

**NONCANCELABLE COMMERCIAL EQUIPMENT LEASE AGREEMENT**

ACCOUNT NUMBER					

AUTHORIZATION NUMBER					

This Lease Agreement ("Lease") is between **TimePayment Corp.** ("TPC" or "Lessor"), whose address is shown above and the Lessee indicated below ("Lessee," "You" or "Your"). LESSEE ACKNOWLEDGES THAT IT IS ENTERING INTO THIS LEASE WITH TPC FOR BUSINESS PURPOSES AND THAT TPC IS NOT THE VENDOR, DEALER OR MANUFACTURER OF THE EQUIPMENT AND NONE OF THEIR SALESPERSONS OR REPRESENTATIVES IS AN AGENT OF LESSOR OR AUTHORIZED TO WAIVE OR ALTER THE TERMS OF THIS LEASE - THEIR REPRESENTATIONS SHALL IN NO WAY AFFECT LESSEE OR LESSOR'S RIGHTS AND OBLIGATIONS AS HEREIN SET FORTH. This is a legally binding contract. If You do not understand the terms and conditions of this Lease You should consult with an attorney before signing.

**Customer Information:**

Lessee Legal Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
 Billing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Business Phone No. \_\_\_\_\_ Cell Phone No. \_\_\_\_\_ Email Address \_\_\_\_\_ Equipment Location (if different) \_\_\_\_\_

**Vendor Information:**

Vendor Name \_\_\_\_\_ Vendor Code \_\_\_\_\_ Vendor Phone No. \_\_\_\_\_ Vendor Sales Rep Name \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

<b>A. BASE TERM:</b> _____ months  <b>B. BASE LEASE PAYMENTS:</b> _____ each in the amount of \$ _____ (plus taxes and tax processing fee, and damage fee, if applicable, as described in sections 16 and 17 of this Lease)	<b>C. AMOUNT DUE AT SIGNING:</b> FIRST BASE LEASE PAYMENT \$ _____ SALES / USE TAX \$ _____ PROCESSING FEE \$ _____ SECURITY DEPOSIT \$ _____ <b>TOTAL</b> \$ _____	<b>LEASE ACCEPTED BY LESSEE:</b>  _____ AUTHORIZED LESSEE SIGNATURE  _____ Print Name  _____ Title _____ Date _____
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**Equipment Description:** IF EQUIPMENT AND OR COMPONENTS ARE NOT NEW SELECT ONE:  USED  CONTAINS USED PARTS

**PERSONAL GUARANTY:** To induce TPC to enter into the Lease, each undersigned party (each a "Guarantor") absolutely and unconditionally guarantees to TPC the prompt payment and performance when due of all of Lessee's obligations to TPC under the Lease. This a continuing Guaranty of payment, not collection. TPC shall not be required to proceed against Lessee or the Equipment or to enforce any other remedy before proceeding against Guarantor. Guarantor agrees to pay all costs and expenses, including attorney fees and expenses, incurred by TPC in enforcing TPC's rights against Lessee and/or Guarantor. Guarantor waives all defenses to payment based upon suretyship principles or impairment of collateral and waives notice of the acceptance hereof and of all other notices or demands of any kind to which Guarantor may otherwise be entitled. Guarantor consents to any extensions of time or modifications in the amount of payment granted to Lessee and to the release and/or compromise of any obligations of Lessee or any other obligors and guarantors without in any way releasing Guarantor from his/her obligations hereunder. If more than one person signs this Guaranty, each Guarantor agrees that his/her liability is joint and several. Guarantor specifically understands and agrees that the underlined provisions of the Lease concerning choice of law and venue for any action apply to this Guaranty for all claims arising out of this Guaranty. Guarantor certifies that all financial information provided to Lessor is accurate and complete. Guarantor hereby authorizes Lessor and its respective agents and assigns to obtain (and provide to others) business, as well as personal information regarding Guarantor's credit history, via banks, trade references, credit reporting companies and any other extenders of credit for the purpose of reviewing credit worthiness, taking collection action and for any other purpose as may be required from time to time. Guarantor, by signing below, further waives any right or claim that Guarantor would otherwise have under the Fair Credit Reporting Act in the absence of this continuing consent.

