

**ATTORNEY GENERAL OF THE STATE OF NEW YORK
BUREAU OF TELECOMMUNICATIONS AND ENERGY
AND CONSUMER FRAUDS AND PROTECTION**

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In the Matter of

National Penn Leasing Company,

Respondent.
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**ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW §63(15)**

Pursuant to the provisions of Article 22-A of the General Business Law ("GBL") and Section 63 of the Executive Law ("EL"), ELIOT SPITZER, Attorney General of the State of New York, caused an investigation to be made into the business practices of NORVERGENCE, Inc. and NORVERGENCE CAPITAL LLC, including the assignment and procurement of certain Equipment Rental Agreements to and for several leasing companies, including respondent National Penn Leasing Company ("Nat Penn"). Based upon his investigation, the Attorney General has made the following findings:

1. NorVergence, Inc. is a New Jersey corporation with its principal place of business located at 550 Broad Street, Newark, New Jersey 07102. Prior to the filing of an involuntary bankruptcy proceeding on June 30, 2004 (Docket 04-32079-RG), NorVergence, Inc. was engaged in the business of offering for sale and reselling telecommunications service, together with the provision of certain telecommunications equipment, to small businesses and not-for-profit organizations in the State of New York.

2. NorVergence Capital LLC is a limited liability corporation and a subsidiary of NorVergence, Inc., with offices at 550 Broad Street, Newark, New Jersey 07102. NorVergence Capital LLC is a debtor, along with NorVergence, Inc. in the bankruptcy proceeding, Docket 04-32079-RG. Prior to the bankruptcy, NorVergence Capital LLC, together with NorVergence, Inc.,

was engaged in the business of offering for sale and reselling telecommunications service, together with the provision of certain telecommunications equipment, to small businesses and not-for-profit organizations in the State of New York. NorVergence, Inc. and NorVergence Capital LLC are hereinafter collectively referred to as “NorVergence.”

3. Respondent National Penn Leasing Company (“Nat Penn”) is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business located at 24 N. Reading Avenue, P.O. Box 367, Boyertown, Pennsylvania 19512-0637. Nat Penn is one of the leasing companies which acquired Equipment Rental Agreements, and/or rights with respect thereto, with NorVergence customers in the State of New York and elsewhere. Nat Penn obtained its NorVergence Equipment Rental Agreements, and/or rights with respect thereto, by assignment from DeLage Landen Financial Services, Inc. (“DLL”), which took the agreements both directly as owner and by assignment from NorVergence. Hereinafter, the Equipment Rental Agreements that were the subject of assignments to Nat Penn from DLL are referred to as the “Nat Penn Equipment Rental Agreements.”

NorVergence’s Fraudulent Business Scheme

4. Since at least 2002 and continuing until shortly before the NorVergence bankruptcy filing in June 2004, NorVergence was in the business of offering to sell and reselling telecommunications services as integrated long-term packages, including local and long distance telephone, cellular and high speed Internet access. NorVergence marketed its services principally to small businesses and not-for-profit organizations with high credit ratings, and which, for the most part, did not have in-house counsel or technology personnel. NorVergence’s salespeople personally visited these entities, offering to provide telecommunications services at greatly reduced prices compared to the prices charged by the customers’ then current service providers.

5. NorVergence represented that customers would receive over a five year period,

dramatic savings of 20-60% on telecommunications services and unlimited free minutes. NorVergence claimed to be offering these services through its purported alliances with Nortel Networks and Qwest Communications. NorVergence further represented that its highly beneficial service offering was made possible by a purportedly proprietary, technologically innovative, and carrier neutral “black box” called, the “Matrix Solution,” that would be installed on the customer’s premises. In fact, the “Matrix Solution” did not eliminate per minute charges or make cost savings possible.

6. The cost savings in NorVergence’s proposal had nothing to do with the “black box” or other innovative technology touted by NorVergence. Rather, NorVergence constructed its cost savings proposals simply by applying a discount of 20-30% to the potential customer’s current cost for telecommunications services. In fact, NorVergence chose this discounted price without regard to the actual cost of providing the services (which was generally much higher).

7. The promised savings were set forth in the form of a “Cost Savings Proposal,” and were represented as a monthly cost for an integrated service package, including the cost of telecommunications services and rental of related hardware.

8. Through deceptive and high pressure sales tactics and outright trickery, NorVergence salespeople signed customers up, putting the bulk (*i.e.*, at least 80%) of the service agreement into an equipment finance lease, designated “Equipment Rental Agreement,” purportedly for the Matrix box. The rental payments due on the Equipment Rental Agreements varied from approximately \$200 to \$5,700 per month (or \$12,000 to over \$340,000 over a 60 month lease), while the actual price of the Matrix was not greater than \$1,500. Customers were not provided the option to purchase the box.

9. Potential customers were told falsely by the NorVergence salespeople that they needed to “qualify” for NorVergence’s telecommunications services, which were in high demand

and available only to a limited number of applicants. The NorVergence salespeople further told the customers that the forms were non-binding and no-risk, and merely served to reserve the circuitry and hardware, while the customers' "qualifications" were being investigated.

10. The Equipment Rental Agreements that were included in the stack of supposedly non-binding forms were, in actuality, noncancellable agreements. Contrary to the customers' understanding of the transaction as presented by NorVergence's salespeople, the Agreements, under these circumstances, were fraudulently characterized as UCC Article 2A finance leases for the Matrix box. As such, these Agreements were designed to obtain the special protections applicable to equipment finance leases.

11. Under the circumstances, the Equipment Rental Agreements are unconscionable in that they contain terms that are unreasonably and unfairly harsh and one-sided in favor of NorVergence and the leasing companies. In fact, included in the fine print of the Equipment Rental Agreements are provisions that purported to:

- a. remove any obligations by assignees of NorVergence to the customers;
- b. in many cases require that all legal actions relating to the agreement be brought in a forum distant from the customer's place of business, and in other cases, in a forum where the leasing company that would take an assignment was located, which was unknown at the time the customer signed the contract (the latter being known as "floating jurisdiction clauses");
- c. characterize the vast majority of the total fees agreed to by the customer as payments for the Matrix box which grossly exceeded its actual price and value;
- d. characterize the Equipment Rental Agreement as a finance lease under Article 2A of the Uniform Commercial Code in a fraudulent and unconscionable attempt to gain the protections of equipment finance leases. In fact, the Agreement was for an integrated

telecommunications service offering, although the service component was not documented in the Agreements. Moreover, the equipment purportedly financed under the Agreement was not first offered for sale to the customers or offered in a buy-out to the customer at the end of the Agreement's five-year term;

e. suggest that the customers were given information about the comparative costs of purchasing and renting the Matrix box that enabled them to make a reasoned decision to rent rather than purchase (*i.e.*, "You understand that the Equipment may be purchased for cash or it may be rented."), when, in fact, the customers had no opportunity to purchase the Matrix, and were not provided any information about the costs of the box; and

f. waive all the customer's defenses to demands for payment, even if the promised services were not provided ("hell or high water clauses").

12. Soon after the customers signed the Equipment Rental Agreements, NorVergence assigned the Agreements to one of the leasing companies. In some cases, the NorVergence salesperson had the customer sign an Equipment Rental Agreement directly with the leasing company as "owner."

13. The leasing companies paid NorVergence the full five year Equipment Rental Agreement value less a "lease factor" such that NorVergence received approximately 75-85% of the value of the Equipment Rental Agreements up front.

14. The NorVergence business plan was a "Ponzi" scheme. NorVergence deceived small, unsophisticated businesses into signing sham equipment finance leases with unconscionable terms, and obtained up front payments from the assignment or procurement of those sham leases. NorVergence then used these payments to purchase the telecommunications services it resold to its customers. Yet even with those monies, the NorVergence business plan was doomed to fail before NorVergence could fulfill the five year term it promised to provide

service to the customers because (a) NorVergence was selling unlimited local, long distance, high speed Internet and wireless service for a fixed monthly price, while it was actually liable to Qwest, T-Mobile, and other carriers on a per minute toll basis; (b) the cost of providing the unlimited service NorVergence was selling far exceeded the small payments that customers were required to make directly to NorVergence for their telecommunications service, together with the monies NorVergence received from the leasing companies; and (c) NorVergence had promised the customers long-term (*i.e.*, five year) service, but had no long-term contracts in place to provide that service.

15. Less than three years after NorVergence put its scheme into effect, NorVergence failed to pay its obligations to its carriers and suppliers, triggering the filing of an involuntary Chapter 11 bankruptcy proceeding against it. Service to the customers was turned off on or about July 15, 2004.

16. Although NorVergence had represented to its customers that its Matrix box could be used with any carrier of their choice, after the termination of telecommunications service, the customers could not find carriers who would use the Matrix box to provide service to them. In fact, the customers were required to pay significantly more for their telecommunications services despite their having the Matrix box which NorVergence had touted as a cost savings solution.

17. Even after the termination of telecommunications service to the customers, and while the customers were required to pay higher costs for alternative telecommunications services provided by other carriers which had no use for the Matrix and Soho boxes, the leasing companies improperly continued to enforce the Equipment Rental Agreements, including the Nat Penn Equipment Rental Agreements, as against the customers.

18. The practices which NorVergence engaged in as set forth in paragraphs 4 through 15 are fraudulent, deceptive and misleading under Article 22-A of the General Business Law and

Section 63(12) of the Executive Law, and the Equipment Rental Agreements NorVergence entered into with its customers are unconscionable under Executive Law § 63(12) and Uniform Commercial Code (“UCC”) 2-302. Accordingly, the Equipment Rental Agreements should be rescinded as of the date that telecommunications services to NorVergence’s customers was terminated.

19. It now appears that respondent is willing to enter into this Assurance of Discontinuance ("Assurance") for purposes of settlement only, and does not admit to, and expressly denies, any violation of law, factual findings, and legal conclusions contained herein; and the Attorney General accepts this Assurance pursuant to Executive Law § 63(15) in lieu of commencing a statutory or other proceeding against respondent or DLL pursuant to Article 22-A of the General Business Law and Section 63(12) of the Executive Law relating to the Nat Penn Equipment Rental Agreements.

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED by and between Nat Penn and the Attorney General that:

1. This Assurance of Discontinuance shall be binding upon and extend to National Penn Leasing Company (“Nat Penn”), its principals, officers, directors, agents (including, but not limited to third party collection agents), employees, successors and assigns subsequent to the date of this Assurance, and any entity or device through which it may now or hereafter act, as well as any persons who have authority to control or who, in fact, control and direct its business.

2. Nat Penn has appointed DLL to act as its servicing agent with respect to the administration of the Settlement Program described herein. As Nat Penn’s servicing agent, DLL may, and is expected to, perform on behalf of Nat Penn any of the following acts required of Nat Penn under this Assurance: sending mailings to New York customers or guarantors; receiving

payments and documents from New York customers or guarantors; issuing refund checks to New York customers; entering into mutually acceptable alternative payment schedules with New York customers; withdrawing adverse credit reports as to New York customers or guarantors; filing Financing Statement Amendments on Form UCC 3; and submitting affidavits attesting to compliance with the provisions of this Assurance, to the extent DLL is in possession of the relevant facts.

3. As to each customer listed on the chart annexed hereto as Exhibit A which elects to participate in the settlement terms agreed to herein and any participating guarantor for such customer (hereinafter collectively referred to as a “participating New York customer”), Nat Penn agrees to the following:

- a. forgive 90% of the remaining principal balance due on the participating New York customer’s obligations to Nat Penn under the Nat Penn Equipment Rental Agreements as of July 15, 2004 as set forth on Exhibit A;
- b. forgive any late fees or penalties assessed on the participating New York customer’s accounts on or after July 15, 2004;
- c. forgive any insurance charges assessed on the participating New York customer’s accounts on or after July 15, 2004;
- d. fully credit the participating New York customer for any payments it has made to Nat Penn or DLL on or after July 15, 2004, and issue refunds to participating New York customers whose payments have exceeded the sum of (i) 10% of the remaining principal balance and (ii) any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004;
- e. within thirty (30) calendar days of the customer’s acceptance of the proposed settlement, withdraw any and all adverse credit reports filed with any company or agency as to customers who stopped making payments on their Equipment Rental Agreements on

or after July 15, 2004, by notifying in writing each of the companies and agencies to whom they furnished information that the reports are to be withdrawn. Respondent shall furnish customers with copies of such letters by mailing the copies to such customers' last known addresses; and

f. within thirty (30) calendar days of the customer's acceptance of the proposed settlement, as to any customers based upon whose Nat Penn Equipment Rental Agreements Nat Penn or DLL has filed a UCC 1 Financing Statement, file a Financing Statement Amendment (Form UCC 3) terminating all security interest against such customers in such Equipment Rental Agreements. Respondent shall furnish customers with copies of the UCC 3 filing by mailing the copies to such customers' last known addresses.

4. Nat Penn agrees to accept, in full satisfaction of any participating New York customer's obligations to Nat Penn under the Nat Penn Equipment Rental Agreements, the amounts provided for in paragraph 3 of this Assurance (hereinafter "Settlement Balance") to be paid in accordance with paragraphs a. or b. below:

a. If the New York customer's Settlement Balance is equal to \$5,000 or less, it shall either make a lump sum payment of the entire Settlement Balance or pay off the Settlement Balance in up to twelve (12) monthly installment payments, at the customer's election, with the first installment payment to be due on a date at least thirty (30) days after the date of mailing of an invoice by Nat Penn following the customer's or guarantor's acceptance of the Settlement Program.

b. If the New York customer's Settlement Balance is greater than \$5,000, it shall either make a lump sum payment of the entire Settlement Balance or pay off the Settlement Balance in up to twenty-four (24) monthly installment payments, at the customer's election, with the first installment payment to be due on a date at least thirty days after the date of mailing of an invoice by Nat Penn following the customer's or guarantor's acceptance of the Settlement

Program.

c. Notwithstanding the provisions of paragraphs a. and b. above, nothing in this Assurance will be construed to preclude Nat Penn in its sole discretion from entering into mutually acceptable alternative payment schedules with New York customers.

5. Nat Penn represents that it has not assigned any Equipment Rental Agreements of former NorVergence customers or the rights thereto to other leasing companies, with the exception of one Equipment Rental Agreement which was superseded by another lease that is covered by a previously executed Assurance between the Attorney General and DLL. Nat Penn further represents that it has not agreed to an independent settlement with any New York customer after July 15, 2004 and prior to the Effective Date of this Assurance.

6. Within twenty (20) calendar days of the Effective Date of this Assurance, Nat Penn shall mail a letter in the form annexed hereto as Exhibit B to each New York customer and any guarantor for such customer listed on Exhibit A. Such letter shall inform the New York customers and guarantors of the opportunity to participate in the settlement described herein, of the Settlement Balance due from that customer and/or guarantor, and of the customer's and/or guarantor's options for paying the Settlement Balance if they elect to participate in the settlement. If the customer and/or guarantor is entitled to a refund under the Settlement Program a letter in the form annexed hereto as Exhibit C will be mailed.

7. Each New York customer and/or guarantor who elects to participate in the settlement described herein and pay the Settlement Balance shall complete, execute and deliver to Nat Penn within thirty (30) days of the mailing of the letter referenced in paragraph 6 of this Assurance a document entitled "Settlement and Mutual Releases," in the form annexed hereto as Exhibit D, which shall be included with the letter to New York customers, whereby the participating New York customer shall (a) elect and agree to pay the Settlement Balance in

accordance with one of the payment options described in paragraph 4; and (b) release Nat Penn and DLL of any and all claims arising out of the customer's Nat Penn Equipment Rental Agreement. If the customer and/or guarantor is entitled to a refund under the Settlement Program, a "Settlement and Mutual Releases" in the form annexed hereto as Exhibit E will be mailed. Any New York customer and/or guarantor who expressly declines to participate in the Settlement Program, who initiates or continues any legal action against Nat Penn and/or DLL that is inconsistent with the Release required by the Settlement Program, or who fails to respond to the Settlement Program within one hundred and eighty (180) days of the mailing of the letter referenced in paragraph 6 of this Assurance shall be deemed to have declined to participate in the Settlement Program (hereinafter referred to as a "non-participating New York customer").

8. As to any participating New York customer that executes the Settlement and Mutual Releases described in paragraph 7 above, Nat Penn agrees completely to settle and release any and all claims that Nat Penn has or may have had against the New York customer and all of its subsidiaries, parents, affiliates, predecessors, successors, assigns, officers, directors, employees, shareholders, agents and guarantors for any and all damages, restitution, equitable relief, costs, attorneys' fees and penalties related to, based upon or arising out of the participating New York customer's Nat Penn Equipment Rental Agreement. Nat Penn further agrees that it will not institute any civil action against the participating New York customer for breach of the Equipment Rental Agreement or otherwise seek to enforce the Equipment Rental Agreement against the participating New York customer, provided that the customer satisfies its obligations under the terms of the Settlement and Mutual Releases described in paragraph 7 herein.

9. As to any non-participating New York customer or any participating New York customer which thereafter defaults under the Settlement and Mutual Releases described in paragraph 7 above, Nat Penn shall not institute legal proceedings in any court outside the State of

New York, unless the customer takes the position that it is subject to jurisdiction only in a forum other than the State of New York.

10. Nat Penn shall provide a copy of this Assurance to all current and future employees, agents and/or independent contractors involved in invoicing and servicing Nat Penn's portfolio of Equipment Rental Agreements with NorVergence customers who shall be bound by its terms.

AFFIDAVITS OF COMPLIANCE

11. Within ninety (90) days of the Effective Date of this Assurance, Nat Penn shall submit an affidavit to the Attorney General, subscribed to by an officer of the corporation, attesting that it sent the letters to the New York customers and guarantors listed in Exhibit A in accordance with the terms of paragraph 6 of this Assurance, and providing an accounting of the customers and guarantors who elected to participate in the settlement, including the customers' Settlement Balances and payment schedules elected or agreed upon. Within one year thereafter, Nat Penn shall submit to the Attorney General an affidavit setting forth its compliance with the provisions of this Assurance, together with an accounting of the New York customers and guarantors who elected to participate in the Settlement Program, including the terms of their payment schedules and payments made. Subsequently, on or after the second anniversary of the date of this Assurance, the Attorney General may request in writing a further updated affidavit setting forth Nat Penn's compliance with the provisions of this Assurance and an updated accounting of the New York customers and guarantors who elected to participate in the Settlement Program, including the terms of their payment schedules and payments made, and Nat Penn shall submit such an affidavit within forty-five (45) calendar days of any such request.

MISCELLANEOUS

12. Nothing contained herein shall be construed as relieving Nat Penn of the

obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Assurance be deemed permission to engage in any act or practice prohibited by such law, regulation or rule.

13. The acceptance of this Assurance by the Attorney General shall not be deemed approval by the Attorney General of any of Nat Penn's or DLL's business practices, and Nat Penn shall make no representation to the contrary.

14. Unless otherwise provided, all notices as required by this Assurance shall be provided as follows:

To the Attorney General:

Keith Gordon, Assistant Attorney General
New York State Attorney General's Office
Bureau of Telecommunications and Energy
120 Broadway, 25th Floor
New York, New York 10271
tel. (212) 416-8320
fax. (212) 416-8877

To Nat Penn:

Roger Bennett, President and CEO
National Penn Leasing Company
24 N. Reading Avenue
P.O. Box 637
Boyertown, Pennsylvania 19512-0637
(tel.) (610) 369-6672
(fax.) (610) 369-6757

RIGHTS OF CUSTOMERS

15. Nothing in this Assurance shall be construed to prevent any customer from pursuing any right or remedy at law which any customer may have against respondent, except to the extent that a customer executes a Settlement and Mutual Releases pursuant to this Assurance.

EFFECTIVE DATE

16. This Assurance shall be effective on the date that it is signed by an authorized representative of the Attorney General's Office ("Effective Date").

VIOLATION AS PRIMA FACIE PROOF OF LAW VIOLATION

17. If Respondent violates this Assurance, such violation shall constitute *prima facie* proof of violation of the applicable laws in any civil action or proceeding thereafter commenced by the Attorney General.

ENTIRE ASSURANCE OF DISCONTINUANCE

18. The terms stated herein constitute the entire terms of this Assurance.

WHEREFORE, the following signatures are affixed hereto this __ day of August, 2005.

NATIONAL PENN LEASING COMPANY

By: _____

**ELIOT SPITZER, ATTORNEY
GENERAL OF THE STATE OF NEW
YORK**

By: _____
JOY FEIGENBAUM
ASSISTANT ATTORNEY GENERAL
BUREAU OF CONSUMER FRAUDS
& PROTECTION

[Exhibit A - Chart]

[ON LETTERHEAD OF DE LAGE LANDEN FINANCIAL SERVICES, INC.]

Exhibit B

NOTICE TO FORMER NEW YORK NORVERGENCE CUSTOMERS WHO HAVE EQUIPMENT RENTAL AGREEMENTS THAT WERE THE SUBJECT OF ASSIGNMENT FROM DE LAGE LANDEN FINANCIAL SERVICES, INC. TO NATIONAL PENN LEASING COMPANY, AND TO ANY GUARANTORS

[Date]

Dear [name of New York Lessee and/or Guarantor]:

You are receiving this notice because the records of De Lage Landen Financial Services, Inc. ("DLL") reflect that [Lessee] entered into an Equipment Rental Agreement (referred to herein as the "Rental Agreement") with DLL, either directly or by assignment from NorVergence, Inc. ("NorVergence"), in connection with its prior service from NorVergence. In 2003, DLL assigned the Rental Agreement and/or rights with respect thereto to National Penn Leasing Company ("Nat Penn"). After the assignment, DLL collected payments on Nat Penn's behalf as its servicing agent. All sums that may be due and owing, now and in the future, under the Rental Agreement are owed to Nat Penn.

DLL is writing to you as servicing agent to inform you that, pursuant to an agreement with the Attorney General of the State of New York (the "Attorney General"), Nat Penn is offering you the opportunity to participate in a Settlement Program in which you may pay off any outstanding balance on the Rental Agreement at a substantial discount and settle any and all disputes between you and Nat Penn and/or DLL arising from the Rental Agreement.

The Settlement Program Offered By Nat Penn:

If you elect to participate in this Settlement Program, Nat Penn will (a) forgive ninety percent (90%) of the remaining principal balance due under [Lessee's] Rental Agreement as of July 15, 2004; (b) forgive any late fees or penalties assessed on [Lessee's] account on or after July 15, 2004; (c) forgive any insurance charges assessed on [Lessee's] account on or after July 15, 2004; and (d) fully credit you for any payments that you have made to Nat Penn or DLL on or after July 15, 2004. In the event [Lessee's] payments have exceeded the sum of (i) 10% of the remaining balance due as of July 15, 2004 and (ii) any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004, you would receive a refund of the amount in excess of such sum if you elect to participate in the settlement.

In exchange for the benefits provided above, you must agree to release Nat Penn and DLL from any claims concerning your Rental Agreement, as described more fully below. You must also agree to pay Nat Penn the "Settlement Balance," which is the amount equal to ten percent (10%) of the outstanding principal balance under the Rental Agreement as of July 15, 2004 minus any payments made on Lessee's account on or after July 15, 2004. You may elect to pay the Settlement Balance in one of the following ways:

(a) If your Settlement Balance is equal to \$5,000 or less, you may either (i) make a lump sum payment of the entire Settlement Balance, or (ii) pay off the Settlement Balance in up to twelve (12) equal monthly installment payments, with the first installment payment to be due on _____, 2005. An invoice for the first installment payment will be mailed to you no later than thirty (30) days prior to the date such payment is due.

(b) If your Settlement Balance is greater than \$5,000, you may either (i) make a lump sum payment of the entire Settlement Balance, or (ii) pay off the Settlement Balance in up to twenty-four (24) equal monthly installment payments, with the first installment payment due _____, 2005. An invoice for the first installment payment will be mailed to you no later than thirty (30) days prior to the date such payment is due.

If you have any questions about these payment options, please call DLL at [dedicated telephone number].

You will also have the right at any time to prepay the remainder of the Settlement Balance without penalty.

To inform Nat Penn of your acceptance of this Settlement Program, **you must complete, sign and return to DLL, by [date 30 days from the date of the mailing of this notice]** the enclosed document entitled "Settlement and Mutual Releases." In that document, you must (a) elect and agree to pay the Settlement Balance according to one of the two payment options described above (either lump-sum or installment); and (b) fully release Nat Penn and DLL from, and agree not to sue Nat Penn and DLL for, any and all claims (including any claims as a member or representative of a putative class action) that you have or may have had against Nat Penn and/or DLL based upon [Lessee's] Rental Agreement. If you are currently involved in any litigation with Nat Penn and/or DLL over [Lessee's] Rental Agreement and you wish to participate in the Settlement Program, you and Nat Penn and/or DLL will mutually dismiss that action with prejudice. Nat Penn, in turn, will fully release you from, and agree to not sue you for or to dismiss you from, any and all claims that it has or may have had against you based upon [Lessee's] Rental Agreement. DLL will provide you with the same release, although it does not believe it has any claims against you under the Rental Agreement in light of the assignment to Nat Penn. You, Nat Penn, and DLL will retain all rights under law granted respectively in, and to enforce, the "Settlement and Mutual Releases."

As indicated above, Nat Penn has appointed DLL as its servicing agent with respect to the administration of this Settlement Program. Therefore, your communications with regard to the Settlement Program should be with DLL, as Nat Penn's servicing agent, rather than with Nat Penn directly. DLL, as Nat Penn's servicing agent, will send you any invoices required by the Settlement Program. Any payments made by you under the Settlement Program should be made payable to DLL and sent to DLL, which will forward such payments to Nat Penn.

IMPORTANT: If you elect to participate in the Settlement Program, but thereafter

fail to pay Nat Penn the Settlement Balance as promised in the Settlement and Mutual Releases, Nat Penn may seek to enforce the Settlement and Mutual Releases by use of any of the remedies available to it under the law.

Nat Penn has agreed to this Settlement Program for the purpose of avoiding the expense and inconvenience of litigation and it is not an admission on the part of Nat Penn that it engaged in any form of unlawful conduct or business practices. Indeed, Nat Penn expressly denies that it engaged in any such unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the rental of NorVergence telecommunications equipment.

If You Decide Not To Participate In The Settlement Program:

You are not obligated to participate in the Settlement Program agreed to by Nat Penn and the Attorney General, and you have the right to consult with an attorney of your choosing before you decide whether to participate in the Settlement Program. Nothing in the settlement between Nat Penn and the Attorney General prevents you from pursuing any right or remedy at law which you may have against Nat Penn or any other party, except to the extent that you elect to participate in this settlement and execute a Release. If you elect not to participate in the program, or if you enroll in the Settlement Program but change your mind and notify Nat Penn (through DLL) before making your first payment that you wish to terminate your participation in the Settlement Program, then Nat Penn may seek to enforce the Rental Agreement in full and may make use of any of the remedies available to it under the law. Nat Penn has agreed, however, that it will not institute any legal proceedings against you in any court outside the State of New York, unless you take the position that you are subject to jurisdiction only in a forum other than the State of New York.

What You Would Be Agreeing To Pay If You Enroll In The Settlement Program:

DLL has the following information about the Rental Agreement and what the Settlement Program would require you to pay:

- 11. **Principal balance remaining as of July 15, 2004:** _____
- 22. **Line 1 reduced by 90%:** _____
- 33. **Plus any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004** _____
- 34. **Credit for payments received on or after July 15, 2004:** _____
- 45. **Total remaining Settlement Balance to be paid:** _____

Monthly payment option: _____ **per month for** _____ **months**

Please call [phone number] if you have any questions regarding this Settlement Program or your Rental Agreement account.

Very truly yours,

De Lage Landen Financial Services, Inc.

[ON LETTERHEAD OF DE LAGE LANDEN FINANCIAL SERVICES, INC.]

Exhibit C

NOTICE TO FORMER NEW YORK NORVERGENCE CUSTOMERS WHO HAVE EQUIPMENT RENTAL AGREEMENTS THAT WERE THE SUBJECT OF ASSIGNMENT FROM DE LAGE LANDEN FINANCIAL SERVICES, INC. TO NATIONAL PENN LEASING COMPANY, AND TO ANY GUARANTORS

[Date]

Dear [name of New York Lessee and/or Guarantor]:

You are receiving this notice because the records of De Lage Landen Financial Services, Inc. ("DLL") reflect that [Lessee] entered into an Equipment Rental Agreement (referred to herein as the "Rental Agreement") with DLL, either directly or by assignment from NorVergence, Inc. ("NorVergence"), in connection with its prior service from NorVergence. In 2003, DLL assigned the Rental Agreement and/or rights with respect thereto to National Penn Leasing Company ("Nat Penn"). After the assignment, DLL collected payments on Nat Penn's behalf as its servicing agent. All sums that may be due and owing, now and in the future, under the Rental Agreement are owed to Nat Penn.

DLL is writing to you as servicing agent to inform you that, pursuant to an agreement with the Attorney General of the State of New York (the "Attorney General"), Nat Penn is offering you the opportunity to participate in a Settlement Program in which you may resolve any outstanding balance on the Rental Agreement at a substantial discount and settle any and all disputes between you and Nat Penn and/or DLL arising from the Rental Agreement.

The Settlement Program Offered by Nat Penn: If you elect to participate in this Settlement Program, Nat Penn will (a) forgive ninety percent (90%) of the remaining principal balance due under [Lessee's] account on or after July 15, 2004; (b) forgive any late fees or penalties assessed on [Lessee's] account on or after July 15, 2004; (c) forgive any insurance charges assessed on [Lessee's] account on or after July 15, 2004; and (d) fully credit you for any payments that you have made to Nat Penn or DLL on or after July 15, 2004. In the event [Lessee's] payments have exceeded the sum of (i) 10% of the remaining balance due as of July 15, 2004 and (ii) any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004, you would receive a refund of the amount in excess of such sum if you elect to participate in the settlement.

In exchange for the benefits provided above, you must agree to release Nat Penn and DLL from any claims concerning your Rental Agreement, as described more fully below. You must also agree to resolve the "Settlement Balance," which is the amount equal to ten percent (10%) of the outstanding principal balance under the Rental Agreement as of July 15, 2004 minus any payments made on Lessee's account on or after July 15, 2004. If

you elect to resolve the Settlement Balance you will be entitled to a refund check which will be mailed to you on or before [date 30 days from mailing of acceptance of Settlement Program].

To inform Nat Penn of your acceptance of this Settlement Program, you must complete, sign and return to DLL, by [date 30 days from the date of the mailing of this notice] the enclosed document entitled "Settlement and Mutual Releases." In that document, you must (a) elect and agree to resolve the Settlement Balance; and (b) fully release Nat Penn and DLL from, and agree not to sue Nat Penn and DLL for any and all claims (including any claims as a member or representative of a putative class action) that you have or may have had against Nat Penn and/or DLL based upon [Lessee's] Rental Agreement. If you are currently involved in any litigation with Nat Penn and/or DLL over [Lessee's] Rental Agreement and you wish to participate in the Settlement Program, you and Nat Penn and/or DLL will mutually dismiss that action with prejudice. Nat Penn, in turn, will fully release you from, and agree to not sue you for or to dismiss you from, any and all claims that it has or may have had against you based upon [Lessee's] Rental Agreement. DLL will provide you with the same release, although it does not believe that it has any claims against you in light of the assignment to Nat Penn. You, Nat Penn, and DLL will retain all rights under law granted respectively in, and to enforce, the "Settlement and Mutual Releases."

As indicated above, Nat Penn has appointed DLL as its servicing agent with respect to the administration of this Settlement Program. Therefore, your communications with regard to the Settlement Program should be with DLL, as Nat Penn's servicing agent, rather than with Nat Penn directly.

Nat Penn has agreed to this Settlement Program for the purpose of avoiding the expense and inconvenience of litigation and it is not an admission on the part of Nat Penn that it engaged in any form of unlawful conduct or business practices. Indeed, Nat Penn expressly denies that it engaged in any such unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the rental of NorVergence telecommunications equipment.

If You Decide Not to Participate In The Settlement Program: You are not obligated to participate in the Settlement Program agreed to by Nat Penn and the Attorney General, and you have the right to consult with an attorney of your choosing before you decide whether to participate in the Settlement Program. Nothing in the settlement between Nat Penn and the Attorney General prevents you from pursuing any right or remedy at law which you may have against Nat Penn or any other party, except to the extent that you elect to participate in this settlement and execute a Release. If you elect not to participate in the program, or if you enroll in the Settlement Program but change your mind and notify Nat Penn (through DLL) before resolving the Settlement Balance that you wish to terminate your participation in the Settlement Program, then Nat Penn may seek to enforce the Rental Agreement in full and may make use of any of the remedies available to it under the law. Nat Penn has agreed, however, that it will not institute any legal proceedings against you in any

court outside the State of New York, unless you take the position that you are subject to jurisdiction only in a forum other than the State of New York.

What You Would Be Agreeing To If You Enroll In The Settlement Program:

DLL has the following information about the Rental Agreement and what the Settlement Program would require you to pay:

- | | | |
|-----|---|-------|
| 11. | Principal balance remaining as of July 15, 2004: | _____ |
| 22. | Line 1 reduced by 90%: | _____ |
| 33. | Plus any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004 | _____ |
| 34. | Credit for payments received on or after July 15, 2004: | _____ |
| 45. | Total remaining Settlement Balance to be paid: | _____ |

You would be entitled to a refund of \$_____ payable on or before [date- 30 days from mailing of acceptance of Settlement Program].

Please call [phone number] if you have any questions regarding this Settlement Program or your Rental Agreement account.

Very truly yours,

De Lage Landen Financial Services, Inc.

Exhibit D

SETTLEMENT AND MUTUAL RELEASES

between

[NEW YORK LESSEE AND GUARANTOR] and **NATIONAL PENN LEASING COMPANY**

_____, on behalf of the entity named above (the “Lessee”) and/or as personal guarantor (together, the “Lessee and/or Guarantor”), elect to take advantage of the Settlement Program agreed to by the Attorney General of the State of New York and National Penn Leasing Company (“Nat Penn”) to pay off Lessee’s Rental Agreement (the “Rental Agreement”), as to which rights to payment were formerly held by De Lage Landen Financial Services, Inc. (“DLL”) and are now held by Nat Penn, at a substantial discount and to settle any and all disputes between Lessee and/or Guarantor and Nat Penn arising from the Rental Agreement. With this Settlement and Mutual Releases I am: (1) enrolling in the Settlement Program and choosing a repayment option; and (2) entering into a mutual release of claims with Nat Penn, DLL, and related parties.

I understand that Nat Penn and the Attorney General of the State of New York have agreed to the terms of this Settlement Program for the purpose of avoiding the expense and inconvenience of litigation and it is not an admission on the part of Nat Penn that it engaged in any form of unlawful conduct or business practices, and that Nat Penn expressly denies that it engaged in any such unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the Rental Agreement.

1. Enrolling In The Settlement Program

I understand that, upon Lessee’s and/or Guarantor’s acceptance of this Settlement Program, Nat Penn will:

- (1) forgive ninety percent (90%) of the outstanding principal balance under the Rental Agreement as of July 15, 2004;
- (2) forgive any late fees or penalties assessed on the Lessee's account on or after July 15, 2004;
- (3) forgive any property insurance charges assessed on the Lessee's account on or after July 15, 2004;
- (4) fully credit any payments Lessee and/or Guarantor has made to Nat Penn or DLL on or after July 15, 2004;
- (5) withdraw any and all adverse credit reports Nat Penn or DLL filed as a

after July 15, result of not receiving payment on the Rental Agreement on or 2004; and

(6) as to any customers based upon whose Rental Agreements Nat Penn or DLL has filed a UCC 1 Financing Statement, file a Financing Statement Amendment (Form UCC 3) terminating all security interest against such customers in such Rental Agreements.

I also understand that DLL will act as servicing agent for Nat Penn with respect to the administration of this Settlement Program, and that DLL's records reflect the following information about Lessee's Rental Agreement account:

- 1. **Principal balance remaining as of July 15, 2004:** _____
- 2. **Line 1 reduced by 90%:** _____
- 3. **Plus any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004** _____
- 4. **Credit for payments received on or after July 15, 2004:** _____
- 5. **Settlement Balance:** _____

Lessee and/or Guarantor agree to pay the amount on Line 4 by the method checked here and request that Nat Penn (through DLL) invoice Lessee and/or Guarantor accordingly:

_____ Pay the Settlement Balance on Line 4 in a lump sum by the date specified in the invoice, which payment date shall be at least 30 days after the date of mailing of such invoice.

_____ Pay the Settlement Balance on Line 4 in [12 or 24] equal monthly installments of [payment amount], beginning on the date specified in the first invoice, which payment date shall be at least 30 days after the date of mailing of such invoice. I understand that Lessee and/or Guarantor may prepay the remainder of the Settlement Balance at any time without penalty.

I understand that if Lessee and/or Guarantor fail to pay the Settlement Balance as promised, Nat Penn may seek to enforce the Settlement and Mutual Releases in full and make use of any of the remedies available to it under the law. However, Nat Penn will not file suit against Lessee and/or Guarantor in any court outside the State of New York, unless

Lessee and/or Guarantor take the position that Lessee and/or Guarantor are subject to jurisdiction only in a forum other than the State of New York.

Lessee and/or Guarantor may change their minds and withdraw from the Settlement Program by notifying Nat Penn (through DLL) of that decision in writing before the first payment under the Settlement Program is due. Notice must be sent to the same address as this Settlement and Mutual Releases.

2. Release Of Claims

I understand that, in exchange for the opportunity to pay off the Rental Agreement at a substantial discount, Lessee and/or Guarantor hereby release and discharge Nat Penn and DLL and all of their subsidiaries, parents, affiliates, predecessors, successors and assigns (subsequent to the effective date of the agreement between the Attorney General of the State of New York and Nat Penn), officers, directors, employees, shareholders and agents (the "Nat Penn and DLL Parties") from, and covenant not to file or pursue any lawsuit or claim in any place against any Nat Penn or DLL Party for, any and all claims (including claims as a member or representative of a proposed class action) that Lessee and/or Guarantor has or may have had against them for any and all damages, restitution, equitable relief, attorneys' fees and/or penalties based upon the Rental Agreement. Lessee and/or Guarantor further agree that if they are currently involved in any litigation arising from the Rental Agreement, Lessee and/or Guarantor and Nat Penn and/or DLL will mutually dismiss that litigation with prejudice as to Lessee, Guarantor and all Nat Penn and DLL Parties.

In exchange for Lessee and/or Guarantor's payment to Nat Penn pursuant to this Settlement and Mutual Releases, and release of claims against the Nat Penn and DLL Parties, Nat Penn and DLL hereby release and discharge Lessee and/or Guarantor from, and covenant not to file or pursue any lawsuit or claim in any place against Lessee and/or Guarantor for, any and all claims that Nat Penn or DLL has or may have had against Lessee and/or Guarantor and all of their subsidiaries, parents, affiliates, predecessors, successors, assigns, officers, directors, employees, shareholders, agents, and guarantors for any and all damages, equitable relief, attorneys' fees and penalties based upon the Rental Agreement.

I hereby acknowledge and represent that I have read this Settlement and Mutual Releases; that I have had the opportunity to consult with a lawyer concerning it; that Lessee and/or Guarantor are voluntarily entering into this Settlement and Mutual Releases; that neither Nat Penn nor its agents or attorneys have made any representations or promises concerning the terms or effects of this Settlement Agreement other than those set forth in this document; and I understand that this is a full and final release of all claims Lessee and/or Guarantor has or may have against the Nat Penn and DLL Parties concerning the Rental Agreement.

I further agree that this Settlement and Mutual Releases constitutes the entire agreement among the parties hereto, may not be changed orally and may not be modified or amended except pursuant to an agreement in writing signed by all of the parties hereto, unless Lessee and/or Guarantor change their minds as provided above.

The signatory for the Lessee below represents that he or she is duly authorized to

enter into this Settlement Agreement and Mutual Releases on behalf of the Lessee.

This Settlement and Mutual Releases shall be deemed accepted upon your return to DLL of an executed copy of this agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned has caused this Settlement and Mutual Releases to be executed this ____ day of _____, 2005.

Dated: _____

[NAME OF NEW YORK LESSEE]

By: _____

[Name]

[Title]

[Address]

By: _____

[Name], as Guarantor

National Penn Leasing Company

By: _____

DeLage Landen Financial Services, Inc. (as to the releases)

By: _____

FILL OUT COMPLETELY AND SEND THREE SIGNED ORIGINALS TO DE LAGE LANDEN FINANCIAL SERVICES, INC., AT:

PLEASE KEEP A COPY FOR YOUR RECORDS. A FULLY EXECUTED DOCUMENT WILL BE SENT TO LESSEE AND ANY GUARANTOR.

[Exhibit E]
SETTLEMENT AND MUTUAL RELEASES

between

**[NEW YORK LESSEE AND GUARANTOR] and NATIONAL PENN
LEASING COMPANY**

I, _____, on behalf of the entity named above (the "Lessee") and/or as personal guarantor (together, the "Lessee and/or Guarantor"), elect to take advantage of the Settlement Program agreed to by the Attorney General of the State of New York and National Penn Leasing Company ("Nat Penn") to resolve Lessee's Rental Agreement (the "Rental Agreement"), as to which rights to payment were formerly held by De Lage Landen Financial Services, Inc. ("DLL") and are now held by Nat Penn, at a substantial discount and to settle any and all disputes that Lessee and/or Guarantor may have with Nat Penn arising from the Rental Agreement. With this Settlement and Mutual Releases I am: (1) enrolling in the Settlement Program; and (2) entering into a mutual release of claims with Nat Penn, DLL, and related parties.

I understand that Nat Penn and the Attorney General of the State of New York have agreed to the terms of this Settlement Program for the purpose of avoiding the expense and inconvenience of litigation and it is not an admission on the part of Nat Penn that it engaged in any form of unlawful conduct or business practices, and that Nat Penn expressly denies that it engaged in any form of unlawful conduct of business practices, and that it engaged in any such unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the Rental Agreement.

1. Enrolling In The Settlement Program

I understand that, upon Lessee's and/or Guarantor's acceptance of this Settlement Program, Nat Penn will:

- (a) forgive ninety percent (90%) of the outstanding principal balance under the Rental Agreement as of July 15, 2004;
- (b) forgive any late fees or penalties assessed on the Lessee's account on or after July 15, 2004;
- (c) forgive any property insurance charges assessed on the Lessee's account on or after July 15, 2004;
- (d) fully credit any payments Lessee and/or Guarantor has made to Nat Penn or DLL on or after July 15, 2004;
- (e) withdraw any and all adverse credit reports Nat Penn and/or DLL filed as a result of not receiving payment on the Rental Agreement on or after July 15, 2004; and
- (f) as to any customers based upon whose Rental Agreements Nat Penn or DLL has filed a UCC 1 Financing Statement, file a Financing Statement Amendment (Form UCC 3) terminating all security interest against such

customers in such Rental Agreements.

I also understand that DLL will act as servicing agent for Nat Penn with respect to the administration of this Settlement Program, and that DLL's records reflect the following information about Lessee's Rental Agreement account:

1. **Principal balance remaining as of July 15, 2004:** _____
2. **Line 1 reduced by 90%:** _____
3. **Plus any unpaid late fees, penalties and insurance charges assessed prior to July 15, 2004** _____
4. **Credit for payments received on or after July 15, 2004:** _____
5. **Settlement Balance:** _____

Nat Penn (through DLL) will send a refund check in the amount of (_____) within 30 days of the mailing of Lessee's and/or Guarantor's acceptance of the Settlement Program.

Lessee and/or Guarantor may change their mind and withdraw from the Settlement Program by notifying Nat Penn (through DLL) of that decision in writing before the refund check under the Settlement Program is due. Notice must be sent to the same address as this Settlement and Mutual Releases.

2. Release Of Claims

I understand that, in exchange for the opportunity to resolve the Equipment Rental Agreement at a substantial discount, Lessee and/or Guarantor hereby release and discharge Nat Penn and DLL and all of their subsidiaries, parents, affiliates, predecessors, successors and assigns (subsequent to the effective date of the agreement between the Attorney General of the State of New York and Nat Penn), officers, directors, employees, shareholders and agents (the "Nat Penn and DLL Parties") from, and covenant not to file or pursue any lawsuit or claim in any place against any Nat Penn or DLL Party for, any and all claims (including claims as a member or representative of a proposed class action) that Lessee and/or Guarantor has or may have had against them for any and all damages, restitution, equitable relief, attorneys' fees and/or penalties based upon the Rental Agreement. Lessee and/or Guarantor further agree that if they are currently involved in any litigation arising from the Rental Agreement, Lessee and/or Guarantor and Nat Penn and/or DLL will mutually dismiss that litigation with prejudice as to Lessee, Guarantor and all Nat Penn and DLL Parties.

In exchange for Lessee and/or Guarantor's resolution of the Settlement Balance pursuant to this Settlement and Mutual Releases and release of claims against the Nat Penn and DLL Parties, Nat Penn and DLL hereby release and discharge Lessee and/or Guarantor

from, and covenants not to file or pursue any lawsuit or claim in any place against Lessee and/or Guarantor for, any and all claims that Nat Penn or DLL has or may have had against Lessee and/or Guarantor and all of their subsidiaries, parents, affiliates, predecessors, successors, assigns, officers, directors, employees, shareholders, agents, and guarantors for any and all damages, equitable relief, attorney's fees and penalties based upon the Rental Agreement.

I hereby acknowledge and represent that I have read this Settlement and Mutual Releases; that I have had the opportunity to consult with a lawyer concerning it; that Lessee and/or Guarantor are voluntarily entering into this Settlement and Mutual Releases; that neither Nat Penn nor its agents or attorneys have made any representations or promises concerning the terms or effects of this Settlement Agreement other than those set forth in this document; and I understand that this is a full and final release of all claims Lessee and/or Guarantor has or may have against the Nat Penn and DLL Parties concerning the Rental Agreement.

I further agree that this Settlement and Mutual Release constitutes the entire agreement among the parties hereto, may not be changed orally and may not be modified or amended except pursuant to an agreement in writing signed by all of the parties hereto, unless Lessee and/or Guarantor change their mind as provided above.

The signatory for the Lessee below represents that he or she is duly authorized to enter into this Settlement Agreement and Mutual Releases on behalf of the Lessee.

This Settlement and Mutual Releases shall be deemed accepted upon your return to DLL of an executed copy of this agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned has caused this Settlement and Mutual Releases to be executed this ____ day of _____, 2005.

Dated: _____

[NAME OF NEW YORK LESSEE]

By: _____

[Name]

[Title]

[Address]

By: _____

[Name], as Guarantor

NATIONAL PENN LEASING COMPANY

By: _____

DE LAGE LANDEN FINANCIAL
SERVICES, INC. (as to the releases)

By: _____

**FILL OUT COMPLETELY AND SEND THREE SIGNED ORIGINALS TO DE
LAGE LANDEN FINANCIAL SERVICES, INC., AT:**

**PLEASE KEEP A COPY FOR YOUR RECORDS. A FULLY EXECUTED
DOCUMENT WILL BE SENT TO LESSEE AND ANY GUARANTOR.**