



Lease Number: \_\_\_\_\_

Lessee Information

Business Name: \_\_\_\_\_ Business Address: \_\_\_\_\_ Equipment Location Address: (if different than billing address of Lessee) \_\_\_\_\_
Business Phone: \_\_\_\_\_ Business Tax ID#: \_\_\_\_\_

Lease Terms and Conditions

Monthly Rent (plus applicable taxes): \_\_\_\_\_ Base Term (months): \_\_\_\_\_ Required Deposit: \_\_\_\_\_ Deposit Applied to: First and Last \_\_\_\_\_ Monthly Rentals Doc Fees: \$ 125.00
End of Term Option [ ] FMV [ ] \$1.00 [ ] Other :

Table with 3 columns: Equipment Model and Description ["Equipment"], Serial, Accessories

[ ] See attached schedule for additional Equipment/Accessories

The undersigned agrees that this lease reflects the agreement of the parties, including all terms of the second page of this agreement. Balboa Capital Corporation is not affiliated with the supplier of any of the equipment and is not responsible for any promises made by any supplier, vendor, or other person who is not an officer of Balboa Capital Corporation.

sign Signature: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

ACKNOWLEDGED BY: BALBOA CAPITAL CORPORATION

By: \_\_\_\_\_ Vice President Date: \_\_\_\_\_

Lease Guaranty

For purposes of this Guaranty, Lease shall mean the Lease set forth above and on the second page of the Lease Agreement. I/ME/MY shall mean the person making the guaranty and if married, his or her marital community. YOU/YOUR shall mean the Lessor. I agree that I have an interest in the Lessee, economic or otherwise, and that you would not enter into this Lease without this guaranty. I unconditionally guaranty that Lessee will fully and promptly pay all its Obligations under the Lease when they are due and will perform all its other Obligations under the Lease even if you modify or renew the Lease. The Lease guaranty will be jointly and severally responsible. You do not have to notify me if the Lessee is in default under the Lease. You may obtain any information from credit reporting agencies you deem necessary to enforce this guaranty. If the Lessee defaults, I will immediately pay all Obligations due under the Lease. I agree that I will not be released or discharged if you: (i) fail to perfect a security interest in or any property which secures the Obligations (Collateral); (ii) fail to protect the Collateral; or (iii) abandon or release the Collateral. I agree that you do not have to proceed first against the Lessee or any Collateral. I hereby waive notice of acceptance of this guaranty and of all other notices or demands of any kind which I may be entitled to. I will reimburse you for all expenses you incur in enforcing your rights against the Lessee or me, including, without limitation, attorneys' fees and costs. I acknowledge that I have read and understood the Lease and this Guaranty. This is an irrevocable, continuing guaranty and binds my heirs, administrators and representatives. I CONSENT TO THE JURISDICTION OF THE COURTS OF ORANGE COUNTY, CALIFORNIA AND/OR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION, AT YOUR SOLE OPTION, FOR THE DETERMINATION OF ALL DISPUTES RELATED TO THE LEASE OR THIS GUARANTY. I agree that this guaranty shall be governed by the laws of the State of California. YOU WAIVE TRIAL BY JURY.

Signature: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_

1. LEASE: You agree to lease from us and we agree to lease to you, the equipment listed above or on any invoices purchase orders, or schedules attached to this Lease Agreement ("Equipment"). You unconditionally promise to pay us the sum of all the rental and other payments indicated above or on any schedule ("Rent"). For all purposes of this Lease Agreement and any schedules attached (Lease), you, and your shall mean the Lessee indicated below, and we, us and our refer to the Lessor, Balboa Capital Corporation, it's agents, employees and its successors and assigns. You authorize us to insert in this Lease Agreement ("Lease") any serial numbers and other identification data about the Equipment, as well as any other omitted factual matters. All Rent and other payments under this Lease or any other agreement with us (collectively "Obligations" or "Obligations") are payable in U.S. dollars, and may be adjusted upward or downward no more than ten percent (10%) to reflect actual costs. We may from time to time, in our sole discretion, accept a photocopy or electronically transmitted facsimile copy of this Lease, any Schedules to this Lease, or other Lease documents as the binding and effective record of such agreement(s) whether or not an ink signed counterpart thereof is also received by us from you, provided, however, that no such agreement(s) shall be binding upon us until and unless they are signed by us in any signature line where we are to sign as indicated on the Lease, Schedule or other agreement. Any such photocopy or electronically transmitted facsimile received by us shall, when executed by us, constitute an original document for the purpose of establishing the provisions thereof and shall be legally admissible under the best or original evidence rule and binding on the parties.

