TOTAL COST AGREEMENT

THIS TOTAL COST AGREEMENT entered into by and between <u>Industrial Tractor Company. Inc.</u>, hereinafter referred to as "Contractor", and <u>Nassau County</u>, a political subdivision of the State of <u>Florida</u>, by and through its Board of Country Commissioner hereinafter referred to as "County".

WITNESSETH:

- Contractor hereby sells, and County hereby purchases, subject to the terms and conditions set out herein, the following equipment: (1) John Deere 670C Motor Grader S/N#DM670CX577738
- S/N#DW670CX577738 2. County agrees to pay to the Contractor the total cash purchase price of \$ 127,351.00f.o.b., Nassau County Contractor will deliver a bill of sale acceptable to the County upon delivery of the equipment.
- 3. Contractor warrants that the equipment will be free from defect in design, workmanship and materials; will conform strictly to the specifications attaches; and will be fit and sufficient for the purpose intended as set out in the advertised bid specifications by the County. All warranties shall survive inspection, tests, acceptance or payment by the County.
- 4. Contractor agrees to repurchase from the County the equipment described in paragraph 1 at the end of 6500hours of service (service meter hours) or 5 years from the date of delivery, whichever comes first. Contractor agrees to pay to the County the sum of \$109,351.00cash on delivery. The parties agree that the exercise of this provision shall be at the sole option of the County. The County agrees to notify Contractor in writing as soon as practicable of its election under this provision. Contractor agrees to complete the repurchase within thirty (30) days of receipt of said notice. Contractor agrees to pay transportation charges to its place of business. The parties agree that the repurchase is not a trade-in-value, and is not contingent on the purchase of new or used equipment from the Contractor thereafter.
- 5. The County shall have the right to retain or to sell, loan, lease, trade, or otherwise dispose of the equipment at its discretion. Upon the election of any of these options by the County, the County agrees to notify Contractor of this election within thirty (30) days of said election. Any such election by the County shall render the repurchase provisions of paragraph 4 null and void.
- 6. The Contractor warrants that the total cost to the County for operation and maintenance of <u>6500</u> hours or <u>5</u> years, whichever comes first, from the date of delivery of the equipment, except for these repairs, maintenance and operating costs which are the responsibility of the County as set out below, shall not exceed the sum of $\frac{-0}{-}$.
- 7. The County agrees to assume the responsibility for all repair costs resulting from damage from fire, flood, windstorms, lightning, theft, vandalism, and operator's and mechanic's negligence.
- 8. The County agrees to assume all costs to repair and/or replace all parts and components normally consumed in





the day-to-day operation, such as lubricating oil, filters of all types, grease, fuel, antifreeze, cutting edges, batteries, glass breakage, tires, cleaning, painting, undercarriage wear, scraper elevator chains/and mechanical adjustment not necessitated by repairs.

- 9. The County agrees to pay the wages of operators and mechanics employed to operate and maintain the equipment and all Worker's Compensation Insurance.
- 10. The County agrees to pay the expense of maintaining insurance on the equipment.
- 11. The County agrees that the equipment will be operated only by personnel of the County.
- 12. The County agrees to maintain equipment in accordance with the manufacturer's recommendations which shall be supplied by the Contractor. The Contractor will retain the right to inspect the equipment and make recommendations for repairs at the County's convenience.
- 13. The County may, at its own expense, install or place in or on, or attach or affix to the equipment, such accessories as may be necessary or convenient to use the equipment for its intended purpose provided that such accessories do not impair the value or utility of the equipment. The Contractor must approve any modification before unit is modified. All such accessories may be removed by the County upon repurchase by the Contractor provided that any resulting damage shall be repaired at the County's expense. Any such equipment or accessories not removed shall become property of the Contractor.
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- 15. The Contractor reserves the right to examine the County's cost records and will have ninety (90) days to contest the preceeding year's parts costs. Otherwise, the records for the year will be considered acceptable to both parties.
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 - 17. The Contractor agrees to indemnify, defend, and hold the County harmless for any and all loss, liability, damages, claims or demands arising out of defective equipment provided under this agreement or negligent or unlawful acts, faulty work performance, or noncompliance with any local, state, or federal codes, ordinances, orders or statutes by the Contractor or its employees or representatives.
 - 18. Neither this agreement nor either parties rights hereunder shall be assign except with written consent of the nonassigning party.
 - 19. Time is of the essence of this agreement.

IN WITNESS WHEREOF, the parties have executed this agreement this _____ day of _____, A.D. XX2000.

ATT

BY: Industrial Tractor Company, Inc.

ATTEST:

APPROVED AS TO FORM:

NASSAU COUNTY

16.*<u>DISPUTES</u> on the

Any dispute arising under this contract, which is not disposed of by agreement, shall be decided by a mediator, who shall reduce his/her decision to writing and furnish a copy to both parties. Claims disputes, or other matters in questin between the parties to this Agreement arising out of or relating to this Agreement or mediation rules as established by the Florida Supreme Court. Mediators shall be chosen from the Supreme Court approved list of mediators in the Fourth Judicial Circuit and the Cost of mediaton shall be borne by the Consultant/Contractor. The decision of the mediator shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, or so grossly erroneous as to necessarily imply bad faith or not supported by the tancient substantial evidence.

> BOARD OF COUNTY COMMISSIONERS NASSAU COUNTY, FLORIDA

Nick D. Deonas Its: Chairman

Attest:

"Chip" Oxley, Jr. Ex-Officio Clerk **У.**м. Its:

Approved as to form by the Nassau County Attorney Michael S. Mullin