

Dated:

LEASE AGREEMENT Contract No. _____

FULL LEGAL NAME OF LESSEE _____				
PHYSICAL ADDRESS: _____				
BILLING ADDRESS _____				
CITY _____		STATE _____	COUNTY _____	ZIP CODE _____
CONTACT _____			TELEPHONE NUMBER _____	
QUANTITY	FULL DESCRIPTION OF COLLATERAL INCLUDING MODEL, SERIAL NUMBER			ITEMIZED ADVANCE
COLLATERAL LOCATION (IF DIFFERS FROM ABOVE)				TOTAL ADVANCE
STREET ADDRESS		CITY	COUNTY	STATE ZIP
TERM OF LEASE	MONTHLY PAYMENT	MONTHLY SALES TAX	TOTAL MONTHLY PAYMENTS	Initial payment check for this amount must accompany agreement \$ _____
_____ Months	\$ _____	\$ _____	\$ _____	
_____ No. of Payments	ADVANCE PAYMENTS	ENDING RESIDUAL PAYMENT	DOCUMENTATION FEE	SECURITY DEPOSIT
	_____	\$ _____	\$ _____	\$ _____
*All payments are plus applicable sales tax.				
This agreement is effective only upon execution by an authorized officer of Lessor following Lessee's execution hereof, and upon execution Lessor shall fund the Total Advance. Lessee hereby authorizes Lessor to disburse the Total Advance as follows:				
Lessor reserves the right to pay the applicable portion of the Total Advance jointly to any party not specified in the preceding sentence with a security interest in an item of Collateral.				

WITNESSETH:

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

1. LEASE. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, the personal property set forth in this agreement (hereinafter referred to as "Agreement") executed by the parties concurrently herewith or at any time hereafter and made a part hereof, together with all repair and replacement parts, additions, substitutions, accessories, and accessions, and the like, now or hereafter incorporated therein and/or affixed to such personal property (hereinafter collectively referred to as the "Equipment").

2. SELECTION OF EQUIPMENT. Lessee acknowledges that it has selected the Equipment and that it has authorized Lessor to act as Lessee's agent to issue a purchase order to the supplier of the Equipment (the "Seller") for the purchase of the Equipment. Lessee represents and warrants that Lessee either (a) has reviewed, approved and received a copy of the applicable purchase documents or (b) has been informed by Lessor (x) of the identity of the Seller of the Equipment, (y) that Lessee may have rights under the purchase documents and (z) that Lessee may contact Seller for a description of such rights.

3. DELIVERY; ACCEPTANCE. Lessee shall cause the Equipment to be delivered, at Lessee's expense, to Lessee at Lessee's place of business. Lessee shall, at its own expense, make all necessary inspections and tests of the Equipment to determine if the Equipment is in compliance with the provisions of any applicable purchase agreement or order, and, if in compliance, Lessee shall accept each such item of equipment on behalf of the Lessor, as delivered by the supplier. Lessee shall execute an Acceptance Certificate with regard to each item of Equipment. Lessee hereby authorizes Lessor to add to this Lease the serial number of, and/or any descriptive matter necessary or helpful in identifying, each item of the Equipment so delivered. Any delay in such delivery shall not affect the validity of this Lease, except as provided in Section 10 hereof. Regardless of whether Lessee has executed an Acceptance Certificate, if within forty-eight (48) hours after Lessee has received an item of Equipment, Lessee has not given Lessor written notice of a defect therein or of other proper objection

thereto, Lessee agrees that it shall be conclusively presumed as between Lessor and Lessee, that Lessee has fully inspected the Equipment, that the Equipment is in full compliance with the terms of this Lease and is deemed to be in good condition and repair, and that the Lessee has accepted it as satisfactory in all respects for the purpose of this Lease. Lessee hereby agrees to indemnify, defend, and save harmless Lessor from all claims, damages, actions, expenses (including attorney fees) and liabilities of any kind arising out of or connected with the failure or refusal of Lessee to accept, or the delay of Lessee in accepting, the Equipment.

4. TERM. The term of this Lease shall commence upon the date that the Acceptance Certificate is signed and dated and shall terminate upon the expiration of a number of months, or other calendar periods, set forth in this Agreement for the date thereof, unless sooner terminated as hereinafter provided.

5. RETURN OF EQUIPMENT. At the end of the term (and any renewal term) hereof, Lessee shall properly pack and return the Equipment, freight prepaid, at Lessee's risk and expense, to Lessor, at such place as Lessor may designate in the continental United States, in as good condition as existed at the commencement of the term, normal wear and tear excepted. In the event of default by Lessee under this Lease, or any termination or cancellation of the Lease as provided herein, Lessee shall return all equipment to Lessor in the same manner.