2. TERM OF LEASE: This Lease shall become effective upon acceptance by us by signing and dating this Lease. A prorata portion of the aggregated average of the Rent based on a daily charge of one-thirtieth (1/30) of the Rent from the date the Equipment has been delivered and accepted by you ("Commencement Date") to the first day of the Base Term shall be payable at the Commencement Date. The Base Term of this Lease shall begin, at our sole discretion, on a date not more than 30 days following the Commencement Date and terminate upon the expiration of the number of months stated under Base Term, above. Following the Commencement Date, Rent and other Obligation payments are due on the same day of each month as the first day of the Base Term, payable to a location to be designated in writing. YOUR OBLIGATION TO PAY RENT TO US IS UNCONDITIONAL AND NOT SUBJECT TO ANY REDUCTION, SET-OFF, DEFENSE, OR COUNTERCLAIM AND MAY NOT BE CANCELLED FOR ANY REASON WHATSOEVER. "Your offer is an irrevocable offer to enter this Lease. In the event that you sign this lease, but the Lease is not commenced, the advance payments, documentation fee and security deposit may be retained by us to compensate for our documentation, processing, and other expenses." We have the right, but not the obligation, to electronically withdraw funds from your bank account to pay for any unpaid Rent, taxes, fees, charges and assessments.

3. PAYMENT OF LEASE OBLIGATIONS: Payment of the Lease Obligation shall be made by electronically withdrawing funds from the bank account on which your deposit check was drawn. You authorize us to debit from this account on which your deposit check was drawn, on or after the 1st day of each month, for scheduled Lease Payments or other amounts due and owing at the time under the Lease. You acknowledge that, if we assign the Lease to a third party, the assignee is authorized to debit the account on which your deposit check was drawn. If you would prefer to authorize us to debit another account, fill in the blanks provided below along with a copy of a voided check from the specified account.

Account Number: \_\_\_\_\_ ABA / Routing Number: \_\_\_\_\_
Financial Institution Name: \_\_\_\_\_ Initials \_\_\_\_\_

4. NO WARRANTIES; NO AGENCY; WE ARE LEASING THE EQUIPMENT TO YOU AS-IS, WHERE-IS AND WITH ALL FAULTS AND WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR ORDINARY USE. You understand and agree that we are independent from the vendor, manufacturer and/or supplier (collectively

"Supplier(s)") of the Equipment and that neither the Supplier nor any other person is our agent, nor are they authorized to waive or change any term or condition of this Lease. You agree that no

representation, guaranty or warranty by the Supplier or other person is binding on us. So long as you are not in default under any terms of this Lease, we transfer to you any warranties made to us, as the owner of the Equipment, by the Supplier. You agree that any breach by the Supplier will not relieve or excuse

your Obligations to us. Regardless of cause, you will not assert any claim whatsoever against us for any direct, consequential, special or indirect damages. If you have entered into a maintenance agreement for the Equipment and the cost of the maintenance agreement is included in the Rent, you acknowledge that we are not responsible for any service, repairs, or maintenance of the Equipment, and that we are not a party to the maintenance agreement. If you have a dispute regarding maintenance or service then you will nevertheless continue to pay all Obligations as they become due.

