

NELC

EQUIPMENT LEASE CONTRACT

Leasing Company: "Lessor", "We", "Us"

Leasing Customer ("You"):

Company Name (Exact business name): EXAMPLE

Address: EXAMPLE

Street

City

County

State

Zip

Phone: _____

Fax: _____

Business Type: Corporation

Equipment Location: _____

Vendor: EXAMPLE

Address: _____

Description of Leased Equipment (This should include make, model, serial number): _____

Payment Schedule:

36 Months

36

\$974.00

\$1,948.00

Monthly

Lease Term (months)

Total # of Pmts.

Amount of Each Pmt.
(plus applicable taxes)

Advance Rental

Pmt. Frequency

Terms of Lease

1. REQUEST FOR US TO ACQUIRE EQUIPMENT FOR YOU. You (the Leasing Customer identified above) wish to acquire certain equipment from the equipment vendor identified above. Rather than purchasing it yourself, you have come to us the Lessor identified above and asked us to purchase it and then lease it back to you. In exchange for our agreement to do this, you have agreed to the terms in this lease agreement (the "Lease"). We have given you an opportunity to discuss and negotiate these terms with us, and the following is the final version of our contract. If there is any information deleted from the above boxes, you give us permission to fill it in.

2. THE EQUIPMENT. We agree to lease to you, and you agree to lease from us, the equipment identified above and on any schedule(s) attached to this Lease. This Lease also covers any and all replacement equipment, add-ons, substitutions or accessories (collectively referred to as the "Equipment"). The other details of the Lease such as the rental amount, the Lease period (term) and other matters are set forth in the boxes above.

3. YOUR SELECTION OF THE EQUIPMENT VENDOR AND THE EQUIPMENT. You hereby acknowledge and agree that:

(a) YOU SELECTED THE EQUIPMENT VENDOR AND THE EQUIPMENT BASED ON YOUR OWN SKILL AND KNOWLEDGE.

(b) WE DID NOT SELECT OR INSPECT THE EQUIPMENT, HAVE NEVER SEEN THE EQUIPMENT AND HAVE NO EXPERT KNOWLEDGE REGARDING IT.

(c) YOU AGREE THAT THIS LEASE IS A FINANCE LEASE AS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE. IT IS ALSO A "TRUE LEASE," MEANING THAT IT IS NOT A "LEASE INTENDED AS SECURITY," A CONDITIONAL SALE, A LOAN OR A SIMILAR ARRANGEMENT.

(d) PRIOR TO EXECUTING THE LEASE, YOU RECEIVED AND APPROVED THE SUPPLY CONTRACT (IF ANY) BETWEEN US AND THE EQUIPMENT VENDOR, AND YOU HAVE BEEN ADVISED IN WRITING (OR ARE NOW ADVISED HEREBY) THAT YOU MAY HAVE RIGHTS AGAINST THE VENDOR UNDER THE SUPPLY CONTRACT (IF ANY) AND THAT YOU MAY CONTACT THE VENDOR FOR INFORMATION ABOUT WHAT YOUR RIGHTS AGAINST THE VENDOR ARE (IF ANY).

4. NO RIGHT TO CANCEL; OTHER IMPORTANT TERMS OF THE LEASE. YOU AGREE AS FOLLOWS:

(a) **LEASE CANNOT BE REVOKED; NO "TEST PERIOD."** BECAUSE WE ARE PURCHASING THE EQUIPMENT FOR YOU AT YOUR REQUEST AND CANNOT GET A REFUND, THIS LEASE CANNOT BE CANCELLED OR REVOKED BY YOU FOR ANY REASON AT ANY TIME, INCLUDING BUT NOT LIMITED TO EQUIPMENT FAILURE OR DEFECTS, DAMAGE OR LOSS. THE LEASE CANNOT BE PREPAID EXCEPT WITH OUR

PRIOR WRITTEN PERMISSION ON TERMS ACCEPTABLE TO US. THERE IS NO "TEST PERIOD" FOR THE EQUIPMENT.

