

## **Hofstra University Equipment Rental Agreement**

This Agreement is made between Hofstra University, a not-for-profit New York State corporation, chartered by the New York State Department of Education, having its principal place of business at 101 Hofstra University, Hempstead, New York 11549-1010, ("Hofstra") and \_\_\_\_\_ ("Lessor"), having its principal place of business at \_\_\_\_\_.

### **RECITALS**

- A. Hofstra desires to lease the equipment described below; and
- B. Lessor desires to lease the described equipment to Hofstra.

### **TERMS**

In consideration of the mutual covenants and conditions contained in this Agreement, Lessor and Hofstra agree as follows:

1. **Description of Equipment:** Lessor agrees to provide Hofstra with \_\_\_\_\_ ("Equipment"), fully described in Exhibit A attached to this Agreement, and by this reference made a part hereof. Models, finishes, and quantities noted in Exhibit "A" may change as mutually agreed in writing by authorized representatives of the parties to this Agreement.

2. **Term:**

2.1. This Lease shall be for a term of \_\_\_\_ years, commencing \_\_\_\_\_ and ending \_\_\_\_\_.

2.2. Hofstra shall have the right to extend the term of this Lease for \_\_\_\_\_ additional periods of \_\_\_\_ year(s) each. To exercise such rights, Hofstra must not be in default of any of the Lease provisions and must provide Lessor written notice not less than ninety (90) days prior to the expiration of the Lease term or of the Lease extension term as the case may be.

3. **Payment:**

3.1. Hofstra agrees to pay to Lessor as rental for the use of the Equipment the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) per year, payable in twelve equal installments of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) due the first day of each month during the term of the lease, and during any subsequent renewals of the lease. All payments hereunder shall be mailed to the office of Lessor at the address set forth in this Agreement, or at such other place as Lessor may designate.

3.2. The cost of any and all taxes applicable to this lease shall be borne by Lessor.

4. **Warranty:**

4.1. Lessor guarantees all parts and components of the rented equipment against any defects and defective workmanship, for a period of \_\_\_\_ months from date of delivery; and shall repair or replace such defective materials at Lessor's own expense during the guarantee period, as further set forth under Section 9 below. Hofstra shall be responsible for all routine repairs and maintenance not covered by Lessor's guaranty.

Any such routine repair or maintenance by Hofstra may be performed by Hofstra or a service agent of Hofstra's sole choice.

4.2. Lessor warrants and represents that it holds the title to the Equipment free and clear of any liens and security interests and that it has full authority to lease the Equipment to Hofstra as set forth herein.

4.3. Throughout the term of this Agreement, Lessor will maintain the minimum types and levels of insurance applicable to Lessor's performance under this Agreement.

5. **Use and Alterations:** Hofstra shall not make any alterations, additions or improvement to the Equipment without the prior written consent of Lessor, which shall not be unreasonably withheld. All additions and improvements made to the Equipment shall belong to Lessor. Routine repair and/or maintenance referenced in Section 4.1 shall not be considered an alteration, addition or improvement.

6. **Delivery, Lessor's Inspection, Labels, and Surrender:**

6.1. Lessor shall deliver the Equipment, freight prepaid, in good working condition, to Hofstra at its place of business at the following address\_\_\_\_\_.

6.2. Lessor shall retain the right to inspect the Equipment upon prior notice at a mutually agreed upon time.

6.3. Both at the expiration of this Agreement and/or if the Agreement is earlier terminated by Lessor, Lessor shall be responsible for taking possession of the Equipment from the premises of Hofstra, upon mutual agreement with Hofstra as to the logistics of transfer of possession. Equipment returned in either case shall be in as good condition as existed at the commencement of the term, reasonable wear and tear and depreciation from normal use excepted. Lessor is responsible for inspection of Equipment prior to taking possession of the Equipment from Hofstra's premises.

7. **Loss and Damage:** Hofstra shall bear the risk of loss, theft, destruction or damage of the Equipment only if such loss results directly from Hofstra's negligence. The risk of loss, theft, destruction or damage shall in all other cases be borne by Lessor. Losses or damage to the Equipment from causes beyond the control or fault of Hofstra which render the Equipment unsuitable for further use shall cause a cessation of this Lease and abatement of further rental payments.

8. **Assignment:**

8.1. Without Lessor's prior written consent, Hofstra shall not: (a) assign, transfer, pledge or otherwise dispose of this Lease or any interest therein, or (b) sublet or lend the Equipment, or permit it to be used by anyone other than Hofstra, Hofstra's contractors or employees or Hofstra's students.

8.2. Lessor may assign this Lease and/or mortgage the Equipment, in whole or in part, upon prior written notice to Hofstra. Each such assignee and/or mortgagee shall have all of the rights and obligations of Lessor under this lease. Hofstra shall have the right to terminate this Lease immediately upon such notice.