**5. UCC-ARTICLE 2A (whenever the term Article 2A is used herein, it is understood to include equivalent provisions of California Commercial Code Division 10 when California law is applicable):** You agree that this Lease is a "Finance Lease" under Article 2A of the Uniform Commercial Code as adopted by the State of California. You acknowledge that (a) we did not select; manufacture or supply the Equipment, but at your request we have purchased the Equipment for lease to you; and (b) based solely on your own judgment, you have selected the Supplier and the Equipment that you are leasing from us. You agree that you have approved any purchase or supply contract with the Supplier before signing this Lease. You may have rights under the supply or purchase contract, and you may contact the Supplier for a description of those rights or any warranties. To the extent permitted by applicable law, **YOU WAIVE ANY AND ALL RIGHTS AND REMEDIES CONFERRED UPON YOU UNDER THE UCC IN ARTICLE 2A**

**6. DELIVERY OF EQUIPMENT:** You request that we arrange delivery to you at your expense. We may at our discretion confirm by telephone that you have accepted the Equipment and this telephone verification of your acceptance of the Equipment shall have the same effect as a signed Delivery and Acceptance Certificate.

**7. ASSIGNMENT:** You may not sell, transfer, assign or sublease the Equipment without our prior written approval. We may sell, assign or transfer this Lease and the Equipment or any interest therein without notifying you; and you agree that if we do, the new Lessor will have the same rights and benefits that we now have, and will not have to perform any of our obligations. You agree that the rights of the new Lessor will not be subject to any claims, defenses or setoffs that you may have against us.

**8. OWNERSHIP, RIGHTS AND QUIET ENJOYMENT:** You agree that we are the owner of and have title to the Equipment or in the case of software, the assignment or the rights to the assignment of the software and/or its license(s). You agree, at your expense, to protect and defend our title and other rights to the Equipment. You shall have the right to quiet use and enjoyment of the Equipment for the term of this Lease, provided you are not in default. We also have the right, at reasonable times, to inspect the Equipment at your expense.

**9. CARE, USE AND LOCATION; LOSS OF EQUIPMENT:** You are responsible for installing and keeping the Equipment in good working order and repair. You will keep and use the Equipment only at your address shown on this Lease, only for business or commercial purposes and in compliance with all applicable laws ordinances or regulations. You will not make any alterations to the Equipment without our prior written consent, nor will you permanently attach the Equipment to any real estate. You are responsible for protecting the Equipment from damage, and from any other kind of loss while you have the Equipment or while it is being delivered to you. In the event the Equipment is lost, stolen or damaged then you shall have the option within one week of such event to: (a) repair or replace the Equipment or (b) pay to us the unpaid balance of the remaining Rent under this Lease and our residual interest in the Equipment, discounted to present value at the rate of five percent (5%) plus any other Obligations.

**10. TAXES AND FEES:** You agree to pay when due all taxes (including personal property tax, fines and penalties) and fees relating to this Agreement or the Equipment. If we pay any of the above for you, you agree to reimburse us and to pay us a processing fee for each payment we make on your behalf. You also agree to pay us any filing fees prescribed by the Uniform Commercial Code or other law and reimburse us for all costs and expenses involved in documenting and servicing this transaction. You further agree to pay us an origination fee on or before the date the first payment is due and a termination fee. You also acknowledge that in addition to the lease payments, we may assess and you may be required to pay additional taxes and/or fees including an invoice fee. Such fees may not only cover our costs they may also include a profit.

**11. INDEMNITY:** We are not responsible for any injuries or losses to you or any other person or property caused by the installation, operation, maintenance or use of the Equipment. You agree to reimburse us for and defend us against any claims for such losses or injuries, including, without limitation, those arising out of the negligence, tort or strict liability claims. This indemnity shall continue even after the term of this Lease has expired.