(b) **LESSOR IS NOT RELATED TO MANUFACTURER OR VENDOR; NO CLAIMS TO BE MADE AGAINST LESSOR.** WE ARE NOT RELATED IN ANY WAY TO THE EQUIPMENT MANUFACTURER OR VENDOR. NEITHER THE VENDOR NOR ANYONE ELSE IS AN AGENT OF OURS, AND NO STATEMENT, REPRESENTATION, GUARANTEE OR WARRANTY MADE BY THE VENDOR OR OTHER PERSON IS BINDING ON US OR WILL AFFECT YOUR OBLIGATIONS TO US. ONLY AN EXECUTIVE OFFICER OF LESSOR IS AUTHORIZED TO WAIVE OR ALTER ANY OF THE TERMS OF THIS LEASE, AND THEN ONLY IN WRITING. IF THE EQUIPMENT FAILS TO OPERATE PROPERLY, OR THE VENDOR OR ANY OTHER PERSON FAILS TO PROVIDE ANY MAINTENANCE OR OTHER SERVICE, YOU WILL MAKE ANY COMPLAINT ONLY AGAINST THE VENDOR OR OTHER PERSON AND NOT AGAINST US (EITHER BY WAY OF A CLAIM, COUNTERCLAIM, DEFENSE OR EXCUSE TO PAYMENT).

(c) **LESSOR MAKES NO WARRANTIES.** THE EQUIPMENT IS LEASED BY US TO YOU "AS IS," "WHERE IS" AND WITH ANY AND ALL FAULTS. WE HAVE MADE NO STATEMENT, REPRESENTATION, WARRANTY (EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) REGARDING THE EQUIPMENT. WE DISCLAIM ALL SUCH WARRANTIES OR GUARANTEES OF ANY KIND. WE SHALL TRANSFER TO YOU ALL EXPRESS WARRANTIES, IF ANY, MADE BY THE EQUIPMENT VENDOR TO US, BUT THIS DOES NOT IMPLY THAT THERE ARE ANY SUCH WARRANTIES.

(d) **BARGAINED FOR WAIVER OF RIGHTS.** YOU WAIVE ANY AND ALL RIGHTS AND REMEDIES YOU HAVE UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE, SECTIONS 508 THROUGH 522.

(e) **DISCLAIMER OF LIABILITY.** WE ARE NOT LIABLE FOR ANY LOSS, DAMAGE (INCLUDING LOST PROFITS, SPECIAL DAMAGES OR INCIDENTAL OR CONSEQUENTIAL DAMAGES) OR INJURY TO YOU, YOUR EMPLOYEES OR ANY OTHER PERSON OR PROPERTY CAUSED BY THE EQUIPMENT.

5. RENTAL AMOUNT. The monthly or other periodic rent you have agreed to pay is stated above. The rental amount is based on the estimated cost of all the Equipment and it may be adjusted higher or lower if the actual cost of the Equipment is higher or lower than the estimate. You also agree to pay a partial (pro rated) rental payment covering the period between the delivery date and the date the first regular payment is due. If all or any part of a payment is late, you agree to pay a late charge equal to \$20.00 or 15% of the amount that is late, whichever is greater. **(Agreement continues on reverse side)**

Acceptance of Lease Agreement

This is a binding contract. It cannot be canceled. Read it carefully before signing, and call us if you have any questions.

