PREMIER™
ELECTION SOLUTIONS

P.O. Box 1019
Allen, TX 75003
469-675-8990
800-433-8683 (VOTE)
Fax (214) 383-1596

RENTAL, LICENSE, AND SERVICES AGREEMENT

CUSTOMER:	Shelby County, TN	PREMIER ELECTION SOLUTIONS, INC.
Addresses: Mailing	157 Poplar Ave Suite 109 Memphis, TN 38103	P.O. Box 1019 Allen, TX 75013 Attn: Contracts Department
Physical / Shipping	157 Poplar Ave Suite 109 Memphis, TN 38103	Overnight Deliveries: 1253 Allen Station Pkwy. Allen, TX 75002 Attn: Contracts Department
Contacts:	James Johnson	Therese Covington, Paralegal Drew Stewart, Sales Representative
Phone:	901-545-2600	469-675-8990, ext. 1136 // 469-675-8990, ext. 1116
Fax:		214-383-1596 // 214-383-1596
Email:		Therese.Covington@premierelections.com Andrew.Stewart@premierelections.com

Jurisdiction: (County / Municipality)	Shelby County	Effective Date:	Date of the last signature set forth below
State: (Customer's State)	TN	Term Date:	See "Term" definition herein.

Premier Election Solutions, Inc. ("Premier") and the Customer (as listed above) hereby enter into this Rental, License and Services Agreement ("Agreement") as of the date of the last signature set forth below (the "Effective Date") and expires on the date shown above unless earlier terminated under Section 12 or extended under Section 2.1 below (the "Term"). The Customer and Premier are sometimes hereinafter referred to collectively as the "Parties" and each individually as a "Party". This Agreement consists of this "Signature Page," the below standard terms and conditions, and Exhibit A, Pricing and Payment Schedule attached hereto and incorporated herein by this reference:

The parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

Shelby County, TN		PREMIER ELECTION SOLUTIONS, INC.	
Authorized Signature	Date	Authorized Signature	Date
A C Wharton, Jr. Mayor		Yvette Saenz, Controller	
Printed Name, Title		Printed Name, Title	
Approved as to form & legality		APPROVED AS TO LEGAL FORM	
	10-7-08		
Authorized Signature	Date	Authorized Signature	Date
Lisa Kelly, Assistant County Attorney		Therese Covington, Paralegal	
Printed Name, Title		Printed Name, Title	

Should the Customer have any questions or concerns regarding the applicable terms and conditions, please contact the Premier Contracts Department at 469-675-8990, ext. 1136 or via email at PremierContracts@premierelections.com. For any questions regarding the attached quote/pricing, please contact the Sales Representative listed above.

1. Definitions

1.1. "Premier Software" means Premier's proprietary software and firmware as delivered to Customer on digital or magnetic media or loaded on the Hardware delivered hereunder, together with any user manuals or other associated documentation.

1.2. "Hardware" means Premier's voting system machines as specified in Exhibit A.

1.3. "Licensed Software" means the Premier Software and Third-Party Software, collectively, together with any user manuals or other associated documentation.

1.4. "Specifications" means descriptions and data regarding the features, functions and performance of the Hardware and/or Premier Software, as set forth in associated user manuals or other applicable documentation.

1.5. "System" means the Hardware and Licensed Software, collectively.

1.6. "Term" under this Agreement shall begin on the Effective Date of the Agreement, and the Agreement shall expire five (5) days subsequent to the completion of the election quoted in Exhibit A herein.

1.7. "Third-Party Software" means software owned by a third party that is provided by Premier hereunder, together with any user manuals or other associated documentation.

2. Term.

2.1. The Parties may extend the Term of this Agreement by agreeing in writing, before the expiration date set forth above, on a later expiration date;

2.2. Section 7 (to extent of any payments still due) and Section 10 will survive any expiration or termination of this Agreement in accordance with their respective terms; and

2.3. Terms of this Agreement that do not survive expiration or termination will nonetheless be effective in determining the Parties' rights and obligations as to acts, omissions or events taking place before such expiration or termination.

3. Premier's Responsibilities

3.1. Commencing on the Effective Date and continuing during the Term, Premier will provide the services described in the scope of work attached hereto as Exhibit A.

3.2. Premier shall rent the Hardware to Customer pursuant to Section 5 of this Agreement.

3.3. Premier shall license the Licensed Software to Customer pursuant to Section 6 of this Agreement.

3.4. Premier shall provide the services described in Exhibit A with respect to System delivery, installation and training and support.

3.5. Premier shall appoint a customer support representative, who will serve as a first point of contact with Customer, will be authorized to make day-to-day decisions relating to this Agreement and will have access to Premier's management for other decisions.