SIGNED X \_\_\_\_\_ (an individual) Home Address: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_ Cell Phone No: \_\_\_\_\_ Date \_\_\_\_\_  
 SIGNED X \_\_\_\_\_ (an individual) Home Address: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_ Cell Phone No: \_\_\_\_\_ Date \_\_\_\_\_

Accepted by TimePayment Corp. By: \_\_\_\_\_ Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**LEASE TERMS AND CONDITIONS**

**1. Terms and Conditions.** In this Lease Agreement, the words "Lessee," "You", "Your" and "Yours", mean the Lessee. The words "Lessor" and "TPC" mean TimePayment Corp. "Equipment" is the item(s) You are leasing, and encompasses the equipment, software, products and/or services described above. You have read and agree to the terms which appear in this Lease and understand same. The Equipment is leased "AS-IS, WHERE-IS" for business and/or professional purposes and this Lease is not a consumer contract. Your obligations under this Lease are absolute, unconditional and not subject to any cancellation,

termination, abatement, set-off, defense or counterclaim for any reason.

**2. Payment Terms.** You agree to pay each Base Lease Payment, plus all taxes, fees and other amounts (the "Total Monthly Payment") when due. The Amount Due at Signing will be applied to Your first Total Monthly Payment, which shall be due on the date specified by TPC following the Commencement Date, and a Total Monthly Payment will be due on the same day of each subsequent month thereafter for the Lease Term. The amount of each Base Lease Payment remains fixed for the Lease Term, but the Total Monthly Payment due from month to month may vary as a result of local, state and other taxes owed on

the Equipment, TPC's monthly tax processing fees, any damage fee, past due amounts, late fees, and other charges You may owe under the Lease from time to time. If the Total Monthly Payment is made under the "auto debit" payment option, You understand that the amount debited from Your account may also vary and You agree to keep sufficient funds in Your business checking account to pay the amount owed each month. If You choose to make any payment by credit card, You agree to pay a credit card processing fee of up to 3% of the total payment made. If You have chosen to be statement billed by not completing the Method of Payment Authorization option on page 3 of this Lease, or if You have selected the direct debit option, and TPC finds it necessary to statement bill due to the direct debit information being incomplete, inaccurate or due to insufficient funds in Your checking account, or for any other reason beyond TPC's control, TPC is authorized to add a \$10.00 per month charge to Your Total Monthly Payment amount as reimbursement for TPC's added services and processing expenses.

**3. Credit Inquiries and Credit Reporting.** Each of TPC and its authorized assignees, lenders, outside attorneys and suppliers (including the Vendor named above) are authorized to check Your credit and employment history for the purposes of determining Your credit worthiness at the time of application and/or thereafter in connection with the same transaction or extension of credit and for the further purposes of reviewing the account, taking collection activity on the account, and skip tracing. You further authorize TPC and its authorized assignees to provide history information to others about Your credit standing and TPC's and its authorized assignees credit experience with You, including but not limited to credit bureaus, other companies, outside collection agencies and outside attorneys.

**4. Commencement of Lease; Lease Term.** The commencement date (the "Commencement Date") shall be the date when you authorize TPC to pay the Supplier or Vendor all or a portion of the cost of the Equipment. You acknowledge and agree that Your payment obligation and billing will begin after the Commencement Date. The "Lease Term" will commence on the Commencement Date and expire at the later of the end of the Base Term or the last month to month renewal thereof. Some or all of the Equipment may not have been delivered, installed and/or inspected by You as of the Commencement Date. If for any reason, the delivery, installation and/or operation of the Equipment does not occur, is delayed or not acceptable to You, You shall address such issues directly with the vendors providing such items and/or services, shall hold TPC harmless from such responsibility and shall pay all amounts due and to become due under the Lease.

**5. End of Lease Term.** So long as no Default has occurred and remains uncured and You provide TPC with not less than 30 days prior written notice, at the end of the Base Term You have the following options: (a) You can promptly return the Equipment in good condition, except for ordinary wear and tear, to TPC or to the person and place TPC designates in writing, or (b) You can purchase the Equipment for the Fair Market Value as quoted by TPC at that time plus any applicable taxes. Fair Market Value will not exceed 10% of the aggregate lease payments (i.e. the total of the Base Monthly Payments due during the entire Base Term). The Lease Term will automatically extend on the same terms and conditions as stated herein on a month to month basis until such time as You give TPC the required written prior notice to elect (a) or (b) above and pay the purchase price or return the Equipment, as applicable. TPC will return any Security Deposit after deducting any amounts You owe TPC under the conditions of this Lease once You have satisfied in full all of Your obligations under this Lease.

