

# STATE OF SOUTH CAROLINA STANDARD EQUIPMENT AGREEMENT

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between

whose address is:

(Lessor) and the College of Charleston, an agency of the State of South Carolina (Lessee).

If this Agreement is entered into as a result of a solicitation, in the event of an inconsistency between provisions of this Agreement and other terms of the solicitation, the inconsistency shall be resolved by giving precedence to the terms and conditions of the solicitation. This Agreement is entered into in connection with solicitation or contract number \_\_\_\_\_.

Lessor hereby leases to Lessee the equipment described on the attached Exhibit A, upon the following terms:

1. **TERM OF LEASE:** The term of this Agreement shall commence on the date of acceptance by Lessee and shall continue for a period of \_\_\_\_\_ unless sooner terminated by either party as provided herein. The initial term and renewal term cannot exceed a total of five (5) years.
2. **RENTAL:** Lessee agrees to pay rental of: (1) \_\_\_\_\_ Dollars per \_\_\_\_\_ during the term of this Agreement, or (2) the amounts and upon the conditions stated in the Schedule of Payments attached as Exhibit B. The first rental payment shall be due and payable on the day after the date of acceptance by Lessee. Subsequent payments shall be due on the \_\_\_\_\_ day of each \_\_\_\_\_ thereafter. South Carolina sales or use taxes shall be stated separately.
3. **DELIVERY:** Delivery shall be not later than \_\_\_\_\_ from date hereof, time being of the essence. Delivery costs shall be borne by \_\_\_\_\_, and such costs shall not exceed \_\_\_\_\_.
4. **INSTALLATION:** Lessor shall install the equipment at a suitable location designated by Lessee. Installation costs shall be borne by \_\_\_\_\_, and such costs shall not exceed \_\_\_\_\_.
5. **ACCEPTANCE:** Upon delivery and installation of the equipment at \_\_\_\_\_, Lessee shall test and inspect it, and if in good working order, accept the equipment and acknowledge the acceptance in writing. The date of acceptance shall be the date upon which Lessee acknowledges in writing that the equipment is installed and operating properly.
6. **MAINTENANCE:** Lessee shall use the equipment in a careful and proper manner in compliance with its intended use. Lessor shall at its expense maintain each item of equipment in good mechanical condition and working order. Lessee shall not be responsible for normal wear and tear resulting from the use thereof. OR Maintenance shall be as stated on the attached Exhibit C.
7. **INSPECTION:** Lessor shall have the right, upon reasonable prior notice to Lessee and during Lessee's normal working hours, to inspect the equipment and observe its use at the premises of Lessee.
8. **TITLE:** The equipment shall at all times remain the property of Lessor and Lessee shall have no right, title, or interest therein except as expressly set forth in this Agreement.
9. **GOVERNING LAW:** This Agreement shall be governed in all respects by the laws of the State of South Carolina.
10. **HOLD HARMLESS:** Lessor shall indemnify and save Lessee harmless from any and all liability, damages, expenses, causes of action, suits, claims or judgments arising from injury to person or property resulting from delivery or transportation of equipment caused by the negligence of Lessor, his agents or servants, and Lessor shall at its own expense, defend any and all suits which may be brought against Lessee, either alone or in conjunction with others, upon any such liability or claim or claims.
11. **JURISDICTION:** Lessor acknowledges that it is subject to the jurisdiction and process of the State of South Carolina as to all matters and disputes arising pursuant to the Agreement and the performance thereof, including any questions as to liability for taxes, licenses, or fees levied by the State or its political subdivisions. Lessor agrees to execute any and all agreements necessary to accomplish this provision.
12. **DEFAULT:** Upon the failure of Lessee to make any payment when due, or upon the failure of Lessee to perform any other obligations imposed upon it by this Agreement and upon the continuance of such failure after the receipt of thirty (30) days written notice thereof from Lessor, Lessee shall be deemed to be in default and Lessor shall have the right to terminate this Agreement. Upon the failure of Lessor to perform any obligation imposed upon it by this Agreement, and upon the continuance of such failure after receipt of \_\_\_\_\_ days written notice thereof from Lessee, Lessor shall be deemed to be in default and Lessee shall have the right to terminate this Agreement.
13. **TERMINATION:** (a) This Agreement may be terminated by Lessee's giving thirty (30) days prior written notice of such termination to Lessor. Lessee shall negotiate reasonable termination costs, if applicable. (b) Upon the termination of this Agreement as a result of a default by Lessor, Lessee shall be entitled to proceed by appropriate court action to enforce specific performance of this Agreement, to recover damages for breach, or to take such other action as may be permitted by law.

