

## MASTER AGREEMENT FOR EQUIPMENT RENTAL TRANSACTIONS

THIS AGREEMENT is entered into this 4th day of January, 2010, by and between the Board of Governors of the Colorado State University System acting by and through Colorado State University, for the benefit of Colorado State University ("CSU" or "University") and RC Special Events ("Rental Company"), a Corporation (*type of business organization, such as Colorado Corporation or Sole Proprietorship*) with a principal place of business located at:  
1588 Riverside Avenue, Fort Collins, CO 80524 .

### **RECITALS**

- A. CSU is an institution of higher education of the State of Colorado. University requires the use of rental equipment and related supplies from time to time.
- B. Rental Company is in the business of renting or leasing equipment which University requires. The parties desire to enter into an agreement whereby University may initiate an equipment rental at any time during the term of the agreement without the necessity of the parties executing a new contract in each instance, and without having to approve the Rental Company's contract in each instance. This Agreement is not intended to obligate either party to enter into a rental contract for any specific equipment, but shall govern the terms of any equipment rental contract entered into by the parties pursuant to a duly-issued University commitment.

**NOW THEREFORE**, in consideration of the foregoing Recitals, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1.0 Identification of Equipment; Initiation of Rental Contract. Rental Company agrees that, during the term of this Agreement, whenever it provides the University with equipment and/or consumables, Rental Company's contract form may be used to identify the goods, but all such transactions will be governed by this Agreement and any additional terms contained in the Rental Company's rental contract form (other than dates, amounts and other specifics of the transaction) shall be of no force or effect. Rental Company acknowledges and agrees that CSU makes no representation or guarantee that it will actually rent any equipment under this Agreement, or that it will spend any minimum amount of funds.
- 2.0 Term.
  - 2.1 This Agreement shall commence on the date set forth above and shall terminate five (5) years from said date unless sooner terminated as provided in this Agreement (such being the Termination Date). Expiration or termination of this Agreement shall not effect a termination of any then-existing rental contract term which commenced prior to the Termination Date.
  - 2.2 Any rental contract initiated pursuant to this Agreement shall commence on the date that the equipment is delivered to CSU and shall continue through and including the ending date specified in the University Purchase Order or, if a University credit card is used, in the Rental Company's contract form used to document the transaction.
  - 2.3 University shall have the right to extend the term of the rental contract for additional, successive periods of the same length as the initial rental contract period. To exercise such right, University must not be in default of the contract provisions and must provide Rental Company written notice not less than ten (10) days prior to the expiration of the initial Rental contract term or of the Rental contract extension term as the case may be.
- 3.0 Payment.
  - 3.1 University agrees to pay to Rental Company rent for the use of the Equipment the Rental Company's then-current retail, commercial or government rate, whichever is less, for rental of such equipment at the time that the Purchase Order or credit card transaction is issued for the rental contract. Delivery by Rental Company shall constitute acceptance of the price terms contained in the Purchase Order.
  - 3.2 Where Equipment is rented by the hour and a certain number of hours is specified for the term, the University will pay an additional rental fee prorated at the mutually agreed upon rate for each hour the

Equipment is used in excess of such time. If an hour meter is furnished, (i) the University shall keep it connected to the Equipment and in good working condition at all times, and (ii) it shall be used as the conclusive measure of the number of hours of operation.

3.3 All payments hereunder, with the exception of credit card Transactions, shall be mailed to the office of Rental Company at the address set forth in this Agreement, or at such other place as Rental Company may designate in a writing delivered together with presentment of the Purchase Order.

4.0 Warranty and Maintenance. Rental Company guarantees all parts and components of the rented equipment against any defects and defective workmanship during the rental contract term, and shall repair or replace such defective materials at Rental Company's own expense. University shall be responsible for all routine repairs and maintenance not covered by Rental Company's guaranty.

5.0 Selection, Use and Alterations.

5.1 The University shall be responsible for selecting Equipment that is of a size, design, and capacity satisfactory and suitable for the University's purposes.

5.2 University shall use the Equipment in a careful and lawful manner, and shall not make any alterations, additions or improvements to the Equipment without the prior written consent of Rental Company, which shall not be unreasonably withheld. All additions and improvements made to the Equipment shall belong to Rental Company unless the same is removed by CSU without damage or alteration of the Equipment from its condition when delivered by Rental Company.

5.3 The University shall use the Equipment only for the purpose for which it was designed or intended. The University shall use and permit use of Equipment only by persons knowledgeable in and experienced with its safe operation, shall be responsible for the safe operation of Equipment, and shall pay operation costs of Equipment.