6. EXCLUSIONS OF WARRANTIES; LIMITATION OF DAMAGES. IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT: (A) LESSOR SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION, WARRANTY OR PROMISE MADE BY SELLER, NEITHER SELLER NOR LESSOR SHALL ACT AS, OR BE DEEMED TO BE, AN AGENT OF THE OTHER, AND LESSOR SHALL NOT BE BOUND BY, OR LIABLE FOR, ANY REPRESENTATION OR PROMISE MADE BY SELLER (EVEN IF LESSOR IS AFFILIATED WITH SELLER); (B) LESSOR SHALL NOT BE LIABLE FOR ANY FAILURE OF ANY EQUIPMENT OR ANY DELAY IN ITS DELIVERY OR INSTALLATION; (C) LESSOR SHALL NOT BE LIABLE FOR ANY BREACH OF ANY WARRANTY THAT SELLER MAY HAVE MADE; (D) LESSEE HAS SELECTED ALL EQUIPMENT WITHOUT LESSOR'S ASSISTANCE; (E) LESSOR IS NOT A MANUFACTURER OF ANY EQUIPMENT; AND (F) LESSOR HAS

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NOT MADE AND DOES NOT NOW MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION, OR CONDITION OF ANY EQUIPMENT (OR ANY PART THEREOF), THE MERCHANTABILITY OR FITNESS OF EQUIPMENT FOR A PARTICULAR PURPOSE, OR ISSUES REGARDING PATENT INFRINGEMENT, TITLE AND THE LIKE. IT IS FURTHER AGREED THAT LESSOR SHALL HAVE NO LIABILITY TO LESSEE, LESSEE'S CUSTOMERS, OR ANY THIRD PARTIES FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR ANY SCHEDULE OR CONCERNING ANY EQUIPMENT, OR FOR ANY DAMAGES BASED ON STRICT OR ABSOLUTE TORT LIABILITY; PROVIDED, HOWEVER, THAT NOTHING IN THIS AGREEMENT SHALL DEPRIVE LESSEE OF ANY RIGHTS IT MAY HAVE AGAINST ANY PERSON OTHER THAN LESSOR. LESSEE SHALL LOOK SOLELY TO SELLER FOR ANY AND ALL CLAIMS AND WARRANTIES RELATING TO THE EQUIPMENT. Lessor hereby assigns to Lessee for the term of the Agreement the right to enforce; provided no Event of Default then exists under this Agreement and such enforcement is pursued in Lessee's name, any representations, warranties and agreements made by Seller pursuant to the purchase documents, and Lessee may retain any recovery resulting from any such enforcement efforts. TO THE EXTENT PERMITTED BY APPLICABLE LAW, LESSEE WAIVES ANY AND ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC AND ANY RIGHTS NOW OR HEREINAFTER CONFERRED BY STATUTE OR OTHERWISE THAT MAY LIMIT OR MODIFY LESSOR'S RIGHTS AS DESCRIBED IN THIS SECTION OR OTHER SECTIONS OF THIS AGREEMENT.

7. RENT; LATE CHARGES, NSF FEES. During and for the original term hereof, and any renewal periods if any, Lessee hereby unconditionally agrees to pay Lessor, as and for rent of the Equipment, the total amount specified in this Agreement, being the monthly (or other indicated calendar period) rent multiplied by the number of months (or periods specified in this Agreement). The first rent payment, unless required to be paid in advance, shall be made on the commencement date as set forth in this Agreement. Subsequently, monthly (or other period) rent payments shall be due in advance on the same day of subsequent months (or other calendar periods) as the commencement date of this Lease. All payments shall be made at the office of the Lessor as set forth herein, or as otherwise directed by the Lessor in writing. Lessee agrees to pay Lessor interest at the rate of 21% per annum (or such lesser rate as is the maximum rate allowable under applicable law) on any rental payment that is not paid within 10 days of its due date. In addition, Lessee shall pay Lessor with respect to any delinquent installment, or part thereof, a service charge equal to Ten (10) percent of the delinquent amount, or twenty-five dollars (\$25.00), whichever is greater on each payment that is not received within 10 days after it is due. If a check or other instrument tendered for payment is dishonored, Lessee shall be liable for a fifty dollar (\$50.00) fee.