3.6. Premier shall have conducted criminal background checks on all on-site Premier personnel as a regular course of doing business.

3.7. Premier shall notify the Customer in writing, via e-mail or phone call no less than one (1) hour prior to the on-site visit of any Premier personnel to the Customer's Jurisdiction.

4. Customer Responsibilities

4.1. Customer shall provide Premier with physical accommodations reasonably required for Premier to perform its obligations, including premises access, electrical power, data connectivity, heat, ventilation and air conditioning.

4.2. Customer shall provide access to information and personnel reasonably required for Premier to perform its obligations.

4.3. Customer shall appoint a project manager, who will serve as a first point of contact with Premier, will be authorized to make day-to-day decisions relating to this Agreement and will have access to Customer's authorized officials for other decisions.

4.4. **CUSTOMER SHALL RETAIN ALL ORIGINAL RENTAL EQUIPMENT PACKAGING, INCLUSIVE OF INNER PLASTIC BAGS AND TIES, TO ELIMINATE OR REDUCE THE EXPENSES OF REPACKAGING SUPPLIES**

REQUIRED TO RETURN THE EQUIPMENT UPON COMPLETION OF RENTAL. SHOULD CUSTOMER FAIL TO DO SO, CUSTOMER SHALL BE RESPONSIBLE FOR THE EXPENSES RELATED TO PREMIER'S REPLACEMENT OF SUCH PACKING MATERIALS.

4.5. Upon expiration or termination of this Agreement for any reason, Customer will cease all use of the System and promptly make all components of the System available for pick up by Premier.

4.6. Customer shall be responsible for the following:

1. Premier must receive a Customer executed Agreement no later than ten (10) days prior to Customer's early voting date of the election related to the proposed Agreement. Should Customer fail to do so, Premier shall maintain the right to re-quote the Rental Agreement;
2. Premier must receive Customer's ballot information no later than thirty (30) days prior to the election day related to the proposed Agreement. Should Customer fail to do so, Customer agrees to pay a late fee in the amount of $100 per day for each day the ballot information is delayed beyond the above-mentioned date;
3. Customer understands the proposed Agreement does not include the expenses related to recounts. Should such services be necessary, Premier shall provide a quote to cover the additional fees.

4.7. Customer is solely responsible for assuring all relevant state and local laws, ruling and ordinances are complied with in regard to the use of Premier's System for any Customer election, including all associated election guidelines and applicable election due dates.

5. Hardware

5.1. Premier agrees to rent the Hardware to Customer during the Term.

5.2. Customer acknowledges that, unless and until Customer exercises its purchase option, as between Premier and Customer, Premier owns the Hardware and retains title thereto. Customer shall avoid damage or loss to the Hardware, normal wear and tear excepted. Customer shall not permit any Hardware to be moved outside the geographic area of Customer's jurisdiction ("Jurisdiction"), or that of their legal representative, or surrender control of or sell any Hardware, and shall keep the Hardware free from security interests and other encumbrances.

6. Licensed Software

6.1. Subject to the terms of this Agreement, Premier grants Customer a non-exclusive license, without the right to transfer or sublicense, to use the Premier Software only in object code form, only during the Term and only in preparing for and conducting federal, state or local elections, run-offs, referenda and other similar voting events that take place within the geographic area of the Customer's "Jurisdiction". The foregoing license may be exercised on Customer's behalf by any of its officials, employees or volunteers authorized to conduct Elections.

6.2. Subject to the terms of this Agreement, Premier agrees to sublicense the Third-Party Software to Customer only in object code form, only for use during the Term as part of the System and only for the purposes described in Section 6.1 above. This sublicense is conditioned on Customer's continued compliance with the terms and conditions of the end-user licenses contained on or in the media on which Third-Party Software is provided.

6.3. Other than as expressly set forth in Sections 6.1 and 6.2 above, Premier does not, expressly or by implication, assign or license any intellectual property rights to Customer or to any third party.

6.4. Upon expiration or termination of this Agreement for any reason, the licenses granted in this Agreement will terminate without further action by either Party, and Customer will cease all use of the Licensed Software.

7. Payment

7.1. In consideration of the products, licenses and services provided under this Agreement, Customer shall pay Premier the amounts specified in Exhibit A at the times specified therein.

7.2. Customer is responsible for all sales, excise, personal property or other taxes or duties on the amounts paid or products, licenses or services provided under this Agreement. If Customer is exempt from such taxes or duties, Customer shall provide Premier with a tax exemption certificate.

7.3. Due to the volatile nature of estimating costs associated with travel, delivery and postage, Premier reserves the right to modify any such quoted amounts with actual costs should the actual expenses be incurred more than 60 days beyond the date of Customer's execution of this Agreement. Premier agrees to provide Customer with

reasonable documentation concerning the amounts of any such expenses modified from the amounts previously quoted by Premier.