**12. INSURANCE:** Lessee agrees to maintain, at Lessee's expense, "Special Form" property insurance protecting the Equipment for its full replacement value, naming Lessor as a loss payee on a "Lender's Loss Payable" endorsement; and public liability insurance, in amounts acceptable to Lessor, naming Lessor as an additional insured (together "Required Insurance"). Lessee must provide Lessor satisfactory written evidence of Required Insurance within thirty (30) days of the commencement date of this Lease or of any subsequent written request. If Lessee does not do so, Lessor may obtain insurance from an insurer of Lessor's choosing in such forms and amounts as Lessor selects ("Lease Insurance"). Lease Insurance covers the Equipment and Lessor only and not Lessee. Lessee shall pay Lessor periodic charges for Lease Insurance ("Insurance Charges") that include: a premium that may be higher than if Lessee maintained Required Insurance separately; a finance charge of up to the implicit rate of the Lease on any premium advances made by Lessor or Lessors agents; and billing and processing fees; each of which may generate a profit to Lessor and Lessor agents. If Lessee fails to pay billed Insurance Charges within 30 days of their due date, Lessor may pay them by applying funds paid under the Lease or debiting Lessee's account under any previously authorized automatic payment. Lessee agrees to arbitrate any dispute with Lessor or Lessor agents regarding Lease Insurance or Insurance Charges under the rules of the American Arbitration Association in Los Angeles, California; provided however, such agreement does not authorize class action arbitration. At Lessor's election, in lieu of obtaining or continuing Lease Insurance, Lessor may require Lessee to pay a monthly additional fee of 2% of the Equipment Cost. This fee is not calculated with reference to additional risk and constitutes additional profit for Lessor, but represents the basis on which Lessor is willing to forbear from exercising remedies and continue this Agreement without Required Insurance. Lessee will receive no insurance coverage and will not be released from any obligations. Lessor is not selling insurance. Lessor will cease charging the additional fee or billing for Lease Insurance 30 days after Lessee provides satisfactory proof of Required Insurance and compliance with this section.

**13. DEFAULT AND REMEDIES:** If you (A) do not pay any Obligation to us when due; (B) break any of your agreements, representations or covenants under this Lease, including without limitation closing of the account from which Lease Payments are drawn or any other interference with electronic funds withdrawal as provided in Section 3; (C) are a corporation or limited liability company and more than 20% of the issued and outstanding voting capital stock or member's interest are transferred to or acquired by any person or entity that is not an owner as of the date of this Lease; (D) you change your name, state of incorporation, chief executive office and/or place of residence without providing us

with 30 days prior written notice of such change, you will be in default of this Lease. In the event of a default by you, we can require that you return the Equipment to us and pay to us the remaining balance of all of the Rent due under this Lease, discounted to present value at five percent (5%), together with any other amounts due under this Lease. You are also required to pay us our residual interest in the Equipment. We shall also be entitled to recover from you all damages caused by your default. Interest shall accrue on all Obligations due to us from the date of default until paid at the rate of eighteen percent (18%) per annum but only to the extent allowed by law. We can also use any of the remedies available to us under the UCC or any other law, including repossession of the Equipment or other Collateral. You agree to reimburse us for all charges, costs, expenses and attorney's fees that we have to pay to enforce this Lease or collect the Obligations due from you to us under this Lease and in any lawsuit or other legal proceeding which we bring or defend. You also agree that in the event of a dispute related to or arising out of this Lease, we shall be entitled to recover our reasonable attorney's fees and costs. If we have to take possession of the Equipment, you agree to pay the cost of repossession, storing, shipping, repairing and selling the Equipment.

**14. OTHER RIGHTS:** Time is of the essence in this Lease. You agree that any delay or failure by us to enforce our rights under this Lease or any other agreements shall not prevent us from enforcing any rights at a later time. Both parties intend this Lease to be a valid and legal document, and agree that if any part is determined to be unenforceable, all other parts will remain in full force and effect. If for any reason this Lease is not a true lease, then you also grant us a security interest in the Equipment and any proceeds of, accessions and attachments to the Equipment as security for your Obligations to us. You agree that we may file financing statements or other related filings in our name or in your name.

**15. LESSEE REPRESENTATIONS AND WARRANTIES:** You hereby represent and warrant that at the time you sign this Lease you are and shall remain a business entity duly organized, validly existing, and in good standing under the laws of the state of organization, that your exact legal name, state of incorporation, location of your chief executive office and/or your place of residence as applicable, have been correctly identified to us. You further represent and warrant that at the time you sign this Lease the person executing this Lease or any related document on behalf of you or any related guarantor shall be authorized to take such action and bind you and the guarantor to the Lease, and that the execution, delivery and performance of this Lease is duly authorized by your organizational documents and, if necessary, resolutions of your directors and/or shareholders, partners, or managers and/or members.