8. NON-CANCELABLE NET LEASE. ALL LEASES HEREUNDER SHALL BE NON-CANCELABLE NET LEASES, AND LESSEE AGREES THAT IT HAS AN UNCONDITIONAL OBLIGATION TO PAY ALL RENTAL PAYMENTS AND OTHER AMOUNTS WHEN DUE. LESSEE IS NOT ENTITLED TO ABATE OR REDUCE RENTAL PAYMENTS OR ANY OTHER AMOUNTS DUE, OR TO SET OFF ANY CHARGES AGAINST THOSE AMOUNTS. LESSEE IS NOT ENTITLED TO RECOUPMENTS, CROSS-CLAIMS, COUNTERCLAIMS OR ANY OTHER DEFENSES TO ANY RENTAL PAYMENTS OR OTHER AMOUNTS DUE HEREUNDER, WHETHER THOSE DEFENSES ARISE OUT OF CLAIMS BY LESSEE AGAINST LESSOR, SELLER, THIS AGREEMENT, ANY SCHEDULE OR OTHERWISE. NEITHER DEFECTS IN EQUIPMENT, DAMAGE TO IT, NOR ITS LOSS, DESTRUCTION OR LATE DELIVERY SHALL TERMINATE THIS AGREEMENT OR ANY SCHEDULE, OR AFFECT LESSEE'S OBLIGATIONS HEREUNDER. UNLESS LESSEE'S OBLIGATION TO PAY RENTAL PAYMENTS AND OTHER AMOUNTS HAS BEEN TERMINATED PURSUANT TO THE EXPRESS TERMS OF THIS AGREEMENT, ALL RENTAL PAYMENTS AND OTHER

AMOUNTS SHALL CONTINUE TO BE DUE AND PAYABLE HEREUNDER.

9. TAXES AND EXPENSES PAID BY LESSEE. Lessee, at its expense, shall obtain such licensing and registration of the Equipment as shall be at any time required by law and Lessee shall pay and discharge when due all license fees, registration fees, charges, taxes (federal, state and local) and assessments (and interest and penalty, if any thereon) which may be levied, directly or indirectly, against the Equipment or any interest therein or with respect to the ownership, possession or use thereof whether such taxes or charges are levied against Lessor or Lessee. Such taxes or charges to be paid by Lessee shall include, without limitation, property sales, rent, and use taxes, and any other tax measured by the gross rent payable hereunder, but shall not include net income or franchise taxes, if any, payable by Lessor. If such taxes are levied against Lessor, Lessor shall notify Lessee of such fact. Lessor shall have the right but not the obligation, to pay any such taxes, whether levied against Lessor or Lessee. In such event, Lessee shall reimburse Lessor therefore within five (5) days after receipt of invoice, and in the event Lessee shall fail to make any such reimbursement when due, Lessor shall have all remedies provided herein with respect to the nonpayment of the rental hereunder.

Lessee, at its expense, shall pay any and all other charges related to the Equipment, including but not limited to, its registration, rental, shipment, transportation, delivery, installation, operation and/or removal. If any such charges are levied against Lessor, Lessor shall notify Lessee of such fact. Lessor shall have the right, but not the obligation, to pay any such charges, whether billed to Lessor or Lessee. In such event, Lessee shall reimburse Lessor therefore within (5) days after receipt of invoice, and for the failure to make such reimbursement when due, Lessor shall have all remedies provided herein with respect to the nonpayment of the rental hereunder.

10. SECURITY DEPOSIT. As security for the prompt and full payment of the amounts due under this Lease, and Lessee's complete performance of all its obligations under this Lease, and any extension or renewal hereof, Lessee has deposited with Lessor the security amount set forth in this Agreement shown as "Security Deposit" At the Lessor's option, any security deposit made hereunder may be applied by Lessor to cure any default of Lessee in which event Lessee shall promptly restore the security deposit to its full amount as set forth in this Agreement. IF ALL THE CONDITIONS HEREIN ARE FULLY COMPLIED WITH, AN AMOUNT EQUAL TO THE SECURITY DEPOSIT SHALL BE REFUNDED, WITHOUT INTEREST, TO THE LESSEE WITHIN THIRTY (30) DAYS AFTER THE RETURN OF THE EQUIPMENT TO THE LESSOR.

Finally, to further secure Lessee's obligations under this Lease, Lessee hereby grants a security interest to Lessor, perfected by possession, in all monies, accounts, balances and other properties of Lessee now in or to come into Lessor's possession.