X

Signature of Leasing Customer

Print Name of Signer

Title

Date

Accepted and Signed by LESSOR

Print Name of Signer

Title

Date

Personal Guaranty

IN CONSIDERATION OF MY RECEIVING BENEFIT AND VALUE FROM THE ABOVE LEASE, I (OR WE, IF THERE IS MORE THAN ONE OF US, INDIVIDUALLY, JOINTLY AND SEVERALLY) HEREBY PERSONALLY AND UNCONDITIONALLY GUARANTEE ALL AMOUNTS OWED BY THE LEASING CUSTOMER UNDER THIS LEASE, AND I ALSO AGREE TO PAY THE LEASING COMPANY'S LEGAL FEES AND COSTS INCURRED IN ENFORCING THE LEASE AND THIS PERSONAL GUARANTY. I WAIVE NOTICE OF ACCELERATION, DEFAULT, RENEWALS, EXTENSIONS, TRANSFERS, AMENDMENTS AND OTHER CHANGES IN THE TERMS OF THE LEASE AND AGREE THAT I WILL BE BOUND BY ANY AND ALL SUCH CHANGES. I AGREE THE LEASING COMPANY MAY PROCEED AGAINST ME SEPARATELY FROM THE LEASING CUSTOMER. I CONSENT TO PERSONAL JURISDICTION AND SUIT IN PENNSYLVANIA COURTS AND THE COURTS OF THE STATE IN WHICH OUR ASSIGNEE HAS ITS PLACE OF BUSINESS. I AGREE THAT THIS PERSONAL GUARANTY WILL BE BINDING UPON MY HEIRS AND PERSONAL REPRESENTATIVES.

GUARANTOR #1 (Print Name)

GUARANTOR #2 (Print Name)

X

Signature (Individually, No Titles)

Date

X

Signature (Individually, No Titles)

Date

Acceptance of Delivery

I AM AUTHORIZED TO SIGN THIS CERTIFICATE ON BEHALF OF THE LEASING CUSTOMER. I CERTIFY TO THE LEASING COMPANY THAT THE EQUIPMENT HAS BEEN DELIVERED AND IS FULLY INSTALLED AND WORKING PERFECTLY. I AUTHORIZE YOU TO PAY THE VENDOR AND COMMENCE THE LEASE.

X

Authorized Signature

Name and Title

Equipment Delivery Date

6. LEASE COMMENCEMENT AND TERM. This Lease will not commence until we execute it and will continue for the full term identified above. The monthly (or other periodic) due date will be established by us. The due date for the first regular rental payment will also be established by us; however, it will not be greater than 30 days from the date on which the Equipment was delivered to you.

7. ADVANCE PAYMENT(S) AND/OR SECURITY DEPOSIT. You have paid us one or more advance payments and/or a security deposit in the amount(s) indicated above. If the Lease does not commence for reasons other than our own negligence, we may retain such monies to compensate us for our credit and other administrative costs. If any part of a security deposit remains at the end of the term of the Lease, we will return the remainder to you, without interest, provided however you are not then in default under the Lease.

8. EQUIPMENT DELIVERY. You understand and agree that we are not responsible for packaging, delivery, installation or testing of the Equipment. You (and/or the Vendor, if you have made such arrangements with the Vendor) are responsible for all such matters. You agree that you will not have any complaint against us if the Vendor or any other person improperly packages the equipment or delays in delivering or installing it.

9. USE OF THE EQUIPMENT. YOU REPRESENT TO US THAT THE EQUIPMENT WILL BE USED ONLY FOR COMMERCIAL, BUSINESS OR AGRICULTURAL PURPOSES, AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES. In addition, you agree not to attach the equipment to any realty or otherwise permit to become a "fixture" to real estate or a structure thereon, nor will you trade it in, make alterations to it, sell or dispose of it without our prior written permission. You shall not allow any liens or encumbrances (for example, a mechanic's lien) to be placed on the Equipment. You agree not to move the location of the equipment to any place other than the address stated above without our prior written permission.

10. MAINTENANCE AND SERVICE. You agree that we are not responsible for maintenance, repairs or service to the Equipment. You agree to use the Equipment strictly in the manner for which it is intended by the manufacturer, and you shall maintain the Equipment in good operating order. At the end of the term of the Lease, unless you have been given a written option to purchase the Equipment and you make the purchase, you will be liable for all damage or distress to the Equipment beyond "ordinary wear and tear."