8. Limited Warranties

8.1. Premier warrants that, during the Term, the Premier Software will perform free of defects that would prevent the System from operating in conformity in all material respects with its Specifications, so long as such Premier Software is operated with hardware and software approved by Premier for use with such Premier Software.

8.2. Premier warrants that, during the Term, the Hardware will perform free of defects that would prevent the System from operating in conformity in all material respects with its Specifications, so long as such Hardware is operated with hardware and software approved by Premier for use with such Hardware.

8.3. The warranties in Sections 8.1 and 8.2 do not apply to the Third-Party Software or to any other third-party products. Notwithstanding the foregoing:

8.3.1. To the extent permitted by the manufacturers of Third-Party Software, Premier shall, during the Term, pass through to Customer all warranties such manufacturers make to Premier regarding the operation of such Third-Party Software.

8.3.2. Premier warrants that, during the Term, all components of the Hardware and Premier Software will interface and function properly with the Third-Party Software, so long as the Third-Party Software operates in compliance with all applicable manufacturers' warranties.

8.4. Premier will promptly undertake repair or replacement of any Hardware or Premier Software that fails during the Term to operate in accordance with any warranty under this Agreement. During the election cycle (one month prior to and after each election date), repair or replacement will be made within 48 hours after request for service. Such repair or replacement is Customer's exclusive remedy for such a failure.

8.5. PREMIER DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY BASED ON A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

9. Limitation of Liability. Neither Party will be liable to the other Party under this Agreement for (1) consequential, special, punitive or incidental damages or (2) compensatory damages in excess of the total of all amounts payable under this Agreement during the six-month period preceding the event or events giving rise to liability.

10. Confidential Information. Neither Party will use or disclose the other Party's Confidential Information without the other Party's prior written consent. "Confidential Information" means, as to Premier, the Premier Software and all user manuals and other documentation provided hereunder and, as to either Party, any information labeled confidential by the Party when it is disclosed. This paragraph does not apply to information (a) after it becomes publicly known through no fault of the receiving Party, (b) already rightfully in the receiving Party's possession when received as shown by the Party's records maintained in the ordinary course, (c) developed by the receiving Party without the use of the other Party's Confidential Information as shown by the Party's records maintained in the ordinary course or (d) required to be disclosed by law so long as the other Party is given immediate notice of the disclosure order or request (including requests under open records acts or other similar laws) that the information be disclosed and the fullest opportunity permitted by law to prevent or limit the disclosure. Each Party acknowledges that its breach of this Section 10 may cause the other Party substantial and irreparable harm for which the other Party would be entitled to equitable relief in addition to any available legal remedies. Each Party hereby waives any requirement to post bond or provide other security as a condition to receiving such equitable relief.

11. Force Majeure. Premier's obligations hereunder will be suspended so long as its performance is impeded or prevented by causes beyond Premier's reasonable control, including acts of God, embargoes, acts of war (including terrorist attacks), labor disturbances and acts or regulations of governmental entities.

12. Termination

12.1 **Termination for Cause**. If either Party materially breaches this Agreement and does not cure the breach within 30 days after receiving written notice of the breach from the non-breaching Party, the non-breaching Party may terminate this Agreement as of a termination date specified in that notice or in a subsequent notice delivered within the 30-day period. If the breach is of such a nature that it cannot be completely cured within the 30-day period, no default will occur if the Party receiving the notice begins curative action within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.

12.2 **Termination For Convenience.**

12.2.1 Premier shall have the right to terminate this Agreement for any reason upon sixty (60) days' prior written notice to the other party. During the notice period, Premier shall continue to provide the agreed upon services, unless Customer shall direct that Premier cease all work, in which case the Agreement shall be deemed terminated consistent with the preceding during such notice period.

12.2.2 Customer shall have the right to terminate this Agreement for any reason with Premier retention of the rental price to the extent as prescribed:

12.2.2.1 Written notice received by Premier 30 days or more from Customer's first day of voting election, Premier shall retain 30% of the rental price.

12.2.2.2 Written notice received by Premier 29 days or less from Customer's first day of voting election, Premier shall retain 50% of the rental price.

13. Indemnification. To the extent permitted by law, and notwithstanding any other provision in this Agreement to the contrary, each party to this Agreement shall indemnify, defend, and hold harmless the other party and its officers, directors, agents, employees, and owners from and against any and all demands, claims, damages to persons or property, losses, and liabilities, including reasonable attorneys' fees (collectively, "Claims"), arising solely out of or solely caused by the indemnifying party's gross negligence or willful misconduct in connection with the services contemplated by this Agreement.