11. ERRORS IN ESTIMATED COST - CHANGE IN RENTAL OR EQUIPMENT DESCRIPTION. As used herein, Actual Cost means the cost to Lessor of purchasing and delivering the Equipment to Lessee including taxes, transportation charges and other charges. The amount of each rent payment, the security deposit, and the renewal rental initially set forth in this Agreement are based on an estimate of Actual Cost, and if the Actual Cost of the Equipment differs from the estimate, then each rent payment shall be adjusted proportionally. Lessee hereby authorizes Lessor to correct this figure set forth in this Agreement when the Actual Cost is known, and to add to the amount of each rent payment any sales or other tax that may be imposed on or measured by rent payments and any additional security deposit. Furthermore, Lessee hereby authorizes Lessor to amend and modify any equipment description set forth in this Agreement and other documents.

Lessee grants to Lessor a specific power of attorney for Lessor to use as follows: (1) Lessor may sign and file on Lessee's behalf any document Lessor deems necessary to perfect or protect Lessor's interest in the Equipment or pursuant to the Uniform Commercial Code; and (2) Lessor may sign, endorse or negotiate for Lessor's benefit any instrument representing proceeds from any policy of insurance covering the Equipment.

12. USE. Lessee shall use the Equipment only for lawful purposes and those purposes intended by the manufacturer and shall comply with all laws, ordinances and regulations relating to the use, operation or maintenance of the Equipment. Further, Lessee shall exercise due and proper care in the use, repair and servicing of the Equipment and at all times and at its expense shall keep and maintain the Equipment in good working condition, order and repair. Lessee shall make no alteration to the Equipment without the prior written consent of the Lessor. All replacement parts incorporated in or affixed to the Equipment after the commencement of this Lease shall become the property of the Lessor and shall be returned with the Equipment in accordance with the terms of this Lease

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Lessee covenants and agrees that the Equipment is, and at all times shall be and remain, personal property and at no time shall the Equipment become a fixture.

13. PLACE OF USE; WAIVER OF LANDLORD'S LIEN. Lessee shall keep the Equipment at its place of business as specified in this Agreement, which location must at all times be maintained in a manner consistent with the specifications and recommendations of the manufacturer of such Equipment. Lessee warrants that the Equipment will not be moved from the address as set forth as the location on this Agreement without Lessor's prior written consent. Lessee covenants and agrees not to allow the use of the Equipment by other than the employees of Lessee while on Lessee's business and such employee(s) shall be trained to use the Equipment in a manner consistent with the manufacturer's specifications and recommendations. Further, Lessee covenants and agrees not to rent or sublet the Equipment or any part thereof to others. If Lessee is the lessee or tenant of any premises in which the Equipment is at any time to be located, Lessee shall obtain from its Landlord, and deliver to Lessor, a written waiver of all liens against the Equipment prior to the time that the Equipment is installed or placed therein.

14. RISK OF LOSS AND DAMAGE. Lessee hereby assumes and shall bear the entire risk of loss, theft, damage and destruction of the Equipment from any cause whatsoever, and no loss, theft, damage or destruction of Equipment shall relieve Lessee of the obligation to pay rent or any other obligation of this Lease. Lessee shall promptly notify Lessor in writing of any such loss, theft, damage or destruction of the Equipment. In the event of any such occurrence, Lessee, at the option of Lessor, shall at Lessee's expense (a) place the same in good repair, condition and working order, or (b) replace the same with like equipment of the same or later model in good repair, condition and working order, or (c) pay Lessor therefore in cash the "Stipulated Loss Value" as defined herein. The "Stipulated Loss Value" shall be the then existing fair market value of the Equipment determined by including its "re-sale" value, plus its fair rental value. Upon such "Stipulated Loss Value" payment, this Lease shall terminate with respect to such item of Equipment so paid for, and Lessee thereupon shall become entitled to such item of Equipment as -is-where-is, without warranty, expressed or implied, with respect to any matter whatsoever.