**6. Late Payments and Collection Costs.** For any payment due hereunder which is not paid when due, You must pay TPC, in addition to the payment, a late charge of 15% of the late monthly payment (but at least \$5.00 per month). Amounts which are not paid within 15 days of when due shall accrue interest at 1.5% per month (or if less, the maximum legal rate) until paid. You will pay TPC's collection costs, including charges for collection letters (not to exceed \$5.00 per letter), collection phone calls (\$6.00 per call), collection agency fee (\$50.00 per placement), collection agency charge (an amount not to exceed 30% of the amount paid by You to the collection agency), pre-suit notification legal letter fee (\$20.00 per letter), a processing charge of up to \$30.00 or whatever fee is allowable by law for any returned check or for any rejected credit card charge or for any rejected automatic bank account debit, and pre-litigation administrative preparation fee (not to exceed \$200.00) whenever such costs are incurred. You will also pay TPC's costs and expenses in the event that TPC obtains a judicial ruling or decision in TPC's favor regarding Your liability under the Lease, including reasonable attorneys' fees, witness travel expenses, court costs, and service of process fees.

**7. Default.** You will be in "Default" of this Lease if: (a) You fail to pay any amount due TPC within 30 days of the due date; (b) You or any Guarantor becomes the subject of a bankruptcy or insolvency proceeding, undergoes a change of control, ceases to exist or suffers a material adverse change in financial condition or operations; (c) You fail to return the Equipment at the end of the Lease Term if You have chosen that option; or (d) You fail to follow any other terms of this Lease.

**8. Remedies.** If You default, TPC has the right to exercise any or all of the following remedies, to the extent permitted by law: (a) cancel this Lease without giving You notice; such cancellation will not release or reduce Your obligations hereunder; (b) require the immediate payment of all amounts then due plus the present value (discounted at 4% per annum) of all Total Monthly Payments for the remainder of the Lease Term, plus the Fair Market Value of the Equipment, as reasonable determined by TPC, plus all taxes ("Lease Balance"); (c) take possession or request that You return the Equipment to TPC and TPC will credit Your account for any amounts received, net of expenses, in the event of disposition of the Equipment; (d) Lawfully enter Your property and take the Equipment. If TPC repossess the Equipment, You will pay TPC its repossession costs, plus a \$50 disposition fee; (e) apply any Security Deposit You have given to TPC to reduce the amount You owe; (f) charge You any amount reasonably necessary to put the

Equipment in good condition, ordinary wear and tear excepted; (g) continue to charge You additional Total Monthly Payments beyond the end of the Base Term until You return the Equipment; (h) notify any third party that is providing service to or associated with the equipment; and (i) obtain, share and use information concerning Lessee and each Guarantor, including but not limited to, social security number, employment, name, date of birth, credit reports, tax identification numbers ("information") to locate all assets, including, but not limited to, bank accounts, mutual funds, stock brokerage accounts, money market accounts, real property, and personal property for the purpose of collection of money You owe TPC.

**9. De-Installation and Removal Charges.** You are responsible for any costs associated with the de-installation and/or removal of the Equipment for any reason.

**10. Maintenance of Equipment.** You agree to maintain the Equipment at all times in good operating and physical condition at Your expense, ordinary wear and tear excepted.

**11. Disclaimer of Warranties.** You understand that the manufacturer or vendor may have provided a warranty on the Equipment. You will refer to the owner's manual or separate manufacturer's certificate for the actual terms of the warranty. You understand that TPC has not given You either express or implied warranties for the Equipment, use of the Equipment and/or any services provided. TPC DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR ANY PARTICULAR USE. TPC WILL HAVE NO LIABILITY FOR LOST PROFITS, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES. You have chosen this specific Equipment based on Your own judgment and expressly disclaim any reliance upon any statements or representations made by TPC.