11. LEASE ASSIGNMENT; SUBLEASE OF EQUIPMENT. THIS LEASE WAS MADE TO YOU BASED ON YOUR OWN CREDIT. THEREFORE YOU AGREE THAT YOU MAY NOT ASSIGN, TRANSFER OR SELL ANY OF YOUR RIGHTS OR INTERESTS UNDER THE LEASE TO ANY OTHER PERSON OR ENTITY, NOR MAY YOU SUBLEASE OR RENT ANY OF THE EQUIPMENT TO ANY OTHER PERSON OR ENTITY. HOWEVER, YOU AGREE THAT WE MAY ASSIGN, TRANSFER, SELL, PLEDGE OR OTHERWISE ENCUMBER ANY OR ALL OF OUR RIGHTS AND INTERESTS UNDER THIS LEASE (INCLUDING OUR RIGHTS AND INTERESTS IN THE EQUIPMENT) TO ANY OTHER PERSON OR ENTITY (INCLUDING A BANK OR OTHER SECURED PARTY OR A BUYER) (COLLECTIVELY, A "THIRD PARTY") WITHOUT PRIOR NOTICE TO YOU. SUCH THIRD PARTY MAY ALSO ASSIGN, TRANSFER, SELL, PLEDGE OR OTHERWISE ENCUMBER ITS RIGHTS AND INTERESTS. IN THIS EVENT, YOU AGREE THAT SUCH THIRD PARTY, OR ITS ASSIGNEE OR TRANSFEREE, WILL RECEIVE ALL THE RIGHTS AND INTERESTS WE HAD UNDER THE LEASE BUT NONE OF OUR OBLIGATIONS OR LIABILITIES, IF ANY. WE WILL CONTINUE TO BE RESPONSIBLE FOR ALL SUCH LIABILITIES AND WILL RETAIN AND HONOR ALL SUCH OBLIGATIONS. YOU PROMISE AND AGREE THAT YOU WILL NOT ASSERT ANY CLAIMS, COUNTERCLAIMS, DEFENSES OR SETOFFS AGAINST SUCH THIRD PARTY. YOU HEREBY ACKNOWLEDGE THAT ANY TRANSFER OF OUR RIGHTS AND/OR INTERESTS TO A THIRD PARTY WOULD NOT MATERIALLY CHANGE YOUR OBLIGATIONS UNDER THE LEASE OR INCREASE YOUR RISKS.

12. DAMAGE TO EQUIPMENT; RISK OF LOSS OF EQUIPMENT; INSURANCE. You agree that we are not liable or responsible for any damage to the Equipment, or any loss of or casualty to the Equipment from any cause whatsoever. NO SUCH DAMAGE, CASUALTY OR LOSS WILL AFFECT YOUR RESPONSIBILITIES AND OBLIGATIONS UNDER THE LEASE. You agree to keep insurance on the Equipment insuring against all risks of property damage, casualty or loss in an amount at least equal to the replacement cost. You agree to list us as the "loss payee" with respect to such insurance. At our option, we may also require you to have public liability insurance listing us as "additional insured." The amount of such property and/or liability insurance coverage must be reasonably acceptable to us. You are required to send us written proof of this insurance. IF YOU DO NOT PROVIDE SUCH PROOF TO US WITHIN 15 DAYS AFTER THE LEASE COMMENCES, WE WILL HAVE THE RIGHT (BUT NOT THE OBLIGATION) TO OBTAIN SUCH INSURANCE NAMING US AS THE SOLE LOSS PAYEE, ADDITIONAL INSURED OR SOLE INSURED PARTY, AS MAY BE APPROPRIATE. IN THIS EVENT, YOU AGREE TO PAY OUR REASONABLE COSTS AND A REASONABLE ADMINISTRATIVE FEE.

13. TAXES AND OTHER FEES RELATING TO THE LEASE OF THE EQUIPMENT. You agree and understand that the amounts we are charging you to rent the Equipment do NOT cover taxes, governmental fees and similar types of costs. Accordingly, you agree to pay us upon demand for all taxes (including but not limited to sales, property, use and other taxes) and other charges and fees of any type that a third party may charge to you or us relating to this Lease or to the use or ownership of the Equipment.