15. INSURANCE. Lessee shall obtain and maintain for the entire term of this Lease, at its own expense, property damage and liability insurance against loss or damage to the Equipment including, without limitation, loss by fire (including so-called extended coverage, theft, collision and such other risks of loss as are customarily insured against on the type of Equipment leased hereunder and by businesses in which Lessee is engaged), in such amounts, in such form and with such insurers as shall be satisfactory to Lessor; provided, however, that the amount of insurance against loss or damage to the Equipment shall not be less than the greater of the full replacement value of the Equipment or the installments or rent then remaining unpaid hereunder. The insurance policy shall insure the Equipment from time of its shipment by the supplier. Each insurance policy shall name Lessee as an insured and Lessor as additional insured and loss payee thereof as their interest may appear, and shall contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or of the cancellation thereof. Lessee shall furnish to Lessor certificates of insurance or other evidence satisfactory to Lessor that such insurance coverage is in effect during the entire term of this Lease. Lessee shall have no pro rata interest in any such policies or the proceeds thereof. Subject to the provision of Section 13 with regard to risk of loss, and without limiting such provisions in the case of any loss or damage covered by insurance, and only to the extent that such loss or damage is covered by such insurance, the proceeds of such insurance shall be applied at the option of Lessor (a) toward the replacement, restoration, or repair of any of the Equipment which may be lost, stolen, destroyed or damaged, or (b) toward the obligations of Lessee for rent hereunder, applied in inverse order in which the rent is to become due. In the event Lessor elects to apply insurance proceeds to the repair or to the replacement of damaged equipment, this Lease shall continue in full force and effect. In the event the Lessor elects to apply insurance proceeds to the payment of Lessee's obligations for rent hereunder, the Lessee's obligations for rent hereunder shall be reduced by the amount of such insurance proceeds, but, subject to the provisions hereof, the Lessee shall be liable to pay additional rents due. Such reduction of rents shall be allocated solely to the item or items

lost, stolen, damaged or destroyed. Any amounts received by Lessee under such policies which are not used for the replacement, restoration or repair of said Equipment shall be paid to Lessor and shall reduce Lessee's obligation to pay rental hereunder pro tanto.

Lessee shall at all times carry and maintain public liability insurance, and any and all other insurance required hereunder, with responsible companies satisfactory to Lessor, in form and amounts satisfactory to Lessor, insuring against liability which Lessee or Lessor may incur by reason of the operation of any of the Equipment. All such policies shall name Lessor as an additional insured.

Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make any claim for, to receive payment for, and to execute, negotiate and endorse any documents, checks or other instruments in connection with any event giving rise to a payment or claim pursuant to any insurance policy described herein. Additionally, in the event Lessee fails to obtain in a timely fashion any insurance required pursuant to this paragraph, then Lessor may obtain such at Lessee's expense, and Lessee hereby appoints Lessor as Lessee's attorney-in-fact for such purposes.

16. ESCROW. Lessor may, at its option, at any time require Lessee to pay sufficient funds into a separate escrow account maintained by Lessor for Lessee's account, to assure the future payment of any insurance premiums, taxes, license fees or other assessments referred to herein.

17. TITLE, IDENTIFICATION, PERSONAL PROPERTY. All the Equipment shall remain personal property, notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to any real property or any improvements thereon. The title to the Equipment shall remain in the party designated as Owner on this Agreement (herein "Owner"). No right, title or interest in the Equipment shall pass to Lessee other than, conditioned upon Lessee's compliance with the terms and conditions of this Lease, the right under the terms hereof to maintain possession of, and use the Equipment for lease term. Lessor may require plates, labels or markings to be affixed to or placed on the Equipment indicating Lessor's interest. If Lessor supplies Lessee with such plates, marking or labels, Lessee shall label any and all items of Equipment and shall keep the same affixed in a permanent and prominent place. In the event Lessor does not furnish such labels, plates or markings to Lessee within thirty (30) days from the commencement date hereof, Lessee shall attach its own labels, plates or markings to the Equipment indicating ownership thereof by Owner. Lessee agrees not to sell, assign, sublet, pledge, hypothecate, or otherwise encumber or suffer a lien or other encumbrance upon or against any interest in this Lease or the Equipment or to remove the Equipment from its place of installation without Lessor's prior written consent. Lessee shall give Lessor immediate notice of any attachment or other judicial process, lien or encumbrance, affecting the Equipment and shall indemnify and save Lessor harmless from any loss or damage caused thereby. Lessee shall at its own expense, protect and defend Owner's title to the Equipment and Lessor's interest in the Equipment against all persons claiming against or through Lessee.

18. COLLECTION COSTS, ATTORNEY FEES, ETC. In the event Lessor employs attorneys to enforce the obligations hereunder or to collect monies due hereunder and/or to recover the possession of the Equipment, Lessee shall pay to the Lessor all reasonable attorney fees incurred in connection therewith regardless of whether a lawsuit is filed. Further, Lessee shall pay all of Lessor's costs of collection of any such monies or repossession of such Equipment, whether this Lease is placed in the hands of any attorney or not.

