

# Master Lease Agreement

## Mowing Equipment

This Agreement is entered into by and between the City of Lincoln, Nebraska, hereinafter referred to as "City", and Nebraska National Bank, 3110 Second Ave., Kearney, NE 68847 hereinafter referred to as "Lessor".

### 1. PROVISION OF EQUIPMENT.

- 1.1 Lessor shall provide to the City Parks and Recreation Golf Division mowing equipment in accordance with Specification No. 04-022 and Distributors' proposals which are attached hereto and marked as Exhibit 1 and made a part hereof by reference.
- 1.2 In the event of conflict between the provisions of this agreement, the specifications, and the Distributors' proposals, the order of precedence shall be as follows: this agreement (including attachments and exhibits), the specifications, Distributors' proposals.

### 2. DELIVERY.

- 2.1 Lessor shall facilitate delivery of the equipment at City of Lincoln, Nebraska's designated locations upon request and mutual agreement, throughout the five (5) year term of the lease.
- 2.2 All delivery shall be at no cost to the City.
- 2.3 The Superintendent of Administration of Lincoln Parks and Recreation Department shall be responsible for authorizing in writing all requested deliveries.

### 3. TERM.

- 3.1 The term of this agreement shall commence on the date of execution by the City (on or about April 1, 2004), and continue for a period of 60 months; provided, however, the City may terminate this agreement upon providing to the Lessor written notification of termination specifying that funds will not be appropriated for continued lease of the equipment.
  - 3.1.1 City agrees that its administration will, on an annual basis throughout the term of this lease, propose in its proposed budget the funding of this lease.

- 3.2 Such termination notification must be sent to Lessor at least 30 days prior to the proposed date of termination.
- 3.3 Upon expiration of the term of this agreement Lessor shall remove the equipment from City property, along with any of Lessor's supplies, at no cost to the City.

4. **COMPENSATION.**

- 4.1 The City shall make five (5) annual payments to the Lessor Nebraska National Bank in the amount of **\$101,708.28** according to the Lessor's schedule, which is attached hereto and marked as Exhibit 2 and made a part hereof by reference.

5. **TAXES.**

- 5.1 All taxes, including sales, income, use and personal property taxes associated with this agreement, shall be paid by Lessor and shall not be the responsibility of the City.

6. **TITLE TO EQUIPMENT.**

- 6.1 Title to the equipment shall remain with Lessor at all times and the City shall have no right, title, or interest therein except as expressly set forth in this agreement.
- 6.2 The City reserves the right to buy said equipment for \$1.00 at the expiration of Lease.

7. **CITY'S RESPONSIBILITIES.** The City agrees to:

- 7.1 Provide a delivery site at each of the five designated locations;
- 7.2 Upon expiration or termination of this agreement, permit Lessor to remove the equipment if not purchased by the City;
- 7.3 Provide insurance coverage, either by virtue of the City being self-insured or by obtaining an insurance policy, for physical damage to the equipment caused by or as a result of any person other than Lessor, Lessor's assigns, agents, or employees.
- 7.4 City agrees that its administration will, on an annual basis throughout the term of this lease, propose in its proposed budget the funding of this lease.

**8. ADD, DELETE AND RELOCATION OF EQUIPMENT.**

8.1 The Superintendent of Administration of Lincoln Parks and Recreation shall coordinate with Lessor to determine the quantity of vehicles to be delivered and maintained at each site, their placement and movement, relocation, addition and deletion of equipment and supplies.

**9. DEFAULT.**

9.1 If the City fails to pay any invoice within 60 days after receipt thereof or if the City fails to perform any of its other obligations under this agreement, or if the City attempts to sell, transfer or encumber the equipment provided hereunder, Lessor, in addition to any other remedies that may be legally available to it, at its option, may terminate this agreement and immediately repossess all items of equipment.

9.2 On termination for City's default, the City shall permit Lessor's representative to enter its premises to remove the equipment and shall pay all outstanding invoices for services actually rendered on or before the date of notice of termination. Lessee agrees to surrender the equipment promptly upon termination of this agreement without protest or legal order being obtained by Lessor.

9.3 If the Lessor fails to perform its obligations under this agreement, the City may, in addition to any other remedies legally available to it, terminate this agreement upon five days written notice to the Lessor, in which event Lessor shall have thirty days to remove its equipment from the premises of the City.

**10. INDEMNIFICATION.**

10.1 Lessor shall indemnify and hold harmless the City, its officers, agents, and employees from and against all claims, damages, losses, and expenses, including but not limited to, attorney fees arising out of or resulting from performance of this agreement, the results and any claims for damages whatsoever, including, without limitation, bodily injury, death, or any injury or destruction of tangible or intangible property including any loss of use resulting therefrom that is caused in whole or in part by Lessor or anyone directly or indirectly employed by Lessor.

10.2 This section shall not require Lessor to indemnify or hold harmless the City for any losses, claims, damages, or expenses arising out of or resulting from the sole negligence of the City, its employees, or golf patrons.

11. **FAIR EMPLOYMENT PRACTICES.**

11.1 In the performance of this agreement, the Lessor shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges or employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status, pursuant to the requirements of Chapter 11.08 of the Lincoln Municipal Code and Neb. Rev. Stat. § 48-1122 (Reissue 1998).