6.0 Delivery, Rental Company's Inspection, Labels and Surrender.

6.1 Rental Company shall deliver the Equipment, freight prepaid, in good working condition, to University at its place of business, identified in the Purchase Order. CSU shall have the right to inspect such equipment at the time of delivery or, if no reasonable opportunity for inspection is afforded, for a reasonable time thereafter. CSU shall not be deemed to have accepted the Equipment until such inspection is completed (including any test or use of Equipment which may be required to determine its condition and operability). If the rented equipment breaks down (other than due to the negligence of CSU) during the rental period, the Rental Company will repair or replace the equipment, at its expense, within one business day after notice of the failure.

6.2 Rental Company shall retain the right to inspect the Equipment upon prior notice at any reasonable time.

6.3 At the expiration of this Agreement, University shall deliver the equipment, freight prepaid, to Rental Company at the address of Rental Company's principal place of business set forth first above, or at such other place as may be agreed upon by the parties, in as good condition as existed at the commencement of the term, reasonable wear and tear excepted. CSU shall not be required to replenish fuel for the Equipment when returned.

6.5 If the Agreement is earlier terminated by Rental Company, Rental Company shall be responsible for taking possession of the Equipment from the premises of University, upon mutual agreement with University as to the manner of transfer of possession. Rental Company shall not enter nor cause others to enter upon CSU's property for purposes of inspection or retaking of possession except upon CSU's prior consent which shall not unreasonably be withheld.

7.0 Loss and Damage. University shall bear the risk of loss, theft, destruction or damage of the Equipment after delivery by Rental Company and acceptance by University, to the extent such loss is not covered by Rental Company's

insurance, and any such loss, theft, destruction or damage of the Equipment shall relieve University of the obligation to pay rent or any other obligation under this Rental contract. Losses or damage to the Equipment from causes beyond the control or fault of University which render the Equipment unsuitable for further use shall cause a cessation of this Rental contract, and abatement of further rental payments.

8.0 Assignment

- 8.1 Without Rental Company's prior written consent, University shall not: (a) assign, transfer, pledge or otherwise dispose of this Rental contract or any interest therein, or (b) sublet or lend the Equipment, or permit it to be used by anyone other than University or University's employees.
- 8.2 Rental Company may assign this Rental contract and/or mortgage the Equipment, in whole or in part, upon written notice to University. Each such assignee and/or mortgagee shall have all of the rights and obligations of Rental Company under this rental contract.

9.0 Default; Termination

9.1 This Rental contract may be terminated by any of the following acts or events:

- 9.1.1 By either party, without cause, by giving the other party 60 days written notice;
- 9.1.2 By either party, if within 10 days of having given written notice to the other party of a breach of any specific term or condition of this Agreement, the other party fails to cure such breach;
- 9.1.3 By Rental Company, if University attempts to transfer or assign its interest, or if there is an involuntary transfer of University's interest in this Agreement by operation of law, and upon notice to University, Rental Company may immediately take possession of the rented equipment; or
- 9.1.4 By Rental Company, if University fails to pay any rent or other amount required by this Agreement to be paid by University within 30 days of the payment due date and Rental Company gives notice of default by non-payment which default is not cured by payment in full, with interest at the rate of 1% per month, within 10 days after the date that notice is received by CSU.
- 9.1.5 Automatically, five (5) years from the commencement date written first above, except that any Rental contract made pursuant to this Agreement which is in effect as of such termination date shall continue to apply to such rental until the equipment is returned.

9.2 In the event of a breach of this Agreement, the non-defaulting party, upon written notice to the defaulting party, in addition to termination hereof may seek such other and further relief as may be provided by law.

10.0 Ownership, Personal Property. The Equipment is, and shall at all times remain, the property of Rental Company. University shall have no right, title or interest therein except for the interest granted by this Rental contract. **No lease-purchase transaction is authorized under this Agreement. Lease-purchase transactions by the University require special approvals and must be separately contracted for, and signed by the University Controller.**

11.0 Notice. Any notice, payment, consent, or request from either party hereunder must be in writing signed by the party giving it, and shall be effective when delivered by hand, or by certified mail with return receipt, addressed as follows:

<p><u>To University:</u> Colorado State University Department of Procurement &amp; Contracting Services 6010 Campus Delivery Fort Collins, CO 80523-6010</p> <p>In addition, a copy of any notice to University concerning the validity or enforcement of any provision of this Agreement, or any dispute arising hereunder, shall also be sent to: Office of the General Counsel, 01 Administration Building, Colorado State University, Fort Collins, CO 80523-0006.</p>	<p><u>To Rental Company:</u> RC Special Events Attn: Ian Menzies 1588 Riverside Avenue Fort Collins, CO 80524</p> <p>P (970) 224-4774 F (970) 224-9367 info@rcspecialevents.com</p>
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- 12.0 Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes any previous contracts, understandings, or agreements of the parties, whether oral or written, concerning the subject matter of this Agreement. As to any conflict, the terms and conditions of this Agreement shall control over any contradictory provisions contained in any purchase order or other confirmation that may be issued or signed by the parties, including but not limited to any documents prepared by Rental Company to process the equipment rental contract at the time of order.
- 13.0 Amendment. Any amendment to this Agreement must be in writing and must be signed by the parties.
- 14.0 Waiver. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of the same or other provision hereof.
- 15.0 Severability. In the event that any provision of this Agreement is held unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect.
- 16.0 Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Larimer, State of Colorado.
- 17.0 Colorado Governmental Immunity Act and Risk Management Statutes. The parties understand and agree that liability of the State of Colorado, CSU, and their respective departments, institutions, agencies, boards, officials, and employees is controlled and limited by the Colorado Governmental Immunity Act, C.R.S. secs. 24-10-101 et seq. Nothing in this Agreement shall be construed as a waiver of any provision of such statutes.
- 18.0 Time is of the Essence. Time is of the essence hereunder. Failure to perform any obligation of this Rental contract within the time specified herein, or, if no time period is specified, within a reasonable time, shall constitute a material breach.
- 19.0 Authority to Contract. Each party warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the party to its terms. The person(s) executing this contract on behalf of the party warrant(s) that such person(s) have full authorization to execute this contract.
- 20.0 Special Provisions Required by Law. The following Special Provisions are required by Colorado law to be included in and made a part of every expenditure contract of the State of Colorado, without modification, and are hereby incorporated into this Contract. Any conflict between the Special Provisions and any other provision of this contract, including any exhibit or attachment, shall be controlled by the Special Provisions. As used in the Special Provisions, the term "State" means the State of Colorado, Board of Governors of the Colorado State University System, acting by and through Colorado State University, and the term "Contractor" means Rental Company.

## COLORADO SPECIAL PROVISIONS

The Special Provisions apply to all Contracts except where noted in italics.

### 1. CONTROLLER'S APPROVAL. CRS Sec.24-30-202 (1)

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee.

### 2. FUND AVAILABILITY. CRS Sec.24-30-202(5.5)

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

### 3. GOVERNMENTAL IMMUNITY

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act. CRS Sec.24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. Sec.1346(b) and 2671 et seq., as applicable now or hereafter amended.

### 4. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits shall be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall not have authorization, express or implied, to bind the University to any contract, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

### 5. COMPLIANCE WITH LAW

Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

### 6. CHOICE OF LAW

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.

### 7. BINDING ARBITRATION PROHIBITED

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

### 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

### 9. EMPLOYEE FINANCIAL INTEREST. CRS Sec.24-18-201 and 24-50-507

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

### 10. VENDOR OFFSET. CRS Sec.24-30-202 (1) and 24-30-202.4

*[Not Applicable to intergovernmental agreements]* Subject to CRS Sec.24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS Sec.39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

### 11. PUBLIC CONTRACTS FOR SERVICES. CRS Sec.8-17.5-101

*[Not Applicable to Agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services]* Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who shall perform work under this Contract and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State program established pursuant to CRS Sec.8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this Contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS Sec.8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or CRS Sec.8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

### 12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS Sec.24-76.5-101

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS Sec.24-76.5-101 et seq., and (c) has produced one form of identification required by CRS Sec.24-76.5-103 prior to the effective date of this Contract. Eff. 1:1 09

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**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect and accept personal responsibility for any and all damages the State may incur for any errors in such representation.

<p style="text-align: center;"><b>CONTRACTOR</b></p> <p style="text-align: center;"><b><u>RC Special Events</u></b> Legal Name of Contractor</p> <p>By: <u>[Signature]</u></p> <p>Name: <u>IAN MENZIES</u></p> <p>Title: <u>C.E.O.</u></p> <p>Date: <u>JANUARY 7, 2010</u></p>	<p style="text-align: center;">STATE OF COLORADO Bill Ritter, Jr. GOVERNOR Board of Governors of the Colorado State University System, acting by and through Colorado State University Dr. Anthony A. Frank, President</p> <p>By: _____</p> <p>Name: <u>[Signature]</u></p> <p>Title: <u>Purchasing Agent</u></p> <p>APPROVED: <b>Robert A. Hendon</b></p> <p>By: _____</p> <p style="text-align: center;">Dean or Department Head LEGAL REVIEW John W. Suthers, Attorney General</p> <p>By: <u>NIR</u></p> <p style="text-align: center;">Robert Schur, JD Director of Procurement and Contracting Services / Special Assistant Attorney General for Colorado State University</p> <p>Date: _____</p>
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**ALL CONTRACTS REQUIRE APPROVAL by the STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER  
David J. McDermott, CPA

By: Kathleen LaFollette 2010  
Authorized Delegate **KATHLEEN LAFOLLETTE**

Date: 1.15.2010