19. FILING AS TRUE LEASE; SECURITY INTEREST. Lessee shall execute any such documents for financing statements as Lessor deems to be necessary or advisable and shall otherwise cooperate to defend the title and interest of Lessor and Owner to the Equipment. Lessee agrees to pay all costs of preparing and filing any such documentation. With respect to any financing statement, and/or continuation statement, the terms "debtor", and "secured party", and "collateral" on such UCC filing forms shall also be read to mean "Lessee", "Lessor" and "Leased Equipment", respectively. Lessor and Lessee agree that this is a true Lease transaction. It is expressly agreed and understood that any filings of this Lease, and/or financing statements, shall not be deemed to affect the nature of this Lease as a true and bona fide equipment lease, but rather to give notice to all interested parties of the Lessor's absolute interest in the property. However, because the judicial decisions in this area of law are uncertain, and on advice of legal counsel, the parties have filed (or recorded) a financing statement(s) and have paid tax, fees, or documentary stamps thereon. In the event a court of proper jurisdiction should at any time in the future determine that the transaction between Lessor and Lessee is not a true leasing transaction, then it shall be presumed that the Lessee has hereby granted the Lessor a security interest in such Equipment, and that such filings were made to protect the security interest.

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20. **RIGHT OF INSPECTION.** The Lessor, its agents and representatives, shall have the right at any time during usual business hours to inspect the Equipment and for that purpose to have access to the location of the Equipment.

21. **NON-WAIVER.** Lessor's failure at any time to require strict performance by Lessee of any of the provisions hereof shall not waive or diminish Lessor's rights thereafter to demand strict compliance therewith or with any other provision herein. Waiver of any default shall not be deemed a waiver of any other default. Lessor's rights hereunder are cumulative and not alternative.

22. **POSSESSION.** Lessor covenants to and with Lessee that conditioned upon Lessee continually performing each and every condition hereof, Lessee shall peaceably and quietly hold, and use the Equipment, during the term without hindrance.

23. **INDEMNITY.** In addition to any other provisions herein, Lessee does hereby assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor, its agents and servants and any assigns from and against, any and all losses, damages, injuries, claims, demands and all expenses, legal or otherwise (including court costs and attorney fees), of whatsoever kind and nature arising on account of any reason whatsoever, including but not limited to, the selection, purchase, delivery, possession, maintenance, leasing, return, use, condition (including, without limitation, latent and other defects and whether or not discoverable by the Lessee or the Lessor) or resulting from the operation of the Equipment or any part thereof, and by whomsoever used or operated, during the continuance of this Lease. The indemnities and assumptions of liability contained in this section shall continue in full force and effect notwithstanding the termination of this Lease, whether by expiration of time, by operations of law or otherwise. Lessor shall give Lessee prompt notice of any claim or liability hereby indemnified against, and Lessee shall be entitled to control the defense thereof.

24. **TAX BENEFITS.** Lessee acknowledges that unless otherwise agreed by Lessor, Lessor intends to claim all available tax benefits of ownership with respect to the Equipment (the "Tax Benefits"), including, but not limited to cost recovery deductions as provided in Section 168 of the Internal Revenue Code of 1965, as amended (the "Code") with respect to each item of Equipment for each of Lessor's taxable years during the Rental Term. Notwithstanding anything herein to the contrary, if Lessor shall not be entitled to, or shall be subject to recapture of, the Tax Benefits, as a result of any act, omission or misrepresentation of Lessee, Lessee shall pay to Lessor upon demand an amount or amounts sufficient to reimburse Lessor for such loss, together with any related interest and penalties, based on the highest marginal corporate income tax rate prevailing during the Lease Term, regardless of whether Lessor or any member of a consolidated group of which Lessor is also a member is then subject to any increase in tax as a result of such loss of Tax Benefits.

25. **EVENTS OF DEFAULT.** The following events (each an "Event of Default") shall constitute Events of Default:

- (a) Lessee fails to pay any rent or other amount herein provided on the due date
- (b) Lessee fails to observe, keep or perform any provision of this Lease required to be observed, kept or performed by Lessee;
- (c) Lessee ceases doing business as a going concern;
- (d) A petition is filed by or against Lessee under the Bankruptcy Act or any amendment thereto (including a petition for reorganization or an arrangement);
- (e) A receiver is appointed for Lessee or its property;
- (f) Lessee commits an act of bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors; (g) Lessee, without Lessor's prior written consent, attempts to remove, sell sublet or transfer the Equipment;
- (h) Lessee defaults on any other agreement it has with Lessor
- (i) Lessee is in default to Lessor or Lessor's Assignee (as hereafter defined) under the terms of any obligation; or
- (j) Any guarantor of this Lease defaults on any obligation to Lessor any of the above listed events of default occur with respect to any guarantor or any such guarantor files or has filed against it a petition under the bankruptcy laws.
- (k) Entry of a judgment against Lessee that remains unpaid for a period of 60 days after the effective date of the judgment and/or all final appeals.
- (l) Lessor in good faith believes that Lessee cannot, or will not, pay or perform the obligations Lessee has agreed to in this Agreement.

