewal term of the Agreement (but in no event less than 15% of the original cost of the Equipment) discounted at the rate of 6% per annum and upon recovery of the same in full, the Equipment shall become your property; (ii) to similarly accelerate the balances due under any other agreements between us; (iii) to take immediate possession of the Equipment, and to lease or sell the Equipment or any portion thereof, upon such terms as we may elect, and to apply the net proceeds, less reasonable selling and administrative expenses, on account of your obligations hereunder; (iv) require you to return all Equipment at your expense to place reasonably designated by us. Such an addition to any other remedies provided for by law and may, to the extent permitted by law, be exercised either concurrently or separately. Exercise of any one remedy shall not be deemed an election of such remedy or to preclude the exercise of any other remedy. No failure on our part to exercise any right or remedy or no delay in exercising any right or remedy shall operate as a waiver of any right or remedy or to modify the terms of this Agreement. A waiver of default shall not be construed as a waiver of any other subsequent default. We shall retain the sum set forth above as a Security Deposit, if applicable, for your performance of your obligations hereunder. Upon lawful termination of this Agreement, provided you are not in default, the Security Deposit, if applicable, shall be returned to you. No interest shall be paid upon said Security Deposit. In the event of default we may apply said Security Deposit to cure any default.

12. ASSIGNMENT: YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN THIS AGREEMENT OR SUBLEASE THE EQUIPMENT. We may sell, assign or transfer this Agreement, without notice. You agree that if we sell, assign or transfer this Agreement, the new owner will have the same rights and benefits that we have now and will not have to perform any of our obligations. You agree that the right of the new owner will not be subject to any claims, defenses, or set offs that you may have against us. In the event of a sale, assignment or transfer, we agree to remain responsible for our obligations hereunder.

13. CONSENT TO JURISDICTION AND GOVERNING LAW: YOU CONSENT TO THE PERSONAL JURISDICTION OF THE COURTS OF THE STATE OF OKLAHOMA WITH RESPECT TO ANY ACTION ARISING OUT OF THIS AGREEMENT OR THE EQUIPMENT. THIS MEANS THAT ANY LEGAL ACTION FILED AGAINST YOU MAY BE REQUIRED TO DEFEND AND LITIGATE ANY SUCH ACTION IN OKLAHOMA. You agree that service of process by certified mail, return receipt requested, shall be deemed the equivalent of personal service in any such action. However, nothing in the paragraph shall be construed to limit the jurisdictions in which suit may be filed by any party to this Agreement or the means of obtaining service of process in any such suit. This Agreement shall be governed by and construed according to the laws of the State of Oklahoma. TO THE EXTENT PERMITTED BY LAW, YOU WAIVE TRIAL BY JURY IN ANY ACTION AGAINST US. YOU HEREBY WAIVE ANY AND ALL RIGHTS AND REMEDIES GRANTED YOU BY SECTION 2A-508 THROUGH 2A-522 OF THE UNIFORM COMMERCIAL CODE.

14. CUSTOMER P.O.: You agree that any Purchase Order issued to us covering the rental of this Equipment, is issued for purposes of authorization and your internal use only, and none of its terms and conditions shall modify terms of this Agreement.

15. ENTIRE AGREEMENT: This Agreement contains the entire arrangement between you and us and no modifications of this Agreement shall be effective unless in writing and signed by the parties.

Accepted By

| | | | |
|-------------------------------------|--------------------------------|-------------------|----------------------------|
| Lessor: ImageNet Consulting, LLC | By: <i>Alan W. [Signature]</i> | Title: Manager | Accepted On: 10-24-2019 |
|-------------------------------------|--------------------------------|-------------------|----------------------------|

Non-Appropriations Rider

Agreement No. 318537

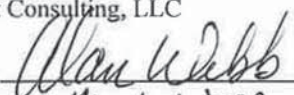
between "Lessor" ImageNet Consulting, LLC
and "Lessee" Board of County Commissioners Tulsa County, OK

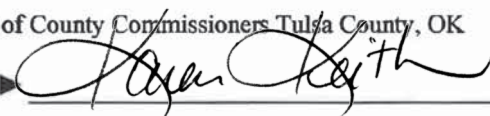
THIS RIDER to the above mentioned lease, loan or financing agreement (collectively the "Agreement") between the Lessor, acting solely as an independent funding source, and the Lessee, a government entity, is intended to be effective as of the same date as the Agreement. This Rider is hereby incorporated into the Agreement as a supplement thereto and amends the Agreement to the extent expressly provided below.

THE AGREEMENT IS HEREBY AMENDED AS FOLLOWS:

- 1. NON-APPROPRIATION OF FUNDS.** In the event no, or insufficient, funds are appropriated and budgeted, in any fiscal period for payments due under the Agreement, Lessee will immediately notify Lessor, or its assignee, in writing of such occurrence, and the Agreement shall terminate, without penalty to Lessee, on the last day of the fiscal period for which appropriations have been received or made, except: (a) as to the portions of payments for which funds have been appropriated and budgeted, or are otherwise available, and (b) as to the Lessee's other obligations and liabilities under the Agreement, accruing or arising prior to or in connection with such termination. In the event of such termination, Lessee agrees to peaceably surrender possession of all Equipment to Lessor, or its assignee, on the date of such termination in the manner set forth in the Agreement. Lessor will have all legal and equitable rights and remedies under the Agreement in addition to the right to possession and control of the Equipment.
- 2. CONTINUATION OF LEASE BY LESSEE.** Lessee intends to continue making the payments under the Agreement. Lessee reasonably believes that legally available funds in an amount sufficient to make all payments during the term of the Agreement can be obtained. Lessee agrees that, during the budgeting process for each budget year, the Lessee's staff will provide to the appropriate governing body proper notification of any payments due under the Agreement during the applicable budget year. Notwithstanding this covenant, if Lessee fails to appropriate funds sufficient for the payments under the Agreement, the Agreement shall terminate as provided above.
- 3. PAYMENTS TO BE UNCONDITIONAL.** SUBJECT TO THE TERMS OF THIS RIDER, THE OBLIGATIONS OF LESSEE TO PAY THE PAYMENTS DUE UNDER THE AGREEMENT AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED THEREIN 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 PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS, CLAIMS OR ACTIONS AGAINST ANY EQUIPMENT VENDOR, DEALER OR MANUFACTURER.
- 4. CONTROLLING TERMS; MISCELLANEOUS.** If there are any inconsistencies between the provisions of this Rider and the provisions of the Agreement, the express provisions of this Rider shall control. Except as expressly set forth in this Rider, all of the terms and conditions of the Agreement remain binding and in full force and effect as set forth in the Agreement. Lessee confirms that to date both Lessor and Lessee have fully and properly performed under the Agreement and that Lessee remains bound to Lessor by said Agreement. To the extent not otherwise defined in this Rider, the terms used herein shall have the same meaning herein as in the Agreement.

This Rider is executed below to be effective as of the date of the Agreement first given above.

Lessor:
ImageNet Consulting, LLC
Signature 
Print Name: ALAN WEBB
Print Title: GM
Date: 10-24-2019

Lessee:
Board of County Commissioners Tulsa County, OK
Signature 
Print Name: Karen Keith
Print Title: Chairman
Date: 11/4/2019

Attest: 
Michael Willis, County Clerk



Approved as to form:

Nolan M. Fields IV Digitally signed by Nolan M. Fields IV
Date: 2019.10.31 12:45:24 -05'00'

Asst. District Attorney