

## ASSIGNMENT

For value received, Assignor hereby assigns and transfers to Assignee, (1) all rights and remedies, but no obligations of Assignor, under Lease No. **[Lease Number]** (the "Lease"), (2) all rights and remedies, but no obligations of Assignor under, all acceptances, certificates, guaranties, financing statements, security agreements and other documents (including, but not limited to, all documents listed on Exhibit A to this Assignment) executed in connection with or otherwise relating to the Lease (the Lease and each of the foregoing documents are collectively the "Documents"), (3) all right, title and interest of Assignor in, but no obligations of Assignor (other than payment of the purchase price of the Equipment) with respect to, the equipment that is covered by the Lease (the "Equipment"), (4) all rental payments and other amounts payable under the Lease and (5) all rights and remedies, but no obligations, of Assignor under the Documents (items (1) through (5) are collectively the "Assigned Rights"), subject to the following terms and conditions:

1. **Payment.** Assignee will pay to Assignor on the date of this Assignment an amount mutually agreed upon by Assignor and Assignee. In the event that the lessee under such Transaction (each lessee under a Transaction being hereafter referred to as a "Lessee") defaults on one or more of the first three payments billed or to be received directly by Evans under such Transaction, and Evans begins its customer collections or charge off process with respect to such Transaction, Broker shall immediately upon demand refund to Evans any such commission.

2. **Representations and Warranties.** Assignor represents and warrants to Assignee as follows:

(a) The Documents are genuine and have been duly executed by an authorized representative of each party thereto.

(b) The Lease and all of the documents listed on Exhibit A to this Assignment constitute all of the documents relating to the Lease or the Equipment.

(c) None of the Documents has been modified in any respect or terminated.

(d) Each of the Documents is enforceable in accordance with its terms.

(e) Upon the execution of this Assignment, all right, title and interest in the Assigned Rights will be in the name of the Assignee and not subject to any lien, interest or other claim of any corporation, governmental authority, individual, limited liability company, partnership or other entity (a "Person").

(f) All names, addresses, amounts, equipment descriptions and other information contained in this Assignment, the Documents, or any financial statements or other documents delivered to Assignee in connection with Assignor, the lessee under the Lease ("Lessee"), the Lease or the Equipment are true and correct and not misleading in any respect.

(g) The Equipment has been delivered to Lessee in good condition and has been accepted by Lessee for purposes of the Lease.

(h) All rental and other payments and all other obligations becoming due under the Lease upon or prior to the execution of this Assignment have been paid or otherwise performed by Lessee.

(i) All rent and other amounts to be paid and all other obligations to be performed by Lessee pursuant to the Lease are not subject to any abatement, dispute, set-off, counterclaim or reduction.

(j) The Lease has not been "rebrokered" or "split" (as these terms are generally understood in the leasing industry), unless

Assignor has identified it in writing as being rebrokered or split, as applicable. Without limiting the generality of the immediately preceding sentence, the term "rebrokered" includes any transaction in which any remuneration will be paid by Assignor to a Person other than an employee of Assignor and the term "split" includes any transaction in which any portion of the purchase price (or any other amount) payable with respect to the Equipment comes from a source other than Lessee or Assignee.

(k) The Documents and the Equipment comply with all applicable law.

(l) There has been no fraud on the part of any party to the Documents, any supplier of the Equipment or any other Person.

(m) All financing statements have been filed and all other action has been taken to perfect the Lessor's right, title and interest in the Equipment and no such right, title or interest will be adversely affected by the filing of a petition in bankruptcy by Lessee or any other event.

3. **Indemnification.** Assignor shall defend, indemnify and hold harmless Assignee from and against all claims, suits, causes of action, losses, damages, costs and expenses (including, but not limited to, fees and disbursements of counsel to Assignee) incurred by Assignee as a result of or otherwise relating to any warranty or representation made in this Assignment by Assignor being untrue or misleading in any respect or the failure of Assignor to perform any obligation pursuant to this Assignment, or any of the Documents. Without limiting the generality of the immediately preceding sentence, if any such representation or warranty is not true or misleading in any respect, Assignor must immediately pay to Assignee an amount equal to the then-existing value of the remaining payments under the Lease, plus an amount equal to the residual value of the Equipment at the end of the Lease, plus any costs and expenses incurred by Assignee in connection with the Assigned Rights, plus any applicable taxes.

4. **Assignor's Obligations.** All obligations of Assignor to be performed pursuant to or any of the Documents have been performed by Assignor as of the date of this Agreement. After the date of this Assignment, Assignor will perform all of its remaining obligations pursuant to the Documents. Assignee does not assume responsibility for any obligations of Assignor under the Documents or otherwise.

5. **Limited Recourse.** Except as set forth in this Assignment, Assignor shall not be liable to Assignee for any failure of Lessee to pay any amount or perform any other obligation under the Lease (including, but not limited to, the payment of rent). No provision of this Assignment shall be construed as an assumption by Assignor of any obligation of Lessee pursuant to the Lease.

6. **Audit.** Upon reasonable notice to Assignor, Assignee may audit the books and records of Assignor relating to Lessee, any of the Documents or the Equipment.

7. **No Action.** Without first obtaining the written consent of Assignee, Assignor will not accept payments becoming due under the Lease, repossess or consent to the return of the Equipment, modify or terminate or any of the Documents or take any other action that may adversely affect any right, title or interest of Assignee in the Assigned Rights. Assignor shall deliver to Assignee all checks, drafts, money orders and other payments received in connection with the Lease immediately after the receipt of such payments and in the same form as received, except for any appropriate endorsement to Assignee. Assignor grants to Assignee a power of attorney, coupled with an interest, to endorse in Assignor's name any checks, drafts, money orders or other payments received on account of the Documents.

8. **Due Diligence.** No due diligence, investigation or other action by Assignee or knowledge of Assignee will waive any right or remedy of Assignee with respect to any untrue or misleading warranty or representation made by Assignor in this Assignment or otherwise.

9. **Consent To Jurisdiction.** Assignor consents in each action and other legal proceeding commenced by Assignee and arising out of or otherwise relating to this Assignment, the Documents, or any of the Equipment to the exclusive jurisdiction of any court that is either a court of record of the County of Erie, state of New York or a federal court located in the Western District of New York.

10. **Enforcement.** Assignor will pay to Assignee on demand all costs and expenses incurred by Assignee (including, but not limited to, all fees and disbursements of counsel to Assignee) in enforcing any right or remedy of Assignee pursuant to this Assignment, applicable law or otherwise.

11. **Further Assurances.** Assignor shall execute and deliver to Assignee each document, instrument and other writing, and

take each other action, requested by Assignee in order to transfer to Assignee all right, title and interest of Assignor in the Assigned Rights pursuant to this Assignment or otherwise in connection with this Assignment. Assignor authorizes Assignee to file such financing statement assignments with each government filing office as assignee deems necessary or advisable to affect this assignment.

12. **Waiver.** No failure of Assignor or Assignee to require, and no delay by Assignor or Assignee in requiring, the other to comply with any provision of this Assignment shall constitute a waiver of the right to require such compliance.

No failure of Assignor or Assignee to exercise, and no delay by Assignor or Assignee in exercising, any right or remedy under this Assignment shall constitute a waiver of such right or remedy. No waiver by Assignor or Assignee of any right or remedy under this Assignment shall be effective unless made in writing. Any waiver by Assignor or Assignee of any right or remedy under this Assignment shall be limited to the specific instance and shall not constitute a waiver of such right or remedy in the future.

13. **Binding.** This Assignment shall be binding upon Assignor and Assignee and upon each successor and assign of Assignor and Assignee, and shall inure to the benefit of, and be enforceable by, Assignor and Assignee and each successor and assign of Assignor and Assignee.

14. **Entire Agreement.** This Assignment contains the entire agreement between Assignor and Assignee with respect to the subject of this Assignment, and supersedes each course of conduct previously pursued, and each oral agreement and representation previously made, by Assignor or Assignee with respect thereto, whether or not relied or acted upon. No course of performance or other conduct pursued, and no oral agreement or representation made, in the future by Assignor or Assignee, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall modify or terminate this Assignment, impair or otherwise affect any obligation of Assignor or Assignee pursuant to this Assignment or otherwise. No modification of this Assignment shall be effective unless made in a writing duly executed by Assignor and Assignee.

15. **Choice of Law.** This Assignment shall be governed by, and interpreted in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

ASSIGNOR:  
[Contacts(Broker)Name]

By:

Name: [Contacts(Broker)Contact]

Title:

Date:

Address: [Contacts(Broker)Address 1]

[Contacts(Broker)Address 2]

[Contacts(Broker)City],

[Contacts(Broker)State] [Contacts(Broker)Zip]

ASSIGNEE:

EVANS NATIONAL LEASING, INC.

By:

Name: John Gallo

Title:

Address: One Grimsby Drive

Hamburg, NY 14075

**EXHIBIT A**

**LIST DOCUMENTS INCLUDED**