26. **REMEDIES.** If an Event of Default occurs, Lessor may, in its sole discretion and without notice to Lessee, exercise one or more of the following remedies: (a) terminate this Agreement; or (b) take possession of, or render unusable, any Equipment wherever the Equipment may be located, without demand or notice, without any court order or other process of law and without liability to Lessee for any damages occasioned by such action, and no such action shall constitute a termination of this Agreement; or (c) require Lessee to deliver the Equipment at a location designated by Lessor; or (d) proceed by court action to enforce performance by Lessee and/or to recover all damages and expenses incurred by Lessor by reason of any Event of Default; or (e) terminate any other agreement that Lessor may have with Lessee; or (f) exercise any other right or remedy available to Lessor at law or in equity. Upon repossession or surrender of any equipment, Lessor shall lease, sell or otherwise dispose of the Equipment in a commercially reasonable manner, with or without notice and at public or private sale, and apply the net proceeds thereof (after deducting all expenses (including legal fees and costs) incurred in connection therewith) to the amounts owed to Lessor hereunder; provided, however, that Lessee shall remain liable to Lessor for any deficiency that remains after any sale or lease of such Equipment. Lessee agrees that with respect to any notice of a sale required by law to be given 10 days' notice shall constitute reasonable notice. These remedies are cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

27. **ASSIGNMENT OR SUBLEASE BY LESSEE.** WITHOUT LESSOR'S PRIOR WRITTEN CONSENT, LESSEE SHALL NOT ASSIGN THIS AGREEMENT OR ASSIGN ITS RIGHTS IN OR SUBLET THE EQUIPMENT OR ANY INTEREST THEREIN.

28. **ASSIGNMENT BY LESSOR.** Lessor shall have the unqualified right to assign, pledge, transfer, mortgage or otherwise convey any of its interests hereunder or any Equipment, in whole or in part, without notice to, or consent of, Lessee. If this Lease is assigned, Lessee shall: (a) unless otherwise specified by the Lessor and the assignee (Assignee) specified by Lessor, pay all amounts due to such Assignee, notwithstanding any defense, setoff or counterclaim whatsoever that Lessee may have against Lessor; (b) not require the Assignee to perform any obligations of Lessor, other than those that are expressly assumed in writing by such assignee; and (c) execute such acknowledgments thereto as may be requested by Lessor. It is further agreed that: (x) each assignee shall be entitled to all of Lessor's rights, powers and privileges herein, to the extent assigned; (y) any Assignee may reassign its rights and interest with the same force and effect as the assignment described herein; and (z) any payments received by the Assignee from Lessee with respect to the assigned portion of the Lease shall, to the extent thereof, discharge the obligations of Lessee to Lessor with respect to the assigned portion of the Lease. LESSEE ACKNOWLEDGES THAT ANY ASSIGNMENT OR TRANSFER BY LESSOR OR ANY ASSIGNEE SHALL NOT MATERIALLY CHANGE LESSEE'S OBLIGATIONS.

29. **LESSOR'S PERFORMANCE OF LESSEE'S OBLIGATIONS.** If Lessee fails to perform any of its obligations hereunder, Lessor may perform any act or make any payment that Lessor deems reasonably necessary for the maintenance and preservation of the Equipment and Lessor's interests therein; provided, however, that the performance of any act or payment by Lessor shall not be deemed a waiver of, or release Lessee from, the obligation at issue. All sums so paid by Lessor, together with expenses (including legal fees and costs) incurred by Lessor in connection therewith, shall be paid to Lessor by Lessee immediately upon demand.

30. **FINANCIAL STATEMENTS.** On written request by Lessor, Lessee shall annually, within ninety (90) days after the close of Lessee's fiscal year, furnish to Lessor financial statements of Lessee (including a balance sheet as of the close of such year and income and surplus statements for such year) prepared in accordance with generally accepted accounting principles and certified by Lessee's independent public accountants. If required by Lessor, Lessee shall also provide quarterly financial statements of Lessee, similarly prepared for each of the first sixty (60) days following the end of the quarter. Further, if required by Lessor, Lessee shall also provide quarterly written certification from Lessee that Lessee is not in default under any term of this Lease.