**12. Equipment Servicing.** You understand that no servicing of any kind is provided by TPC. You will look to the Equipment Vendor/Supplier for any claims, servicing or warranties if any, and You specifically and unconditionally waive any claims, present or future, against TPC. Any failure of Equipment, service or operation of any kind, whatsoever, is no basis for non-fulfillment of Your obligations under the Lease.

**13. Manner of Execution.** This Lease and any all ancillary documents may be manually, electronically and/or digitally executed. A photocopy, printed electronic image or facsimile of this Lease and/or any related document that includes copies of the signatures of the parties hereto shall be treated as an original document and proof of the agreement between the parties.

**14. Alterations.** You shall not make alterations, additions or improvements to the Equipment without TPC's prior written consent. All additions and improvements made to the Equipment shall belong to TPC.

**15. Loss or Destruction of the Equipment.** From the time the Equipment is ordered until it is returned to TPC in the required condition or purchased by You ("Risk Period"), You are responsible for all risk of loss or damage to the Equipment. You will notify TPC immediately if the Equipment is lost, destroyed, stolen or taken by any person and, pay TPC the Lease Balance described in Section 8(b) above. If the Equipment has only been partially damaged, TPC may require that You have it repaired.

**16. Insurance:** During the Risk Period You will keep the Equipment fully insured against all loss, destruction, theft or damage and will provide an insurance binder naming TPC as loss payee. If You do not comply and deliver sufficient proof of insurance, You must pay a damage fee of up to 1% of the cost of the Equipment each month. The damage fee is not calculated based on TPC's actual exposure and shall not be considered insurance, a replacement for insurance or payment for insurance as the payment of the fee provides no coverage. Such payment does not relieve You of Your responsibility to obtain insurance.

**17. Taxes and Tax Processing Fee.** You shall pay promptly when due any and all taxes (except income taxes), charges, penalties, interest, expenses, costs, assessments and fees, whatsoever, relating to this Lease and the Equipment whether local, state, federal and otherwise, which now or hereafter is imposed on Lessee or Lessor. You agree that TPC may estimate the property and sales/use taxes that will be due for the Equipment and agree to pay TPC the estimated taxes as part of the Total Monthly Payments in monthly installments together with the monthly processing fee. The monthly processing fee will not exceed \$3.00 per month. Such fee will reimburse TPC for TPC's costs of preparing, reviewing, and filing the returns and for TPC's overall processing expenses. The taxes and tax processing fee may vary from month to month.

**18. Notice.** All notices under this Lease will be sent to TPC and/or Lessee at their respective address on the front page of this Lease.

**19. Changes on Terms of the Lease.** This Lease explains all the terms and conditions for the use of the Equipment You are leasing. The terms and conditions may not be changed orally. You and TPC must both give written approval before any changes are made.

**20. Collateral.** As security for payment of this Lease, You give TPC a security interest in the Security Deposit. If You Default, the Equipment is lost, stolen, damaged, destroyed, or if You fail to return the Equipment to TPC at the end of the Lease, TPC has the right to apply the Security Deposit to reduce the amount You owe. No interest will be paid on the Security Deposit.

**21. Assignment.** Without TPC's prior written consent, You shall not: (a) assign, pledge or otherwise dispose of this Lease or any interest therein, or (b) sub-lease, or lend the Equipment or permit it to be used by anyone other than You or Your employees or agents. TPC may assign this Lease and/or the Equipment in whole or in part without notice to You. Each such assignee shall have TPC's rights but none of TPC's obligations under this Lease. Your obligation to pay all Total Monthly Lease Payments and other amounts becoming due hereunder to such assignee shall be absolute, unconditional, not subject to any claim, defense or setoff that you may now or hereafter have against us.

**22. Ownership.** The Equipment is, and shall at all times remain, TPC's property; and You shall have no right, title or interest in it except as expressly set forth in this Lease. You will not create or permit to exist, and will promptly and at Your own expense discharge, any lien or encumbrance on the Equipment. You authorize TPC to sign and record Uniform Commercial Code ("UCC") financing statements and other documents we deem necessary to confirm our interest in the Equipment.

**23. Use.** You shall use the Equipment in a careful manner and shall comply with all laws relating to its possession, use and maintenance.