**16. RETURN OF EQUIPMENT; RENEWAL:** If no default exists or has occurred under this Lease, you may, at the end of the original or any renewal term, purchase all (but not less than all) of the Equipment for a sum set forth on the front of this lease, plus any applicable taxes. If the Fair Market Value Purchase Option is indicated in the End of Term section on the front of this lease then, at least 60 days but not more than 150 days prior to the end of the original Lease term, you must give us written notice, via certified mail, that you will purchase the Equipment for its fair market value, which we shall determine in our reasonable judgment, or that you will return the Equipment to us. If you do not give us such written notice or if you do not purchase or deliver the Equipment in accordance with the terms and conditions of this Lease, then this Lease shall automatically renew for a 3 month term, and thereafter renew for successive 3 month terms until you deliver the Equipment to us and all such Rent shall be the highest monthly rate set forth in this Lease. We may cancel the renewal by sending you written notice 90 days prior to such renewal term. This End of Term Option may become null and void at our discretion if any Event of Default occurs or continues at any time during the original term of the Lease. Upon payment of End of Term Option price, and if no default exists, we shall transfer our interest in the Equipment to you "AS-IS, WHERE IS" without any representation or warranty whatsoever and this Lease will terminate. Provided you have given the required notice, and are not then in default, you shall return the Equipment, freight and insurance prepaid to us in good repair, condition, and working order, ordinary wear and tear excepted, in a manner and to a location designated by us. Until the End of Term Option price is actually paid, you will be responsible to continue to pay Rent at the monthly rate set forth in this Lease.

**17. LATE CHARGE; DEPOSIT:** If any part of any Obligation is not made by you within three (3) days of its due date, you agree to pay us the greater of eighteen percent (18%) of each such late payment or \$25 (to the extent permitted by law). If two payments are not made by you within three (3) days of their due dates, you agree to increase your payment by (5%). Any deposit will not bear interest and may be commingled by us with other funds. We may apply the deposit to any of your obligations or to any loss or damage that we suffer as a result of your default. If so applied, you will, on demand, restore the deposit to its full amount. On your payment of all obligations, provided that you are not otherwise in default, we will return the balance of the deposit to you or apply it to your final rent payment as you direct.

**18. ENTIRE AGREEMENT; CHANGES; BINDING AGREEMENT:** This Lease contains the entire agreement between you and us, and it may not be altered, amended, modified, terminated or otherwise changed except in writing and signed by both you and us. A limiting endorsement on a check or other form or payment will not be effective to modify the Obligations or any of the other terms and conditions of this Lease, and we may apply any payment received without being bound by such limiting endorsements. This Lease is for the benefit of and is binding upon you and your personal representatives, successors and assigns.

**19. CHOICE OF LAW; JURISDICTION: YOU AND WE AGREE THAT THIS LEASE SHALL BE BINDING WHEN ACCEPTED IN WRITING BY US AT OUR OFFICES AND GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA. YOU AND WE EACH CONSENT TO THE JURISDICTION OF THE COURTS OF ORANGE COUNTY, CALIFORNIA AND/OR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION FOR THE DETERMINATION OF ALL DISPUTES ARISING UNDER THIS LEASE. YOU WAIVE TRIAL BY JURY IN ANY ACTION BETWEEN US.**

**20. REPRESENTATIONS AND COVENANT OF LESSEE:** You represent that all financial and other information furnished to us was, at the time of delivery, true and correct.

**21. COUNTERPARTS:** If this document was sent electronically, you hereby warrant that this document has not been altered in any way. Any alteration or revision to any part of this or any attached documents will make all such alterations or revisions non-binding and void. Only one counterpart of the Lease and of each Schedule or Addenda shall bear our ink signed signature and shall be marked "Original". To the extent that any Lease, Schedule or Addenda constitute chattel paper (as that term is defined by the Uniform Commercial Code), a security interest may only be created in the Lease, Schedule, or Addenda that bears our ink signed signature and is marked "Original".

Lease Number: \_\_\_\_\_ Initials \_\_\_\_\_