31. **NATURE OF TRANSACTION.** Lessee hereby acknowledges and represents that the lease transaction evidenced by this Agreement creates, and shall continue to be a true and bona fide equipment lease under all applicable laws of the state in which the Owner has its principal place of business. In the event that it were alleged and/or determined for any purpose that the transaction evidenced by this Agreement is other than a true and bona fide equipment lease, Lessee shall indemnify, protect, save and keep harmless the

Initial _____

Lessor from and against any and all losses, damages, injuries, claims, demands and other expenses, legal or otherwise (including court costs and attorney fees), or whatsoever kind or nature, as a result of such allegation or determination.

32. CHOICE OF LAW ; JURISDICTION. THIS LEASE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF WASHINGTON. This lease shall not be effective until signed by lessor at its office listed above. In the event of any legal action with regard to this lease or the equipment covered hereby, Lessee agrees at Lessor's option, that venue may be laid in King County, State of Washington.

33. SEVERABILITY. If any provision hereof, or any remedy herein provided for be invalid under any applicable law, such provision shall be inapplicable and deemed omitted, but the remaining provisions hereof, including remaining default remedies, shall be given effect in accordance with the manifest intent hereof.

34. PROVISIONS BINDING. It is further understood and agreed t hat all rights and liabilities herein given or imposed on either of the parties hereto shall be binding upon the successors and assigns of the parties to this Lease, except as otherwise provided herein.

35. MISCELLANEOUS. All notices relating hereto shall be mailed to Lessor or Lessee at the respective addresses shown on this Agreement. This Lease is irrevocable for the full term hereof and for the aggregate rental herein reserved, and the rent shall not abate by reason of termination of Lessee's right of possession and/or taking of possession

by Lessor or for any other reason. In the event this Lease is assigned by Lessor, Lessor's Assignee shall give Lessee notice of its address.

36. JOINT AND SEVERAL LIABILITY. If more than one Lessee is named in this Lease, the liability of each, shall be joint and several.

37. DESCRIPTIVE HEADINGS. The descriptive headings of the various sections of the Lease and any Schedule executed with reference thereto are inserted for convenience of reference, do not constitute a part of this Lease or any Schedule and no inference is to be drawn therefrom.

38. SEVERABILITY AS TO EQUIPMENT. Upon delivery to Lessee of less than all of the Equipment, this Lease shall be operative as to that part of the Equipment so delivered at the time of delivery with rental and renewal rental reduced to that attributable to such part of the Equipment.

39. FURTHER ASSURANCES. Lessee will promptly execute and deliver to Lessor such further documents and take such further action as Lessor may request in order to more effectively carry out the intent and purpose of this Lease.

40. DEFINITIONS. Where appropriate in this Lease, words used in the singular shall include the plural, and words used either in the masculine or feminine or neuter shall include the other two genders.

41. ENTIRE AGREEMENT; WAIVER. This document and any Schedule constitute the entire agreement between the parties. This Lease cannot be modified except by a writing signed by all parties hereto. No supplier or agent thereof is authorized to bind Lessor or to waive or to modify any term hereof. No waiver by Lessor of any provision hereof shall constitute a waiver of any other matter.

LESSEE HAS READ AND APPROVED ALL PAGES COMPRISING THIS LEASE AND HEREUPON HAS ENTERED IN THIS LEASE

As of the day and year first above written.

This Agreement is effective only upon execution by an authorized officer of Lessor following Lessee's execution hereof. Lessee hereby authorizes Lessor to disburse the Total Advance as reflected on the Pay Proceeds Direction attached to each Schedule A.

LESSOR: Radiance Capital LLC

LESSEE: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

PERSONAL GUARANTEE(S)

The undersigned guaranty and promise to make all of the payments and perform all Lessee's obligations as specified in this Equipment Lease Agreement. Each of our liabilities is primary and joint and several and shall not be affected by any settlement, extension, renewal or modification of the Agreement, by the discharge or release of the Lessee's obligations or by the taking or release of additional guarantors or security for the performance of the Agreement. The undersigned waive any rights we may have to (a) presentment, demand, protest, notice of protest, notice of dishonor, notice of default under the Agreement any other notices related to this guaranty or the Agreement and (b) the right to require Lessor to proceed against Lessee or to pursue any other remedy in Lessor's power. The undersigned also waive any other rights and defenses available to a guarantor by reason of application case or statutory law. The undersigned agree that we are liable for Lessor's attorney's fees and costs in enforcing this guaranty, whether or not suit is filed. The undersigned acknowledge that this guaranty inures to the benefit of Lessor's assigns.

Guarantor name (printed)

Guarantor Signature

Date

Guarantor name (printed)

Guarantor Signature

Date

Guarantor name (printed)

Guarantor Signature

Date

Guarantor name (printed)

Guarantor Signature

Date