**24. Indemnity.** You shall indemnify TPC, its successors and assigns, against, and hold TPC harmless from, any and all claims, costs, expenses, damages and liabilities, including attorneys' fees, arising in connection with the Equipment, including its manufacture, selection, purchase, delivery, possession, use, operation, or return.

**25. Change of Name, Billing Address, Bank Account Change.** You will inform TPC, within one week, of any change in Your name, address, billing address, telephone numbers, location of the Equipment, or the bank checking account or credit card used for ACH debit. TPC will charge You up to \$100.00 if You fail to do so. TPC is authorized to correct any typographic or spelling errors in this Lease Agreement.

**26. Choice of Law.** The parties hereby agree that this Lease is made in, governed by, to be performed in, and shall be construed in accordance with the laws of the Commonwealth of Massachusetts. Any suit, action or other proceeding arising out of or related to the parties' obligations hereunder shall take place exclusively in the county in which the Lessee and/or Guarantor are located if initiated by TimePayment Corp., and shall take place exclusively in Middlesex

County, Massachusetts if initiated in any way by the Lessee and/or Guarantor. It is further agreed and understood that the corporate headquarters of TimePayment Corp. is located within the venue of The District Court Department of the Trial Court, within Middlesex County. **THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY.**

**27. Article 2A Rights and Remedies.** You agree that this Lease is a "finance lease" as that term is defined in Article 2A of the UCC. You hereby waive any and all rights and remedies granted to You by sections 2A-508 through 2A-522 of the UCC and You agree that either (a) You have received, reviewed and approved a copy of the Supply Contract or (b) that TPC has informed you of the identity of the Supplier, that you may have rights under the Supply Contract, and that you may contact the Supplier for a description of those rights.

**28. Miscellaneous.** If any provision in this Lease is invalid, such invalidity shall not affect the validity of the remaining provisions of this Agreement. Notwithstanding any provision contained herein, the maximum amount charged and collected shall not exceed the maximum amount which may be lawfully contracted for, charged, and received in this Lease transaction as determined by final judgment of a court of competent jurisdiction, including appeals there from.

**29. Communication via Cell Phone and Email.** By providing my telephone number and email address, You authorize TPC and its affiliates and agents to contact You using any means of communication, including but not limited to, calls placed to my cellular telephone using an automatic dialer device, calls using prerecorded messages and/or SMS text messages, and emails regarding any current or future payments owed to TPC, even if You will be charged by TPC's service provider(s) for receiving such communication.

### Method of Payment Authorization

Re: Lease Agreement ("Lease") between TimePayment Corp. ("TPC" or "Lessor") and \_\_\_\_\_ ("Lessee," "You" or "Your").

You represent and warrant that the checking account or credit/debit card listed below ("Payment Method") has been established as a business purpose account and is not used for personal, family or household purposes.

**Statement Billing:** You will receive monthly statements showing all amounts due. You understand a \$10 statement billing fee will be charged per month in accordance with paragraph 2 above.

**Automatic Payment:** You authorize the bank, credit card company or other financial institution shown below to: A) debit my checking account B) charge my credit card, for the purpose of paying the above Total Monthly Payments and any other amounts due under my Agreement monthly on the dates when the Total Monthly Payments and any other amounts are due under this Lease. You agree that if a payment cannot be made for any reason when due that continued attempts to debit or charge my designated account for the monies owed may be made until payment in full has been received.

**Cancelled Prior to Lease Commencement:** In the event this Lease transaction is cancelled prior to the Commencement Date, You authorize TPC to provide the Checking Account or Credit Card-Debit information listed below with the Vendor named on page one of the Lease and authorize the Vendor to use the Payment Method for the purpose of collecting equipment restocking fees in accordance with the vendor's equipment restocking policies.

**Amount Due at Signing:** If there is an Amount Due at Signing and You have not provided TPC with a check for that sum, You authorize TPC to collect the Amount Due at Signing via the Payment Method You have selected below.

Complete only one of A or B below:

**A: EFT Direct Payment:**

Name on Checking Account: \_\_\_\_\_

Routing #: \_\_\_\_\_ Account #: \_\_\_\_\_

**B: Credit Card-Direct Debit Charge to My Credit Card:**  VISA  MasterCard  AMEX  Discover

Name as it appears on the Card: \_\_\_\_\_

Account #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**Authorized Lessee Signature:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_