12. **INTEGRATION.**

12.1 This agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this agreement.

13. **AMENDMENT.**

13.1 This agreement may be amended or modified only in writing signed by the City and the Lessor.

14. **GOVERNING LAW.**

14.1 This agreement will be interpreted and governed in accordance with the Laws of the State of Nebraska.

15. **NON-ASSIGN ABILITY.**

15.1 Lessor may not assign this lease or service agreement or subcontract any portion thereof without the prior written consent of the City.

15.1.1 Lessor may subcontract a portion of this agreement to the Distributors. Such subcontracting shall pertain solely to the maintenance, and warranty parts of this agreement herein. Lessee shall continue to make payments only to Nebraska National Bank.

15.1.2 Lessor may subcontract a portion of this agreement to First National Bank of Junction City, Kansas. Such subcontracting shall pertain solely to the financing of this agreement.

15.2 Notwithstanding any assignment or subcontracting, Lessor shall continue to be obligated for the performance of the terms of this Agreement.

16. **NO REMEDY EXCLUSIVE.**

16.1 No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

17. **LIABILITY.**

17.1 Lessor Nebraska National Bank shall be bound by the terms of this agreement, and breach may result in termination of this agreement by the City. Lessor Nebraska National Bank has no obligation to provide service or maintenance of the equipment under the terms of this agreement, but failure of the Distributors to perform under this agreement will result in the termination of the agreement, non-payment by the City to Lessor Nebraska National and/or any other remedies provided by law.

18. **NOTICES.**

18.1 Any notice required or permitted to be sent by this agreement shall be sent to the following individuals at the following addresses unless the party to whom notice is to be sent advises the other party of a change:

18.1.1 to the City of Lincoln:

Mr. Stephen M Hiller  
2740 A Street  
Lincoln, NE 68502

18.1.2 to the Lessor Nebraska National Bank:

Mr. Douglas King  
President, Nebraska National Bank  
3110 North 2nd Avenue  
Kearney, NE 68848-0397

**IN WITNESS WHEREOF** the City and Lessor have executed this agreement as of the day and year first written above. The persons signing below acknowledge that he/she is authorized to bind his/her entity to the terms of this agreement.

ATTEST: **City of Lincoln, Nebraska**

\_\_\_\_\_  
City of Lincoln Clerk

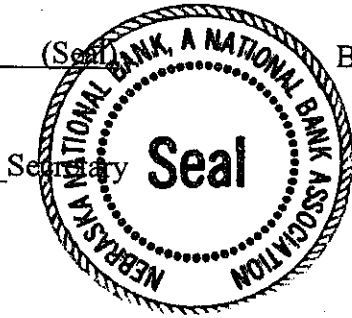
By:

Mayor

ATTEST:

**Nebraska National Bank**

\_\_\_\_\_  
(Signature)



By:

*Donald King*  
\_\_\_\_\_  
Duly Authorized Official

*President*  
\_\_\_\_\_  
Legal Title of Official

## SCHEDULE

### DESCRIPTION OF EQUIPMENT AND SCHEDULE OF RENT PAYMENTS

1. The Equipment which is the subject of the attached Municipal Lease Agreement is as follows:

Toro Groundsmaster 345 (3) three  
Options 1a Rear weight kit (4) four  
1b Drive wheel tire chains (1) one  
1f 72" fixed deck (2) two  
1j 3" lift kit (1) one

Toro Groundsmaster 4000-D (2) two  
(no options)

Toro Reelmaster 5400-D (5) five  
Options 3b Four post ROPS (3) three  
3c Front roller scraper (5) five

Toro Greensmaster 3150 (5) five  
Options 4a Groomers/set of three (2) two  
4b Verticut heads (2) two  
4c Mounted spare (2) two  
4d Light kit (5) five  
4e Extra cutting units (sets of 3) (2) two  
4g Green rollers (2) two

Toro Reelmaster 3100-D (2) two  
(no options)

Toro Groundsmaster 3500-D (1) one  
(no options)

Toro Sand Pro 3020 (2) two  
Options 7a Spiker (1) one

Toro Aerothatch 83/seedler 93 (4) four  
(no options/no trade in)

Toro Workman 2100 (1) one  
Options 10b Mounted spare (1)

Toro Workman 2100 (4) four  
(parks & athletics) Rahn infield groomer (4) four

Toro Workman 3200 w/sprayer (2) two  
Options 11a Steel box (2)  
11h Electric Boom (2)

John Deere CP48 (1) one

See Serial #'s: TBD (Will be attachment later), together with all additions, accessions and replacements thereto.

2. The Commencement Date of the Lease with respect to the Equipment is: April 1st - 2004  
The Initial Term of the Lease ends on March 31st- 2009.

Lessee hereby certifies that the description of the personal property set forth above constitutes an accurate description of the "Equipment", as defined in the attached Municipal Lease Agreement.

LESSEE: City of Lincoln, Nebraska

By:

Title:

Date:

LOCATION OF THE EQUIPMENT:

### **SCHEDULE OF RENT PAYMENTS**

**Five (5) Annual Payments in the amount of \$101,708.28 each**

**Payments are due:**

**5/1/04**

**5/1/05**

**5/1/06**

**5/1/07**

**5/1/08**