9. **Default, Remedies, and Termination:**

9.1. This Lease may be terminated by any of the following acts or events:

9.1.1. Either party may terminate this Loan Agreement at its option by giving the other party \_\_\_\_ days' written notice;

9.1.2. Either party, within thirty days of having received written notice from the other party of breach of any specific term or condition of this Agreement, shall have failed to cure such breach;

9.1.3. Hofstra attempts to transfer or assign its interest, or if there is an involuntary transfer of Hofstra's interest in this Agreement by operation of law, this Agreement shall automatically terminate and Lessor may, with notice to Hofstra, immediately take possession of Equipment; or;

9.1.4. Hofstra fails to pay any rent or other amount required by this Agreement to be paid by Hofstra within \_\_\_\_ days of the payment due date, or if Hofstra fails to substantially comply with the terms and conditions within \_\_\_\_ days after Lessor shall have demanded in writing such performance, in which event Hofstra is considered to be in default of this Lease and Lessor shall have the right to: (a) immediately recover from Hofstra all rents and other amounts then due; (b) any costs of repair, except for repair due to normal wear and tear; and, (c) with legal process, take possession of any or all the Equipment, wherever the same may be located.

9.2. During the warranty period, if Lessor fails to repair or replace at its cost the defects, defective workmanship or defective materials covered by the warranty within \_\_\_\_ days after Hofstra shall have demanded in writing such performance, Lessor is considered to be in default of this Lease and Hofstra shall have the right to obtain such repair or replacement of the rented equipment by a service agent of its sole choice, to an abatement of future rent pending such repair or replacement, and to offset the cost of repair or replacement against rental payments.

9.3. In the event of termination, the Equipment shall be returned pursuant to ¶ 6.3.

10. **Ownership, Personal Property:** The Equipment is, and shall at all times remain, the property of Lessor. Hofstra shall have no right, title or interest therein.

11. **Option to Purchase:** Lessor grants to Hofstra the option to purchase the Equipment at any time during the term of this lease upon payment in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) or, at Hofstra's option, for the fair market value at the time as established by an independent appraiser approved by both parties. Should Hofstra exercise this option, \_\_\_\_ percent of the rental payments rendered to date shall be credited as payments toward the purchase price.

12. **Indemnification:** Lessor, on behalf of itself, its agents, and employees, agrees to indemnify and hold harmless Hofstra, its trustees, directors, employees, representatives, and agents from and against all claims, damages, losses and expenses including but not limited to attorney's fees, arising out of or resulting from (a) the ownership rights of the Equipment; (b) Lessor's breach of the representations and warranties made by Lessor herein; or (c) Lessor's failure to perform any of its obligations under this Agreement.

13. **Notice:** Any notice, payment, consent, or request from either party hereunder must be in writing signed by the party giving it, and shall be served either personally, by telefax followed by direct personal telephone conversation to confirm receipt and understanding, or by registered or certified mail addressed as follows:

To Hofstra:

James Spero, AVP for Financial Affairs and Controller  
128 Hofstra University  
Hempstead, NY 11549  
(516) 463-6870 (fax)  
James.J.Spero@hofstra.edu

-and-

Office of General Counsel  
101 Hofstra University  
Hempstead, NY 11549  
(516) 463-1900 (fax)  
Dolores.Fredrich@Hofstra.edu

To Lessor:

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

or to such other addressee as may be hereafter designated by written notice. All such notices shall be effective only when received by the addressee.

14. **Severability:** If any provision of this agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall not be affected thereby.

15. **Entire Agreement; Modification:** This Agreement (and its attachments, if any) contains all the terms between the parties and may be amended only in writing signed by both parties. Notwithstanding the provisions of any other document, writing, representation, agreement, proposal, promise or other understanding, oral or otherwise, between Hofstra and Lessor, including but not limited to any prior or subsequent price quotation, invoice, statement of work, terms and

conditions, purchase order, confirmation or other document furnished by Lessor (Lessor Terms), this Agreement constitutes the entire agreement between the Lessor and the Hofstra regarding the subject matter of this Agreement and supersedes all Lessor Terms regarding the subject matter of this Agreement.

16. **Governing Law; Forum:** This Agreement shall be governed by and construed under the laws of the State of New York. The State of New York, County of Nassau shall be the forum for any lawsuits arising from or incident to this Agreement.

17. **Time of Essence:** Time is of the essence in this Agreement.

18. **Non-Waiver:** No delay or failure to enforce any provision of this Agreement shall constitute a waiver or limitation of rights enforceable under this Agreement.

19. **Force Majeure:** In the event the Equipment is rendered unsuitable for use by reason of Force Majeure, Hofstra may terminate this Agreement by written notice \_\_\_\_ days following knowledge of such casualty and Lessor shall not be responsible for any damages sustained by Hofstra but Hofstra shall be entitled to a pro rata return of any sum paid or any other acceptable arrangement mutually agreed to by the parties. "Force majeure" shall mean fire, earthquake, flood, act of God, strikes, work stoppages, or other labor disturbances, riots or civil commotions, litigation, war or other act of any foreign nation, power of government, or governmental agency or authority, or any other cause like or unlike any cause above mentioned which is beyond the control or authority of Lessor.

20. **Conflict of Interest:** Lessor represents that no trustee, officer, employee or any other person affiliated with Hofstra and having involvement with this Agreement (a) is affiliated with Lessor and (b) received, was promised, or will receive anything of value in connection with this Agreement or performance thereof.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**HOFSTRA UNIVERSITY**

By: \_\_\_\_\_  
Print Name: Catherine Hennessy  
Title: Senior Vice President for Financial  
Affairs and Treasurer  
Date: \_\_\_\_\_

**LESSOR**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_