14. TITLE TO THE EQUIPMENT. You agree that the Equipment is and will remain throughout the term of the Lease solely our property. We will have title to the Equipment throughout the term, and this is a "true lease." If this Lease is ever adjudicated by a court or otherwise determined to be a transaction other than a "true lease," you hereby grant us a security interest in the Equipment relating back to date we purchased it. YOU HEREBY APPOINT US AND OUR AGENTS AS YOUR ATTORNEY-IN-FACT AND GRANT US AND OUR AGENTS POWER OF ATTORNEY IN YOUR NAME TO SIGN AND FILE UNIFORM COMMERCIAL CODE FINANCING STATEMENTS RECORDING

SUCH A SECURITY INTEREST. YOU AGREE TO REIMBURSE US FOR ALL FILING COSTS AND PROCESSING FEES.

15. YOUR REPRESENTATIONS TO US. The person signing this Lease on behalf of the lessee (you, the leasing customer) hereby represents and warrants to us that: This Lease has been authorized by any and all action required of the corporation, partnership, limited liability company or other form of business (whichever applies in your case), and no consent of any other person or entity is necessary; the lessee entity has complete power to enter into this Lease, and the person signing on behalf of the lessee has been authorized to do so; the Lease is a legal, valid and binding obligation of the lessee entity, and enforceable against the lessee in accordance with its terms; all factual statements made in this Lease and all other information supplied to us by the lessee entity or your representatives, is accurate and complete in all material respects.

16. DEFAULT DEFINED. You will be in default under this Lease if any of the following events occur: (a) you fail to make any rental or other payment within a period of fifteen (15) days after the due date; (b) you fail to comply with any other term or condition of this Lease or any other agreement between us, or fail to perform any obligation imposed upon you relating to this Lease or any such other agreement; (c) you become deceased (if the lessee entity under this Lease is one or more natural persons), go out of business, admit your inability to pay your debts as they fall due, become insolvent, make an assignment for the benefit of your creditors, file (or have filed against you) a petition in bankruptcy, a trustee or receiver of your business assets is appointed, or you sell all or substantially all of such assets.

17. OUR REMEDIES UPON DEFAULT. In the event you default under this Lease, as defined above, we will have the right to take ANY OR ALL of the following actions, in addition to any and all other remedies that may be available to us under law:

- (a) terminate the Lease without prior notice or warning to you;
- (b) directly debit (charge) your bank account(s) and/or file a lawsuit against you to collect all past due rent AND ALL RENT THAT WILL BECOME DUE IN THE FUTURE DURING THE UNEXPIRED TERM, plus the "residual value" of the Equipment as determined by us in our sole but reasonable judgment, plus all other fees, charges or amounts that are then due. You agree to pay all of our reasonable legal costs, including but not limited to reasonable attorney's fees, reasonable overhead for employee time spent on preparing for suit or attempting to collect payments and mitigate our damages.
- (c) repossess the Equipment or apply to a court for an order allowing repossession. In this event, you agree that, after the Equipment is repossessed, you will have no further rights in the Equipment, and you agree we may resell, re-lease or otherwise remarket the Equipment without notice to you. You agree (and you waive any rights that may provide to the contrary) that we will NOT be required to repossess, resell, re-lease or otherwise remarket the Equipment at any time, and that our failure to do so will not affect our other rights of collection and other rights under this Lease or under law.

18. PERSONAL JURISDICTION OVER YOU IN PENNSYLVANIA, AND PLACE FOR ANY LAWSUIT. YOU AGREE THAT THIS LEASE WILL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF PENNSYLVANIA. YOU HEREBY CONSENT TO PERSONAL JURISDICTION IN THE STATE OF PENNSYLVANIA, AND YOU AGREE THAT ANY LAWSUIT RELATING TO THIS LEASE, WHETHER IT IS BROUGHT BY YOU OR US, MUST BE BROUGHT ONLY IN THE COURTS OF PENNSYLVANIA, UNLESS WE CONSENT IN WRITING OTHERWISE. YOU ALSO HEREBY WAIVE TRIAL BY JURY. IN THE EVENT WE SELL OR ASSIGN THIS LEASE TO A THIRD PARTY, YOU AGREE THE LEASE WILL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH SUCH THIRD PARTY MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS, AND YOU CONSENT TO PERSONAL JURISDICTION IN SUCH STATE.