14. Risk of Loss Insurance. Customer shall bear the entire risk of loss or damage to the Hardware and Licensed Software. The occurrence of any such loss or damage shall not permit Customer to delay or reduce the payment of any fees prescribed under this Agreement. Customer may, at its own expense and option, obtain and maintain property and casualty insurance for the Hardware and Licensed Software against all risks of loss or damage. The amount of such insurance shall not be less than the replacement cost of the Hardware and Licensed Software. All policies for such insurance shall (i) designate Premier as a named insured and Premier and Customer as loss payees, as their interests may appear and (ii) contain a provision that entitles Premier to at least fifteen (15) days' written notice prior to cancellation or modification of such insurance policy. Customer shall provide Premier with a certificate of insurance with respect to such policy on or before the time of delivery of the System. Customer shall not be relieved of the obligation to reimburse Premier for the costs associated with damage or loss to Premier's Hardware and/or Software by failing to obtain the insurance coverage as described above. For purposes of calculating insured loss, Premier shall provide replacement copies of lost or damaged Premier Software for the cost of materials, provided that Premier provides Customer with proof of loss or damage.

15. Miscellaneous

15.1 Neither Party may assign any rights or delegate any obligations under this Agreement without the prior written consent of the other Party; provided that Premier may, upon 30 days' prior written notice to Customer, assign its rights and delegates its obligations under this Agreement to another entity controlled, directly or indirectly, by Diebold, Incorporated, and may, upon prior notice to Customer, subcontract obligations under this Agreement to third-party providers. Any attempted assignment in violation of this Section will be null and void.

15.2 If any term of this Agreement is held to be unenforceable, the other terms of this Agreement will be enforced to the fullest extent permitted by law.

15.3 This Agreement may be executed in counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

15.4 This Agreement will be governed by and construed under the laws of the State of Tennessee as identified on page 1 of this Agreement, and the state and federal courts within said State have non-exclusive jurisdiction for all actions to enforce this Agreement.

15.5 No waiver or failure by a Party to assert any right under this Agreement on any one occasion will operate as a waiver of any other right on that occasion or any right on any other occasion.

15.6 All notices under this Agreement will be delivered personally, sent by confirmed facsimile transmission, sent by nationally recognized express courier or sent by certified or registered U.S. mail, return receipt requested, to the address shown below or such other address as may be specified by either Party to the other Party in compliance with this Section. Notices will be deemed effective on personal receipt, receipt of such electronic facsimile confirmation, two days after such delivery by courier and four days after such mailing by U.S. mail.

15.7 This Agreement, including the Exhibit attached hereto as of the Effective Date (which are incorporated herein by this reference), is the complete and final expression of the Parties' agreement regarding its subject matter and supersedes all prior or contemporaneous communications or agreements, written or oral, by the Parties regarding

that subject matter. In the event of any conflict or ambiguity between the terms set forth in the body of this Agreement (i.e., Section 1.1 through this Section 15.7) and those set forth in the attached Exhibit, the terms set forth in the body of this Agreement will prevail. No amendment or supplement to this Agreement is effective unless in writing and signed by both Parties' authorized representatives. In this Agreement, the word "include" (or any of its derivatives) is deemed to be followed in all contexts by the words "without limitation." Headings are included for convenience and will be ignored in interpreting this Agreement.

EXHIBIT A

SEE ATTACHED QUOTATION FORM FOR DETAIL RENTAL DESCRIPTION AND PRICING

Any quote(s) attached to this Agreement shall be incorporated therein for all purposes.

Payment Terms

Customer shall pay the amounts indicated within 30 days from receipt of Premier's invoice.

PREMIER™
ELECTION SOLUTIONS

Rental Quote

P.O. Box 1019
Allen TX 75013
United States

Date	6/16/2008
Customer Contact	James Johnson
Customer Phone	(901) 545-2600
Sales Rep	
Ship Via	Actual Shipping
Memo	
Required Delivery Date	9/30/2008
Election Date	11/4/2008
Expected Return Date	11/11/2008
Special Instructions	

Estimate # QT10213

Bill To
Shelby County Elections Dept
157 Poplar Ave
Suite 109
Memphis TN 38103
United States

Ship To
Shelby County Elections Dept
157 Poplar Ave
Suite 109
Memphis TN 38103
United States

Quantity	Description	Amount
220	AccuVote Touch Screen - TSX	71,500.00
220	Memory Card 128 KB	20,900.00
20	Acceptance Testing - 4 Tech for 5 Days	27,300.00
4	Packaging Equipment for Return - 2 Techs 2 Days	5,460.00

Subtotal	125,160.00
Shipping Cost (Actual Shipping)	22,000.00
Total	$147,160.00

This quote is good for 30 days.

QT10213