14. **NON-APPROPRIATION CLAUSE:** Notwithstanding any other provisions of this Agreement, the parties agree that the rental is payable by Lessee from appropriations, grants, and monies from the State Legislature and other governmental entities. In the event sufficient appropriation, grants, and monies are not made available to Lessee to pay this rent for any fiscal year, this Agreement shall terminate without further obligation of Lessee. In such event, the chief executive officer of Lessee shall certify to Lessor that sufficient funds have not been made available to Lessee to meet the obligations of this Agreement; and such certification shall be conclusive upon the parties.
15. **RENEWAL:** Lessee may, at its option by giving written notice to Lessor not less than thirty (30) days prior to the expiration of the initial term, renew this Agreement for an additional term of \_\_\_\_\_ upon the same terms and conditions as this Agreement, provided that the initial term and the renewal term cannot exceed a total of five (5) years.
16. **NOTICES:** All notices and other communications made or required to be given under this Agreement shall be made in writing and mailed to the other party at its address as set forth herein or at such address as the party may provide from time to time.  
  
Lessor's Address:  
  
Lessee's Address:
17. **ASSIGNMENT:** Lessor may, with the prior approval of Lessee, assign its right to receive payment of rent hereunder, provided that such assignments shall not relieve Lessor of its responsibility to perform any duty imposed herein.
18. **RELOCATION:** In the event Lessee desires to relocate the equipment within its offices or elsewhere in South Carolina State Government, Lessor will submit a price quotation not to exceed Lessor's cost for the move or will prepare equipment to be moved by other mutually acceptable means.
19. **PATENTS INDEMNITY:** Lessor shall defend, at its own expense, any action brought against Lessee to the extent that it is based on a claim that the equipment supplies by lessor infringes a United States Patent, and Lessor will pay any costs and will indemnify Lessee for all expenses which are attributable to any such claim including any award of damages against Lessee, provided Lessee gives Lessor prompt notice in writing of such claim, and further provided Lessor shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise. Should the equipment become, or in Lessor's opinion be likely to become, the subject of a claim or infringement of a United States Patent, Lessee shall permit Lessor, at its option and expense, either to procure for Lessee the right to continue using the equipment, to replace or modify the same so that they become non-infringing, or to discontinue the use of the equipment and accept its return. Lessor shall have no liability to Lessee with respect to any claim of patent infringement which is based upon the combination of equipment supplied hereunder with equipment or devices not supplied by Lessor. The foregoing states the entire liability of Lessor with respect to infringement of patents by the equipment.
20. **PAYMENTS:** All payments due pursuant to this Agreement are solely the responsibility of the agency designated Lessee; the Office of General Services has no liability with respect to payments or breaches.
21. **ENTIRE AGREEMENT:** This Agreement, attached exhibits hereto, and the solicitation documents, if any, constitute the entire Agreement between the parties and shall not be amended, altered or changed except after prior written approval from the Office of General Services, in compliance with the S.C. Consolidated Procurement Code, and by written agreement, signed by the parties.

**Accepted and executed the date stated above.**

LESSOR:

LESSEE: College of Charleston

BY:

BY:

ITS:

ITS: