

1 MICHAEL W. BROWN/BAR # 205380  
2 **HEMAR, ROUSSO & HEALD, LLP**  
3 15910 Ventura Boulevard, 12<sup>th</sup> Floor  
4 Encino, CA 91436  
5 Telephone: (818) 501-3800  
6 Facsimile: (818) 501-2985  
7 E-mail: [MBrown@hrhlaw.com](mailto:MBrown@hrhlaw.com)  
8 Ref #: 4498-20240953

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
8/22/2024 8:41 AM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By P. Diaz, Deputy Clerk

Attorneys for Plaintiff NORTH MILL  
EQUIPMENT FINANCE, LLC

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**  
**VAN NUYS COURTHOUSE - UNLIMITED JURISDICTION**

NORTH MILL EQUIPMENT FINANCE, LLC,  
a Delaware Limited Liability Company,

Plaintiff,

v.

TRACTION CAPITAL AND LEASING, INC.,  
a Wyoming Corporation; and  
DOES 1-25, inclusive,

Defendants.

Case No: **24VECVO4013**

**COMPLAINT**

- 1. Breach of Written Agreement**
- 2. Specific Performance**
- 3. Declaratory Relief**

**[Demand Exceeds \$35,000]**

Plaintiff complains and alleges as follows:

**GENERAL ALLEGATIONS**

1. At all relevant times, Plaintiff NORTH MILL EQUIPMENT FINANCE, LLC (“Plaintiff” or “NMEF”) was and now is a Delaware Limited Liability Company, with its principal place of business in Norwalk, Connecticut. At all relevant times, NMEF was and is authorized to do business in the State of California and in Los Angeles County.

2. Plaintiff is informed and believes that at all relevant times, Defendant TRACTION CAPITAL AND LEASING, INC. (“TCL”) was and is a Wyoming Corporation, with its principal place of business in Winston Salem, North Carolina. At all relevant times, TCL was and is authorized to do business in the State of California and in Los Angeles County.



1           11. Pursuant to the terms of the FLSA, PARSONEX CAPITAL ADVISORS, LLC was  
2 designated the Administrator of the First Loss Sharing Pool.

3           12. Also pursuant to the FLSA, third-party PARSONEX SPECIAL SITUATIONS FUND,  
4 LLC agreed to deposit funds with InBank and PARSONEX CAPITAL ADVISORS, LLC.  
5 Specifically, PARSONEX SPECIAL SITUATIONS FUND, LLC was obligated to deposit \$1.5  
6 Million in an account (“the First Loss Account”) for use in connection with claims to be made by  
7 NMEF related to defaulted transactions for EFAs sold to NMEF by TCL.

8           13. Also pursuant to the FLSA, PARSONEX CAPITAL ADVISORS, LLC, as  
9 Administrator, was to pay money from the First Loss Account to NMEF in the event that NMEF  
10 presented claims related to defaulted EFAs.

11           14. Also pursuant to the FLSA, upon payment of any claims by PARSONEX CAPITAL  
12 ADVISORS, LLC to NMEF based on defaulted EFAs, TCL was obligated to deposit money in the  
13 First Loss Account so that the balance of the First Loss Account would return to \$1.5 Million.

14           15. PARSONEX SPECIAL SITUATIONS FUND, LLC did in fact deposit \$1.5 Million in  
15 the First Loss Account.

16           16. After the first claim was presented by NMEF, PARSONEX CAPITAL ADVISORS,  
17 LLC, paid NMEF as it was supposed to. Thereafter, TCL paid PARSONEX CAPITAL ADVISORS,  
18 LLC to return the balance in the FLSA to \$1.5 Million.

19           17. However, as time went on and NMEF presented additional claims and PARSONEX  
20 CAPITAL ADVISORS, LLC paid those claims to NMEF, the FLSA balance began to dissipate as  
21 TCL breached the MAA and the FLSA by failing to replenish the First Loss Account.

22           18. In the meantime, PARSONEX SPECIAL SITUATIONS FUND, LLC withdrew funds  
23 from the First Loss Account as it was allowed to do pursuant to the FLSA, based on TCL’S failure to  
24 replenish the First Loss Account. On information and belief, the balance of the First Loss Account is  
25 now down to \$169,045.13.

26           19. TCL assigned and sold to NMEF numerous EFAs, which are presently outstanding. An  
27 unknown number of these EFAs will go into default.

28

1           20.     As more and more EFAs sold by TCL to NMEF go into default, the First Loss Account  
2 may be dissipated such that there is no money left to pay NMEF.

3           21.     TCL also breached the MAA and FLSA by causing PARSONEX CAPITAL  
4 ADVISORS, LLC to not pay two legitimate claims by NMEF.

5           22.     Specifically, TCL breached the MAA and/or FLSA by causing PARSONEX CAPITAL  
6 ADVISORS, LLC not to pay a claim related to Aloha Express in the amount of \$39,130.22.

7           23.     TCL also breached the MAA and/or FLSA by causing PARSONEX CAPITAL  
8 ADVISORS, LLC not to pay a claim related to Blackman Reign LLC in the amount of \$48,406.02.

9           24.     TCL further breached the MAA by failing to go through the disputed claims provisions  
10 contained within the MAA but instead simply causing PARSONEX CAPITAL ADVISORS, LLC not  
11 to pay these two claims.

12           25.     NMEF is owed \$39,130.22 on the Aloha Express claim and \$48,406.02 on the  
13 Blackman Reign LLC claim, for a total of not less than \$87,536.24, with further and/or later arising  
14 damages subject to proof.

15           26.     Plaintiff intends to amend its complaint to allege continuing damages caused to  
16 Plaintiff by Defendant.

17           27.     The MAA contains an attorney's fees provision. NMEF has retained the law firm of  
18 Hemar, Roussso & Heald, LLP to enforce NMEF's rights and remedies under the MAA.

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SECOND CAUSE OF ACTION**

**(Specific Performance Against TCL)**

28           28.     Plaintiff repeats, reiterates and incorporates herein by this reference the allegations set  
forth in paragraphs 1 through 27, inclusive, as though set forth at length herein.

          29.     The MAA and FLSA are valid and enforceable contracts, with terms sufficiently  
definite and certain to be enforced. The MAA and FLSA are arm's length contracts, and are neither  
unjust nor unreasonable. Plaintiff has performed all obligations required of it under the MAA and  
FLSA.



1 claims; (2) TCL is obligated to replenish the First Loss Account up to \$1.5 Million; (3) TCL is  
2 obligated not to cause PARSONEX CAPITAL ADVISORS, LLC not to pay NMEF’s claims on  
3 defaulted EFAs; and (4) TCL is obligated to continue to replenish the First Loss Account up to \$1.5  
4 Million each time that a claim is made by NMEF and paid by PARSONEX CAPITAL ADVISORS,  
5 LLC.

6  
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for Judgment against Defendants as follows:

9 **AS TO THE FIRST CAUSE OF ACTION**

- 10 1. Judgment in the amount of not less than \$39,130.22 for payment on the Aloha Express  
11 claim, plus applicable interest;
- 12 2. Judgment in the amount of not less than \$48,406.02 for payment on the Blackman  
13 Reign LLC claim, plus applicable interest; and
- 14 3. For reasonable attorney’s fees.

15 **AS TO THE SECOND CAUSE OF ACTION**

- 16 4. For specific performance against TCL under the terms of the MAA and FLSA, in that  
17 TCL shall be ordered and compelled to replenish the First Loss Account to \$1.5 Million and to  
18 continue to replenish the account upon each payment to NMEF on a defaulted EFA; and
- 19 5. For reasonable attorney’s fees.

20 **AS TO THE THIRD CAUSE OF ACTION**

- 21 6. For a judicial declaration that: (1) TCL is obligated to cause PARSONEX CAPITAL  
22 ADVISORS, LLC to pay the Aloha Express and Blackman Reign LLC claims; (2) TCL is obligated to  
23 replenish the First Loss Account up to \$1.5 Million; (3) TCL is obligated not to cause PARSONEX  
24 CAPITAL ADVISORS, LLC not to pay NMEF’s claims on defaulted EFAs; and (4) TCL is obligated  
25 to continue to replenish the First Loss Account up to \$1.5 Million each time that a claim is made by  
26 NMEF and paid by PARSONEX CAPITAL ADVISORS, LLC.

**AS TO ALL CAUSES OF ACTION**

7. For costs of suit incurred herein; and

8. For such other and further relief as the Court may deem just and proper.

DATED: August 21, 2024

HEMAR, ROUSSO & HEALD, LLP

By: Michael W Brown

MICHAEL W. BROWN

Plaintiff NORTH MILL EQUIPMENT FINANCE, LLC

**HEMAR, ROUSSO & HEALD, LLP**  
15910 VENTURA BOULEVARD, 12TH FLOOR  
ENCINO, CA 91436  
(818) 501-3800

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT “1”**



## MASTER ASSIGNMENT AGREEMENT

THIS MASTER ASSIGNMENT AGREEMENT (this "Agreement") is made, as of the 9th day of August, 2022, by and between North Mill Equipment Finance LLC, a Delaware limited liability company having its principal place of business at 601 Merritt 7, Suite 5, Norwalk, CT 06851 ("NMEF") and Traction Capital and Leasing, Inc. ("Originator"), a Wyoming corporation having its principal place of business at 2806 Reynolda Road, Suite 272, Winston Salem, NC 27106.

### RECITALS

- A. NMEF is engaged in the equipment financing business and leases and finances personal property to and for third parties on certain terms and conditions.
- B. Originator, from time to time, enters into and arranges leases and other financing agreements, and for purposes of this Master Assignment Agreement dated 06/27/2002 only Equipment Finance Agreements ("EFA'S") will be considered ("Transaction" or "Transactions") of personal property ("Equipment") to, with and for third parties ("Customer(s)").
- C. NMEF and Originator desire to set forth the terms pursuant to which Originator will procure and present to NMEF, for its approval and possible purchase, Transactions with Originator's Customers.

### AGREEMENT

- 1. REFERRAL; SALE AND ASSIGNMENT OF EFA'S. Originator intends to offer to sell and assign completed a EFA's to NMEF and NMEF has agreed to purchase and take assignment of such Transactions ("Assigned Transactions") pursuant to the mutually agreed parameters outlined herein. For purposes of this Agreement, NMEF includes any of its subsidiaries and affiliated companies that executes an Assignment, as defined below, in which case such affiliate shall be the Assignee for purposes of such Assignment and all references to NMEF in this Agreement shall mean such affiliate with respect to such Assignment.
- 2. SCOPE AND DURATION. This Agreement shall be effective at the time of its execution by NMEF and shall apply to all Transactions submitted by Originator to NMEF until such time as this Agreement is terminated. This Agreement may be terminated with 60 days written notice to the other party; provided, however, that the rights and obligations of the parties hereunder with respect to Assigned Transactions originated or submitted to NMEF prior to termination of this Agreement shall survive such termination.
- 3. TRANSACTION SUBMISSIONS.
  - (a) Disclosure of Information. Originator shall, in connection with each Transaction submitted, fully inform NMEF as to all information known to Originator concerning the Transaction, including, without limitation, information regarding the proposed Customer and its credit worthiness, the Equipment to be financed, and the Vendor(s) thereof. This duty extends to any changes occurring or discovered, or information obtained, after the Transaction has been submitted. Prior to funding, Originator represents and warrants that the Customer has been notified and specifically consents that the information given to Originator by the Customer may be provided to a third-party funding source.
  - (b) Documentation. All Transactions submitted to NMEF shall be documented to NMEF's satisfaction, in such form and content as shall be acceptable to NMEF, in NMEF's sole discretion. Originator agrees to

enter into and/or provide such other agreements and documents as may be reasonable or necessary to complete each Assigned Transaction or effectuate the intention of the parties, including delivering to NMEF, with respect to motor vehicles, the original certificate of title and all documents necessary to perfect a first priority security interest in the Assigned Transaction the applicable Equipment which is the subject of such Assigned Transaction.

(c) Representations and Warranties. To induce NMEF to purchase Assigned Transactions, Originator hereby represents, warrants and covenants as follows, as of the date of this Agreement and as of the date of NMEF's purchase of each Assigned Transaction:

(i) To the best of Originator's knowledge and belief, each Assigned Transaction, and each guaranty relating thereto, is a bona fide obligation of the respective, borrower(s) and guarantor(s) thereto and is in full force and effect and the valid and binding obligation of each of the parties thereto enforceable according to its terms. All documents provided in connection with each Transaction have been duly executed by the appropriate parties (all over 18 years of age), each of whom were duly authorized to execute same, and all such documents are enforceable in accordance with their respective terms.

(ii) To the best of Originator's knowledge and belief, all Equipment under all Transactions to be submitted will be used by the Customer for business or commercial purposes only and not for personal, family, or household purposes.

(iii) With respect to each Assigned Transaction: the Equipment has been delivered to and unconditionally accepted by the Customer as being in good working order and condition and conforms to the invoices submitted. All security deposits related to Transactions shall be assigned to and immediately paid over to NMEF. Originator has, and is conveying to NMEF, good and marketable title to the Assigned Transaction and in the case of EFA's, a first priority perfected security interest in the Equipment, in each case free and clear of all liens, taxes, and claims whatsoever other than the rights and interests of the Customer and NMEF (as assignee of Originator) arising in connection with the Transaction. Assignor shall cooperate with and assist Assignee in connection with reflecting Assignor's lien and security interest in the Equipment of record including on Uniform Commercial Code financing statements and certificates of title.

(iv) There is, and has been, no default under any Assigned Transaction and no event has occurred that, with the passage of time or the giving of notice or both, would be a default thereunder. There are no taxes owed with respect to the Assigned Transaction or Equipment that have not been paid. Unless disclosed in writing to NMEF, there has been no prepayment of rent or any other moneys payable under any Assigned Transaction. That at all times the waiver of jury trial shall be effective against Customer.

(v) The documents delivered to NMEF by Originator with respect to each Assigned Transaction (the "Assigned Transaction Documents") are and shall be the sole and complete agreement with regard to the financing of the Equipment, and there are and will be no other agreements (written or oral) either as a result of promises, representations or warranties made by Originator or otherwise, with respect to the Equipment financing thereof. There is only one executed original of the Assigned Transaction Document(s) that constitutes chattel paper under the Uniform Commercial Code, and such sole original and all related Assigned Transaction Documents were delivered to NMEF prior to NMEF's funding of the Transaction. The Assigned Transaction Documents shall at all times (1) constitute the single

authoritative copy (within the meaning of the UCC §9-105) which shall be unique, identifiable and unalterable ("Authoritative Copy") and any copy or amendment of the Authoritative Copy that would add or change the identified assignee of such Authoritative Copy shall be made only with the express consent of NMEF; (2) any and all copies of (including copies of copies), of the Assigned Transaction Documents, other than the Authoritative Copy in any form, electronic, hard copy or otherwise, shall be readily identifiable as a copy that is not the Authoritative Copy; and (3) any amendment of an Authoritative Copy shall be readily identifiable as either an authorized or unauthorized revision.

(vi) If a Transaction submitted to NMEF is "re-brokered", as that term is generally understood in the industry, Originator will have identified the Transaction as being re-brokered and will have indicated to NMEF any parties from whom Originator accessed the Transaction. Without limiting the generality of the foregoing, the term "re-brokered" includes all Transactions submitted wherein it is contemplated that any remuneration will be paid by Originator to any party other than Originator's employees, if the Transaction is accepted by NMEF. Failure to disclose a third party who is to be so compensated will constitute a breach of this Agreement.

(vii) Originator has performed such investigations of the Vendor, Customer and other parties as are reasonably necessary to enable Originator to make the representations and warranties set forth in subsections (i) through (vi) of this section 3(c). Notwithstanding the foregoing representation and warranty, the failure to perform such investigations shall not in any way limit Originator's liability for the untruth of any representation or warranty set forth in this Agreement.

(viii) Originator is duly organized, validly existing and in good standing in the state of its formation and has all requisite power and authority to own its property and carry on its business as now being conducted, and to enter into, and carry out, the provisions and conditions of this Agreement.

(ix) Originator is duly qualified to do business in each jurisdiction wherein the character of the Equipment or the nature of the activities conducted by Originator makes such qualification necessary and Originator has a valid California Finance Lender License which is in full force and effect.

(x) All necessary proceedings have been taken by Originator in order to authorize the execution and performance of this Agreement and each Assigned Transaction and any other agreement to which Originator is a party.

(xi) Neither the execution and delivery of this Agreement nor the assignment of any Assigned Transaction pursuant hereto nor the consummation of any Assigned Transaction by Originator has constituted or resulted in, or will constitute or result in, a breach of the provision of any agreement or instrument to which Originator is a party, or is bound, or of the organizational documents of Originator or the violation of any presently existing applicable law, judgment, decree, federal or state law or governmental order, rule or regulation or result in the creation under any agreement or instrument, other than in favor of NMEF, of any security interest, lien, charge or encumbrance upon the Transaction or the Equipment.

(xii) To the best of Originator's knowledge and belief, neither the Customer nor the Vendor of the Equipment in any Assigned Transaction is related to Originator and the Customer is not affiliated with the Vendor. Each Assigned Transaction is the result of a bona fide arm's-length transaction among Originator, Customer and Vendor, and any information provided by Originator to NMEF concerning the

Vendor, the Customer, the Transaction and/or the Equipment is accurate and complete in all respects and does not fail to state anything, the absence of which would make such information misleading.

4. ASSIGNED TRANSACTIONS. (a) With respect to Assigned Transactions, Originator shall sell and assign to NMEF the Transaction as described on an Assignment of Equipment Financing Agreement (in the form of **Exhibit A** attached hereto each Assignment of Equipment Financing Agreement, is referred to herein as an "Assignment" and all such Assignments are referred to herein collectively as the "Assignments.") Upon receipt by NMEF of the original executed EFA together with the original executed Assignment and all other required documentation, including without limitation the documents reflected on Exhibit D hereto (to the extent applicable), and fulfillment of the conditions precedent referred to in Section 5, NMEF will pay the purchase price for the subject Assigned Transaction as set forth in Section 7 of this Agreement. NMEF shall acquire none of the obligations of the lender under any of the Assigned Transactions, it being expressly understood and warranted by Originator that all obligations to be performed by the lender under the Assigned Transactions have been performed by Originator as of the date of the applicable Assignment.

(b) In addition, Originator acknowledges and agrees that, after assignment to NMEF, neither it nor any of its assignees or funding sources shall have any right, title or interest, whether pursuant to a "cross-collateralization" provision or otherwise, in and to any Assigned Transaction or the subject Equipment and Originator and/or its assigns shall only be entitled to exercise rights in the personal property or other assets which are the subject of agreements in which Originator or any of its assigns have an interest and not with respect to the personal property or other assets which are the subject of Assigned Transactions assigned to NMEF; until all assigned payments have been received by NMEF and all monies due under the Assigned Transaction including but not limited to attorney's fees, collection costs, satisfaction of any storage and/or mechanic's liens, commissions, auction and refurbishments costs related to the sale or release of the Equipment have been fully and finally received by NMEF. Any payments received by NMEF and later required to be returned to a bankruptcy estate under the Bankruptcy Code's avoidance powers shall not be considered to be finally received by NMEF under this Agreement. Originator shall also require any assignee of a Transaction with a party who is also a Customer under an Assigned Transaction and where cross-collateralization provisions exist in the subject documentation to waive, or agree to the waiver herein of, any such cross-collateralization rights on terms substantially similar to those contained herein. In the event that Originator receives any type of proceeds or payment from the Assigned Transactions or the Equipment and NMEF has not received full payment on each and every obligation owed to it under the Assigned Transaction, Originator agrees to immediately upon demand tender such payments and proceeds to NMEF in such amounts as to make NMEF paid in full on any obligations due NMEF under the Assigned Transaction. NMEF has no fiduciary obligations under this Agreement or any Assigned Transaction to Originator and may initiate litigation and/or settle all or part of any Assigned Transaction or against any guarantor or surety of any Assigned Transaction and may repossess, sell, lease or transfer any and all of the Equipment in its sole and absolute discretion. Originator agrees that its interest in the Assigned Transaction or the Equipment is fully and completely subordinate to the interests of NMEF in the Assigned Transaction and the Equipment and its interests, if any, only arises when all obligations to NMEF have been fully satisfied.

5. NMEF'S DISCRETION TO ACCEPT EACH TRANSACTION; CONDITIONS PRECEDENT. NMEF may accept or reject any tendered Transaction in its sole and absolute discretion. Acceptance of a tendered transaction shall not be unreasonably withheld if the Transaction meets all mutually agreed parameters

outlined herein. If NMEF elects to approve any submitted Transaction, NMEF's obligation to purchase such Transaction shall nevertheless be subject to the fulfillment, or written waiver by NMEF, of the following conditions precedent:

- a. There shall have been no material adverse change, determined in NMEF's sole and absolute discretion, in the financial or operational condition of the Customer during the period from the date of the information that was provided to NMEF until the date of closing the acquisition of the Transaction.
- b. All representations and warranties made by Originator herein shall be true and correct on the date of closing the acquisition of the Assigned Transaction, as if made on that date.
- c. NMEF shall have received all documents required to be delivered by Originator hereunder with respect to the Assigned Transaction (including the documents referenced on **Exhibit B** hereto to the extent applicable), and all such documents shall be in form and substance acceptable to NMEF, in its sole and absolute discretion.
- d. No event of default or event shall have occurred that, with the passage of time or the giving of notice or both, would constitute a default, by Originator shall have occurred hereunder or by the Vendor or Customer under the applicable Assigned Transaction.

#### 6. INTENTIONAL OMITTED

7. **PURCHASE PRICE.** NMEF shall purchase each Assigned Transaction by calculating (using T-Value) the net present value of the remaining contractual payments required to be paid by the Customer under the Assigned Transaction Documents at the time of assignment to NMEF using a discount rate as further described in this Agreement. The discount rate to be used to calculate the net present value shall be the buy rate as set forth in the TRACTION Tier Credit Parameters (the "Discount Rate") attached as Exhibit C. In all cases where approval by NMEF is required, such approval will be clearly communicated by NMEF to the Originator, including exceptions to underwriting criteria contained in Exhibit C, stipulations to be satisfied (such as satisfaction of outstanding tax liens and judgments by the Customer), prior to the Originator documenting the Assigned Transaction and disbursing funds to the Vendor and/or Customer.

The underwriting credit criteria for all Assigned Transactions shall be the criteria as set forth in **Exhibit C**. All Assigned Transactions must meet the TRACTION Tier Credit Parameters as set forth in **Exhibit C** and may not be amended without written consent of NMEF.

#### 8. FIRST LOSS SHARING AGREEMENT; BREACH OF AGREEMENT; INDEMNITY.

(a) **FIRST LOSS SHARING AGREEMENT:** While this Master Assignment Agreement is in effect Originator shall at all times maintain a loss reserve in such amounts and under such terms as set forth in the First Loss Sharing Agreement attached as Exhibit E which is incorporated as if fully set forth herein to fund Originator's reimbursement obligations of defaulted Transactions ("Defaulted Transactions") assigned to and purchased by NMEF. Portfolio Value shall mean in this Agreement that aggregate amount of Net Investment in Lease consistent with GAAP, for all Assigned Transactions. Defaulted Transactions as used in this Agreement shall mean any Assigned Transaction where (i) the Customer is in default under the terms and conditions of the EFA and such default has existed for a period of 60 or more days, or (ii) the Assigned Transaction was not in accordance with the TRACTION Tier Credit Parameters (Exhibit C).

(b) (i) In the event that a Defaulted Transaction has occurred and is continuing and / or (ii) If Originator fails to perform any of its obligations under this Agreement or under any Transaction or under any other agreement executed and delivered in connection with this Agreement; or if any representation or warranty made by Originator herein or therein is knowingly false or misleading, (iii) if any Customer fails to make payments due under any Assigned Transaction where the Customer has undertaken legal action alleging action or inaction on the part of Originator with respect to its obligations, then NMEF shall exercise its rights under the First Loss Sharing Agreement. In addition to the remedies set forth in this Agreement, each of the parties hereto shall be entitled to all remedies available at law upon the occurrence of a breach by the other party. All remedies are cumulative and may be exercised singularly or cumulatively.

(c) Without limiting the foregoing, Originator agrees to indemnify, defend and hold harmless NMEF from and against, and to reimburse NMEF for, any and all amounts, claims, losses, liabilities (including negligence, tort and strict liability), judgments, costs, damages or expenses, including reasonable investigation and attorney's fees incurred or paid by NMEF, resulting from, relating to or arising out of the breach of any representations and warranties by, and/or the nonfulfillment of any covenant or agreement on the part of, Originator as set forth in this Agreement. All obligations, representations, warranties, covenants and indemnities made by Originator herein, and in other documents and instruments delivered in connection with this Agreement, shall survive the consummation of any particular Transaction hereunder, and shall continue in effect so long as any Transaction is outstanding and shall survive the date of expiration or any termination of this Agreement.

9. CONFIDENTIALITY. Each party acknowledges that in the performance of this Agreement, it will receive proprietary and confidential information from the other party including without limitation, information provided by Originator about its Customers and information provided by NMEF about its systems, processes, procedures, products, and various documents and information in various media. Each party shall hold in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of law, all proprietary and confidential information received from the other with respect to and under the terms of this Agreement: provided that either party may disclose such information to its directors, officers, employees, accountants, counsel, consultants, advisers, lenders, affiliates and agents in connection with the transactions contemplated hereunder, so long as such persons are informed of the confidential nature of such information and are directed to treat such information confidentially. In this regard, each party shall limit distribution of such information solely to those persons who, in such party's sole discretion, must be involved in the analysis of the Transaction(s). All information shall be used only for the purpose of fulfilling such party's responsibility under this Agreement and for no other purpose whatsoever.

10. NO AGENCY; NO AUTHORITY TO BIND NMEF; ORIGINATOR AUTHORITY. This Agreement does not create an agency, partnership or joint venture relationship between Originator and NMEF. Originator is, and shall act as, an independent contractor, and as such, shall have no authority to incur any obligations or to make any statements or representations on behalf of NMEF, or to bind or commit NMEF in any manner, or to make, alter or execute any document or agreement on behalf of NMEF. Originator shall not use NMEF's name or trademark as part of its firm, trade or corporate name. Originator shall have no authority to, and will not, without NMEF's prior written consent, accept collections, repossess or consent to the return of the Equipment described in the Transaction, or modify the terms of any Transaction, waive compliance with any of the terms of any Transaction, or cancel or terminate any Transaction.

11. QUALIFICATION OF ORIGINATOR. Originator shall from time to time, upon request by NMEF, submit such information to NMEF, as NMEF deems necessary or appropriate in order to assure that Originator meets NMEF's standards with respect to qualifications to transact business with NMEF.

12. ORIGINATOR'S EXPENSES. NMEF shall not be responsible for any expenses whatsoever incurred by Originator in connection with any Transaction submitted to NMEF by Originator.

13. NOTICES TO APPLICANTS. If federal laws and regulations require, with respect to any submitted Transaction, that certain notices be provided to proposed lessees or borrowers (including but not limited to the Equal Credit Opportunity Act, sometimes known as "Regulation B"), including but not limited to disclosure of the right to request specific reasons for credit denial and notice of action taken and statement of reasons for such, Originator represents and warrants that all such notices will have been provided to the proposed lessee or borrower prior to submission of the Transaction to NMEF, or (if not yet required by law) will be provided at the time required by law.

14. LIMITED POWER OF ATTORNEY; AUDIT. Originator hereby irrevocably grants to NMEF power of attorney to file Uniform Commercial Code financing statements and other documents and instruments in Originator's name, as NMEF shall deem necessary or desirable, to record NMEF's security interest or ownership interest in the Assigned Transactions. Originator agrees that NMEF may, upon reasonable notice, audit Originator's books and records relating to any Transaction.

15. CHOICE OF LAW AND VENUE; ATTORNEY FEES. This Agreement shall not be effective until signed by NMEF. This Agreement and each Transaction and all rights and liabilities of the parties hereto and thereto, shall be determined and governed by the internal laws (except the conflicts of law provisions) of the State of California. NMEF and Originator hereby submit to the non-exclusive jurisdiction of any State or Federal court located in the State of California for all legal proceedings arising directly or indirectly from this Agreement or any Transaction and each irrevocably waives any objection to any such proceeding based on venue or inconvenient forum. To the extent permitted by law, each party hereto irrevocably agrees that service of process in any such proceeding may be made by sending the same by registered mail or certified mail to it at its address set forth herein AND IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY SUCH PROCEEDING. If any action is commenced with respect to this Agreement or any Transaction, the prevailing party in any such action shall be entitled to recover from the non-prevailing party the costs and expenses of maintaining such action or proceeding, including reasonable attorneys' fees and disbursements.

16. ASSIGNMENT; MERGERS; SUCCESSORS AND ASSIGNS. Originator shall not, without NMEF's prior written consent, assign this Agreement or any of its obligations hereunder. NMEF may freely assign its rights and obligations hereunder and in any Transaction, in whole or in part, at any time without notice to or consent of Originator. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors and other successors or assigns of the parties hereto.

17. MISCELLANEOUS. A waiver of any breach of any provision of this Agreement shall not constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing. This Agreement constitutes the entire understanding of the parties relating to the subject matter of this Agreement and no representations or warranties, except as contained in this Agreement, have been made by either party to the other. This Agreement may be amended only by written agreement of NMEF and Originator.





EXHIBIT A

ASSIGNMENT OF EQUIPMENT FINANCING AGREEMENT

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Traction Capital and Leasing, Inc. (hereinafter "Assignor") hereby assigns to North Mill Equipment Finance LLC or its designee ("Assignee"), all rights and interest in and to that certain Equipment Financing Agreement between Assignor and \_\_\_\_\_, as Debtor (hereinafter referred to as "Financing Agreement"), a true, correct and complete copy of which Assignor represents and warrants is attached hereto as Attachment "B-1", and all documents related thereto, including without limitation guaranties, landlord's or mortgagee's waivers and/or consents (hereinafter referred to as "Related Documents"), including the right to receive principal and interest payments due and to become due under said Financing Agreement. This Assignment and Bill of Sale (hereinafter "Assignment") is entered into pursuant to that certain Master Assignment Agreement ("Agreement") by and between Assignor and Assignee. All of the terms and conditions of the Agreement are incorporated herein by this reference. Assignor further hereby transfers to Assignee all of Assignor's right, title and interest in and to the collateral described in said Financing Agreement and the Related Documents (hereinafter the "Equipment"). Assignor expressly represents, warrants and agrees that this Assignment constitutes and shall effect the transfer to Assignee of good and marketable title to the Financing Agreement and a first priority perfected security interest in the Equipment free and clear of any liens, claims or encumbrances other than the Debtor's rights under the Financing Agreement.

On the date of this Assignment, the total aggregate unpaid monthly installments of principal and interest under the Financing Agreement equal \$ \_\_\_\_\_ payable in \_\_\_\_\_ ( ) successive monthly payments of \$ \_\_\_\_\_ with the next payment due on \_\_\_\_\_. All of such remaining installment payments are due and owing. Any advance payments, documentation fees or prepayments of installment payments made to Assignor are explicitly not part of this assignment. [This Assignment includes the security deposit in the amount of \$ \_\_\_\_\_ under the Financing Agreement referenced above, which shall be assigned and immediately paid over to Assignee.]

IN WITNESS WHEREOF, the parties have executed this Assignment as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Assignor: Traction Capital and Leasing, Inc.

Assignee: North Mill Equipment Finance LLC

By:

By:

Name:

Name:

Title:

Title:

EXHIBIT B  
REQUIRED DOCUMENTS

1. Master Assignment Agreement executed by Originator and NMEF
2. Assignment executed by Assignee and Assignor
3. The originals of the, equipment finance agreement, and/or other agreement or instrument (as applicable) constituting chattel paper under the Uniform Commercial Code.
4. Customer's ACH authorization executed by Customer.
5. Equipment acceptance certificate executed by Customer
6. Customer's incumbency certificate
7. Notice and Acknowledgement of Assignment executed by Originator and Customer
8. Insurance certificate from Customer's insurer as required under the Assigned Transaction Documents.
9. Originator's complete and correct invoice billing NMEF for the purchase price for the Assigned Transaction (and including the serial numbers of any serialized Equipment).
10. (A) Proof of Payment by Originator to Vendor in the form of (i) a wire transfer confirmation, (ii) confirmed ACH transfer, or (iii) written confirmation from Vendor on Vendor's letterhead (which letterhead includes Vender's name, address and other appropriate contact information) signed by an appropriate officer of Vendor indicating that Vendor has received payment; or (B) Vendor Invoice and Pay Proceeds Letter, if payment will be made directly by NMEF to Vendor in connection with the Assignment.
12. Originator's proceeds disbursement instructions to NMEF
13. Originator's W-9
15. UCC-3 assigning Originator's UCC-1 filed against the Customer
16. UCC-1 covering Assigned Transaction chattel paper filed against Originator.
17. With respect to motor vehicles, the original certificate of title for the subject motor vehicle together with all necessary endorsements thereon and additional documents required to reflect NMEF as sole lienholder thereon under the name of North Mill Credit Trust and Successors and Assigns, 9 Executive Circle, Suite 230, Irvine, CA 92614.

Exhibit C

TRACTION Tier Credit Parameters

## TRACTION Tier Credit Parameters

General Guidelines for All Tiers

EFA's are all sum of the remaining payments Buy Out's

### COMP CREDIT/DEBT TO INCOME:

#### Comp Credit:

- [REDACTED]
- [REDACTED]
- [REDACTED]

If customer does not meet Comp Credit Criteria, the must have Debt to Income as follows:

- [REDACTED]
- [REDACTED]
- [REDACTED]

### EQUIPMENT

#### Class 8

- Age Limits: 2014 for OTR  
2013 for Dumps
- Mileage Limits: 650,000
- Warranty: Required on all vehicles

#### Medium Duty:

- Age Limits: 2013
- Milage Limits: 175,000 Gas; 300,000 Diesel
- Warranty: Required

### GPS/INSPECTIONS

- GPS and P2K Inspections required on ALL transactions
- Traction GPS fee must be collected at close or added to stream of payments

### MISCELLANEOUS

Background Checks – Microbilt or CLEAR. [REDACTED]

- Judgements and Liens: [REDACTED]
- [REDACTED]

### BUY/SELL RATE INCLUDES THE FOLLOWING:

- GPS and Inspection Fee
- Warranty for lease term
- Recovery fee
- Dealer points up to 2% - only if paid out



**TRACTION TIERS**

Owner Operators/Small Fleet (Less than 5 trucks)  
Class 8 and Vocational Box Vans

All contracts EFA or Lease – No Early Buy Out

**FIRST LOSS ESCROW MAINTAINED EQUAL TO \$1,500,00 or 10% OF THE NET INVESTMENT POOL, PURSUANT TO THE TERMS FIRST LOSS SHARING AGREEMENT.**

All contracts covered by warranty for duration of Contract  
Contract term not to exceed 48mos

**TIER 1**

Spread between buy rate and Sell rate paid to Traction upon financial close

**CLASS 8 SLEEPER (OTR)**

Buy Rate: [REDACTED]

**OTHER CLASS 8, VOCATIONAL**

Buy Rate: [REDACTED]

**OTHER CLASS 8 AND VOCATIONAL**

**Personal Credit**

- FICO:
- Homeowner:
- Min Tradelines:
- Credit Depth:
- BK's:
- Revolving Available:
- Foreclosure
- Chargeoff's/Repo's:
- Child Supp Delinquent:
- Tax Liens

[REDACTED]

**TIB & Experience**

- Experience – 2+ years of Industry experience

**Minimum Down Payments**

Sleepers: Minimum 10% Down Required (Financed Amount not to Exceed 140% of Black Book Wholesale)  
Other/Vocational: Minimum 10% Down Required (Financed Amount not to Exceed 140% of Black Book Wholesale)

**Payments:**

First Payment collected at close in addition to down payment

**App Only**

\$125,000 subject to above comp credit requirements - Plus Commission



**TRACTION TIERS**

Owner Operators/Small Fleet (Less than 5 trucks)  
Class 8 and Vocational Box Vans

All contracts EFA or Lease – No Early Buy Out

**FIRST LOSS ESCROW MAINTAINED EQUAL TO \$1,500,00 or 10% OF THE NET INVESTMENT POOL, PURSUANT TO THE TERMS FIRST LOSS SHARING AGREEMENT.**

All contracts covered by warranty for duration of Contract  
Contract term not to exceed 48mos

**TIER 2**

Spread between buy rate and Sell rate paid to Traction upon financial close

**CLASS 8 SLEEPER (OTR)**

**Buy Rate:** [REDACTED]

**OTHER CLASS 8 AND VOCATIONAL**

**Buy Rate:** [REDACTED]

**Personal Credit**

- FICO: [REDACTED]
- Homeowner: [REDACTED]
- Min Tradelines: [REDACTED]
- Credit Depth: [REDACTED]
- BK's: [REDACTED]
- Revolving Available: [REDACTED]
- Foreclosure [REDACTED]
- Chargeoff's/Repo's: [REDACTED]
- Child Sup Delinquent: [REDACTED]

**TIB & Experience**

- Experience – 2+ years of Industry experience

**Minimum Down Payments**

Sleepers: Minimum 15% Down Required (Financed Amount not to Exceed 140% of Black Book Wholesale)  
Other/Vocational: Minimum 15% Down Required (Financed Amount not to Exceed 140% of Black Book Wholesale)

**App Only**

\$125,000 subject to above comp credit requirements - Plus Commission



**TRACTION TIERS**

Owner Operators/Small Fleet (Less than 5 trucks)  
Class 8 and Vocational Box Vans

All contracts EFA or Lease – No Early Buy Out

**FIRST LOSS ESCROW MAINTAINED EQUAL TO \$1,500,00 or 10% OF THE NET INVESTMENT POOL, PURSUANT TO THE TERMS  
FIRST LOSS SHARING AGREEMENT.**

All contracts covered by warranty for duration of Contract  
Contract term not to exceed 48mos

**TIER 3**

Spread between buy rate and Sell rate paid to Traction upon financial close

**CLASS 8 SLEEPER (OTR)**

**Buy Rate:** [REDACTED]

**OTHER CLASS 8 AND VOCATIONAL**

**Buy Rate:** [REDACTED]

**Personal Credit**

- FICO: [REDACTED]
- Homeowner: [REDACTED]
- Min Tradelines: [REDACTED]
- Credit Depth: [REDACTED]
- BK's: [REDACTED]
- Revolving Available: [REDACTED]
- Foreclosure [REDACTED]
- Chargeoff's/Repo's: [REDACTED]
- Child Support: [REDACTED]

**TIB & Experience**

- Experience – 2+ years of Industry experience

**Minimum Down Payments**

Sleepers: Minimum 20% Down Required (Financed Amount not to Exceed 140% of Black Book Wholesale)  
 Other/Vocational: Minimum 20% Down Required (Financed Amount not to Exceed 140% of Black Book Wholesale)

**App Only**

\$125,000 subject to above comp credit requirements - Plus Commission



**PREMIUM 200 Warranty Coverage:**

**Traction Program**

**Term:** 48 Mos or 400,000 Miles (up to 1,000,000 miles)  
**Vehicle Age:** 2013 or newer  
**Milage:** < 625,000 (Milage overrides age to ensure warranty coverage through lease term)  
**Coverage Limits:** None, Unlimited  
**Rapid Repair Guarantee:** 2 weeks otherwise partial payments made on loan

**COVERED COMPONENTS SUMMARY**

Engine No Repair Cost Limit\*  
 Critical Components No Repair Cost Limit\*  
 Turbochargers No Repair Cost Limit\*  
 Transmission and Rears No Repair Cost Limit\*  
 Aftertreatment System \$12,000 One Box; \$8,000 Other

Acceptance by:

NORTH MILL EQUIPMENT FINANCE, LLC

TRACTION CAPITAL AND LEASING, INC.

DocuSigned by:  
 By: David C. Lee  
DA9F5088B74E4774A0C3AB51DF9B9423

DocuSigned by:  
 By: Dakota Forgiore  
2274888246D34D6

Name: David C. Lee  
 Title: Chairman and CEO

Name: M. Dakota Forgiore  
 Title: President



Exhibit D

First Loss Sharing Agreement

## FIRST LOSS SHARING AGREEMENT

First Loss Sharing Agreement (the "Agreement") dated as of August 9, 2022 (the "**Effective Date**") by and among Parsonex Special Situations Fund, LLC ("**Parsonex**"), Traction Capital and Leasing, Inc. ("**Traction**"), and North Mill Equipment Finance, LLC ("**NMEF**").

**WHEREAS**, Parsonex has agreed to deposit certain funds with InBank and wishes such deposit to be subject to the terms and conditions set forth herein, and Parsonex Capital Advisors LLC, the designated First Loss Sharing Pool Administrator hereunder (the "**Administrator**") has agreed to accept, hold and dispose of such funds and to accept, hold and deliver such documentation in accordance with the terms and conditions set forth herein.

**WHEREAS**, this agreement dated as of August 9, 2022 supersedes and replaces the agreement dated August 3, 2022 in its entirety.

**NOW THEREFORE**, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

**1. Appointment.** Traction and NMEF hereby appoint the Administrator as their Administrator for the purposes set forth herein, and Administrator hereby accepts such appointment consistent with the terms and conditions set forth herein. Administrator agrees to take the actions required of the Administrator as required by the terms and conditions set forth herein.

**2. First Loss Account.** Simultaneous with the execution and delivery of this Agreement, Parsonex is depositing in an account established with the Administrator (the "**First Loss Account**") the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) (the "**Initial Deposit**"). Promptly upon receipt thereof, the Administrator shall confirm (via email to Traction and NMEF) receipt of the Initial Deposit. Thereafter, Traction agrees to make deposits to the First Loss Account consistent with the terms set forth in that certain Master Assignment Agreement (the "**Master Assignment Agreement**") by and between Traction and NMEF (the "**Master Assignment Agreement**") and the terms of this Agreement. The Administrator shall confirm the Initial Deposit and all other future deposits made by the Traction Parties, if any, in the First Loss Account. The First Loss Account shall be held by Administrator in a separate account and shall not be subject to any lien, attachment, trustee process or any other judicial process of any creditor of any party hereto. The First Loss Account shall be invested as set forth herein, and accrued interest shall be paid monthly to Parsonex. Notwithstanding anything herein to the contrary, in no event shall Parsonex have any obligation to deposit into the First Loss Account any amounts in excess of the Initial Deposit and Parsonex shall have no liability for any claims, amounts, or damages in excess of the Initial Deposit. The parties agree that Parsonex shall have no liability for any claims or actions whatsoever arising from or related in any way to this Agreement, any contract or any administration agreement entered into related to this Agreement in excess of the amount held in the First Loss Account which was deposited by Parsonex, as the same may be adjusted from time to time pursuant to the terms hereof. Furthermore, notwithstanding anything herein to the contrary, Parsonex shall have no obligation to deposit any funds in the First Loss Account in excess of the Initial Deposit at any time, provided that the total

amount provided by Parsonex may exceed the Initial Deposit during the term of this Agreement as a result of defaults, payments of claims, and replenishments. Commencing as of the first day of the nineteenth (19<sup>th</sup>) month following the Effective Date of the First Amendment to the Credit Enhancement Reimbursement and Indemnification Agreement dated August 4, 2022 between Traction and Parsonex (as amended, the “**Credit Enhancement Agreement**”) attached as Exhibit C, in the event that Traction has not replaced the Initial Deposit made by Parsonex, the balance of the First Loss Account shall be reduced on a quarterly basis in an amount equal to the difference between the current First Loss Account balance less 10% of the then current outstanding Total Net Investment Pool Value. In no event shall Parsonex be required to maintain any funds in the First Loss Account beyond the date that is sixty-six (66) months following the Effective Date.

### **3. Disbursement of First Loss Account.**

**a. Claims.** If, in accordance with the Master Assignment Agreement, NMEF determines that a Defaulted Transaction (as defined in the Master Assignment Agreement) has occurred (a “Claim”) and (i) not less than 60 days have passed, (ii) NMEF has undertaken reasonable efforts to collect payments up to such default date and (iii) NMEF has initiated normal collection processes on defaulted leases under the Master Assignment Agreement; the collection process shall include the recovery of the vehicle, and normal legal, recovery and maintenance collection expenses. In the event of an asset liquidation, NMEF shall provide Traction with an opportunity to provide a third party purchase offer on the vehicle and the sale price of the vehicle shall not be less than the Traction third party offer unless such offer is not consummated or rescinded. Any Claim recovery shall be shared 95% by Parsonex and 5% by NMEF (“the Sharing Ratio”). Should any Claim have a Net Lease Gain (“Gain”) the Gain shall also be subject to the Sharing Ratio. All submitted Claims shall include the Recovery Worksheet per Exhibit B, NMEF may deliver to Administrator a Claim letter acknowledged by Parsonex (the “Claim Letter”) within the form of Exhibit A hereto, stating that it has a Claim (a “Claim”) for payment under the Master Assignment Agreement. Anything herein to the contrary notwithstanding, including but not limited to any of the described collection actions to be undertaken by NMEF, Administrator may rely, without investigation or consultation with any party on any Claim Letter executed by NMEF and with an acknowledgement executed by Parsonex and shall, subject to Section 3.c. hereof not less than five (5) business days after receipt of a Claim Letter, make payment as therein demanded. The Claim Letter may be executed by use of an electronic signature under the Electronic Signatures in Global and National Commerce Act, any version of the Uniform Electronic Transactions Act or any other statute governing electronic transactions (“Electronic Signature”) and shall include Default Letters executed and delivered by photocopy, facsimile or electronic or digital signature (including emailed .pdf files), any of which shall be treated as an original and deemed fully binding on the parties to the same extent as original signatures. NMEF, for the benefit of the Administrator and the Traction Parties, agrees to send a copy of each Default Letter to Parsonex and Traction at the email address as indicated on Exhibit A (and as may be updated from time to time by request in writing to NMEF) at the time such Demand Letter is delivered to Administrator.

**b. Termination.** In the event any funds remain in the First Loss Account on the date the Traction Parties and NMEF jointly notify Administrator that the First Loss Account should be closed, Administrator shall return the First Loss Account funds, together with all accrued interest thereon, to Parsonex or its assign.

**c. Disputed Claims.** In the event either Parsonex, NMEF or Traction disputes a Claim, it shall notify the Administrator promptly and in any event prior to the date of disbursement for such Claim is due, and Administrator shall withhold paying such Claim. Upon receipt of a notice disputing a Claim, the parties agree to submit the dispute to mediation utilizing a mediator mutually agreed upon by the parties. If the parties are unable to resolve the dispute informally within ten (10) calendar days, they shall submit the dispute to binding arbitration to be administered by American Arbitration Association (“AAA”), in Charlotte, North Carolina at such time and location as the parties may agree upon. Such arbitration shall be administered according to the AAA Commercial Arbitration Rules and Mediation Procedures. The parties agree to a single arbitrator notwithstanding any other provision in the AAA rules. The party substantially prevailing in the arbitration shall be entitled to recover its costs of arbitration, including reasonable attorneys’ and expert witness fees incurred, in amounts to be determined by the arbitrator. Upon the issuance of the arbitrator’s ruling, Administrator shall disburse such funds as the arbitrator shall decide. In the event NMEF prevails, its award of attorneys’ fees and arbitration costs shall be included within the scope of, and be limited by, the First Loss Account. In no event shall either Transaction Party’s exposure under this Agreement exceed the then existing balance of the First Loss Account and in no event Parsonex’s exposure exceed the Initial Deposit.