19. TAX BENEFITS BELONG TO LESSOR. The following applies to this Lease UNLESS, at the commencement of this Lease, we execute and deliver to you a document signed by an executive officer of Lessor giving you the option at the end of the Lease to purchase the Equipment for One Dollar (\$1.00). For all state, federal and local tax purposes, Lessor and its successors and assigns is/are the sole owner of the Equipment and is entitled to all tax benefits relating to the Equipment, including but not limited to tax credits, depreciation and deductions. You agree not to do anything that is inconsistent with Lessor's ownership of the Equipment. You agree not to claim to be the owner of the Equipment on your state, federal or local tax returns or in any other document or for any other purpose. IF YOU DO ANYTHING OR FILE ANYTHING THAT CAUSES US TO LOSE ANY SUCH TAX BENEFIT CONTEMPLATED ABOVE, OR IF WE SUFFER ANY HARM, DAMAGE, COST, LOSS, LIABILITY (FOR EXAMPLE, IF INTEREST OR TAX PENALTIES ARE IMPOSED AGAINST US), OR IF ANY SUIT OR PROCEEDING IS BROUGHT AGAINST US, ARISING OUT OF YOUR BREACH OF ANY OF THE AGREEMENTS YOU HAVE MADE IN THIS SECTION, YOU AGREE TO HOLD US HARMLESS, DEFEND US AND INDEMNIFY (REIMBURSE OR PAY) US WITH RESPECT TO THE AMOUNT OF SUCH LOST BENEFITS OR OTHER DAMAGE, LOSS, COST (INCLUDING REASONABLE ATTORNEYS FEES) OR LIABILITY. THIS DUTY TO INDEMNIFY US SHALL SURVIVE THE TERMINATION OF THIS LEASE.

20. OTHER INDEMNIFICATION. You understand that we have no control over your use of the Equipment and, in any event, for the amount of rent we are charging we cannot agree to accept any financial, liability or other risks relating to the use or ownership of the Equipment. Accordingly, you agree to hold us harmless, indemnify (pay or reimburse) and defend us against all claims, liabilities, losses, suits, proceedings, damages, costs (including reasonable legal fees) relating to this Lease or to the use or ownership of the Equipment, including but not limited to claims for death or injury to persons and claims for property damage. This duty to indemnify shall survive the termination of this Lease.

21. RETURN OF THE EQUIPMENT. No more than 180 days and no less than 90 days prior to the end of the Lease, you shall give us written notice of your intention to either return the Equipment to us or purchase the Equipment by exercising the purchase option we may have given you. Provided you have given such timely notice, you shall, at your cost, return the Equipment to us in good working condition in a manner and to a location designated by us or remit the purchase option. You agree to reimburse us for any cost we incur to refurbish the Equipment. If you fail to so notify us or, having notified us, you fail to return the Equipment as provided herein, or fail to remit the purchase option, the Lease shall automatically renew for another 12-month period under the same terms and conditions described herein.

AS A CONVENIENCE TO YOU (THE LEASING CUSTOMER) AND TO FURTHER EXPEDITE THIS TRANSACTION FOR YOU, WE BOTH HAVE AGREED THAT A PHOTOCOPY OR FACSIMILE OF THIS LEASE WHICH INCLUDES A PHOTOCOPY OR A FACSIMILE OF THE SIGNATURES OF BOTH PARTIES SHALL BE AS VALID, AUTHENTIC AND LEGALLY BINDING AS THE ORIGINAL VERSION OF ALL PURPOSE AND SHALL BE ADMISSIBLE IN COURT AS FINAL AND CONCLUSIVE EVIDENCE OF THIS TRANSACTION AND OF THE EXECUTION OF THE DOCUMENT.