**4. Administrator.**

**a. Scope of Responsibility.** Notwithstanding any provision to the contrary, the Administrator is obligated only to perform the duties specifically set forth in this Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will the Administrator be deemed to be a fiduciary to any Party or any other person under this Agreement. The Administrator will not be responsible or liable for the failure of any Party to perform in accordance with this Agreement. The Administrator shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Agreement, whether or not an original or a copy of such agreement has been provided to the Administrator; and the Administrator shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Agreement to any other agreement, instrument, or document are for the convenience of the Parties, and the Administrator has no duties or obligations with respect thereto. This Agreement sets forth all matters pertinent to the agreement contemplated hereunder, and no additional obligations of the Administrator shall be inferred or implied from the terms of this Agreement or any other agreement.

**b. Attorneys and Agents.** The Administrator shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by the Administrator in accordance with the advice of counsel or other professionals retained or consulted by the Administrator. The Administrator shall be reimbursed as set forth in below for any and all compensation (fees, expenses and other costs) paid and/or reimbursed to such counsel and/or professionals. The Administrator may perform any and all of its duties through its agents, representatives, attorneys, custodians, and/or nominees.

**c. Reliance.** The Administrator shall not be liable for any action taken or not taken by it in accordance with the direction or consent of the parties or their respective agents, representatives, successors, or assigns. The Administrator shall not be liable for acting or refraining from acting upon any notice, request, consent, direction, requisition, certificate, order,

affidavit, letter, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, without further inquiry into the person's or persons' authority.

**d. Right Not Duty Undertaken.** The permissive rights of the Administrator to do things enumerated in this Agreement shall not be construed as duties.

**e. No Financial Obligation.** No provision of this Agreement shall require the Administrator to risk or advance its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Agreement.

**f. Resignation or Removal.** The Administrator may resign by furnishing written notice of its resignation to the parties, and the Administrator may be removed by the unanimous written consent of Traction, NMEF and Parsonex by furnishing to the Administrator a joint written notice of its removal along with payment of any reimbursement for expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective thirty (30) days after the delivery of such notice or upon the earlier appointment of a successor, and the Administrator's sole responsibility thereafter shall be to safely keep the First Loss Account and to deliver the same to a successor Administrator as shall be appointed by the parties, as evidenced by a joint written notice filed with the Administrator or in accordance with a court order. If the parties have failed to appoint a successor Administrator prior to the expiration of thirty (30) days following the delivery of such notice of resignation or removal, the Administrator may petition any court of competent jurisdiction for the appointment of a successor Administrator or for other appropriate relief, and any such resulting appointment shall be binding upon the parties.

**g. Compensation.** The Administrator shall not be entitled to compensation for its services hereunder except as specifically stated herein. The Administrator shall be reimbursed for its documented out-of-pocket expenses including, but not limited to, the fees and costs of attorneys or agents which the Administrator may reasonably find necessary to engage in performance of its duties hereunder ("Expenses"), all to be paid by Traction or its assign.

**h. Disagreements.** If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Agreement, or the Administrator is in doubt as to the action to be taken hereunder, the Administrator is authorized to retain the First Loss Account until the Administrator (i) receives a final non-appealable order of a court of competent jurisdiction or a final non-appealable arbitration decision directing delivery of the First Loss Account, (ii) receives a written agreement executed by each of the parties involved in such disagreement or dispute directing delivery of the First Loss Account, in which event the Administrator shall be authorized to disburse the First Loss Account in accordance with such final court order, arbitration decision, or agreement, or (iii) files an interpleader action in any court of competent jurisdiction, and upon the filing thereof, the Administrator shall be relieved of all liability as to the First Loss Account and shall be entitled to recover attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. The Administrator shall be entitled to act on any such agreement, court order, or arbitration decision without further question, inquiry, or consent.

**k. Merger or Consolidation.** Any corporation or association into which the Administrator may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Administrator is a party, shall be and become the successor Administrator under this Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

**l. Omitted.**

**m. Omitted.**

**5. Additional Terms.**

**a. Notice.** All notice required by the parties hereunder shall be deemed given when actually received when (i) delivered personally or (ii) sent via email followed by Federal Express overnight shipping addressed to recipient at its email and address set forth at the end of this Agreement or such other address as may be substituted therefore by written notice Administrator shall receive notice at and be served with a copy of any notice given pursuant to this Agreement to.

**PARSONEX SPECIAL SITUATIONS FUND, LLC**

Fred Adams  
Chief Investment Officer  
8310 S. Valley Highway, Suite 110  
Englewood, CO 80112

Office: 303-662-8700  
E-mail: fadams@pxcapgroup.com

**TRACTION CAPITAL AND LEASING, INC.**

M. Dakota Forgione  
President  
2806 Reynolda Rd., Suite 272  
Winston Salem, NC 27106

Office: 888-402-5422 Ext 700  
Cell: 757-544-6757  
E-mail: dakota@tractionlease.com

**NORTH MILL EQUIPMENT FINANCE, LLC.**

David C. Lee  
Chairman and CEO  
601 Merritt 7  
Norwalk, CT 06851

Office: 203.354.6001 (o)  
E-Mail dlee@NMEF.com with copy to  
JLittier@NorthMilleEF.com

PARSONEX CAPITAL ADVISORS LLC AS ADMINISTRATOR

Jessica Lankes  
Chief Operating Officer  
8310 S. Valley Highway, Suite 110  
Englewood, CO 80112

Office: 303-662-8700  
E-mail: jessica@parsonex.com

**b. Execution and Delivery.** The parties may execute this Agreement in counterparts. Facsimile and electronic signatures shall be accepted as original signatures. This Agreement may be delivered by electronic means. This Agreement shall be deemed effective upon delivery of fully executed copies to all parties.

**c. Governing Law.** This Agreement shall be governed by the laws of the State of Colorado without respect to its conflicts of laws provisions.

THE PARTIES WAIVE ALL RIGHTS TO A TRIAL BY JURY CONCERNING ANY OF THE MATTERS RAISED IN THIS FIRST LOSS AGREEMENT.

**REMAINDER OF PAGE LEFT INTENTIONALLY BLANK  
SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE**

**PARSONEX SPECIAL SITUATIONS FUND, LLC**

DocuSigned by:  
*Fred Adams*  
By: 38233E0936784BA

Fred Adams  
Chief Investment Officer  
8310 S. Valley Highway, Suite 110  
Englewood, CO 80112

Office: 303-662-8700  
E-mail: [fadams@pxcapgroup.com](mailto:fadams@pxcapgroup.com)

**TRACTION CAPITAL AND LEASING, INC.**

DocuSigned by:  
*Dakota Forgiore*  
By: BB74888348D34D5...

M. Dakota Forgiore  
President  
2806 Reynolda Rd., Ste 272  
Winston Salem, NC 27106

Office: 888-402-5422 Ext 700  
Cell: 757-544-6757  
E-mail: [dakota@tractionlease.com](mailto:dakota@tractionlease.com)

**NORTH MILL EQUIPMENT FINANCE, LLC.**

DocuSigned by:  
*David C. Lee*  
By: DAAF66A6AE3C4E9...

David C. Lee  
Chairman and CEO  
601 Merritt 7  
Norwalk, CT 06851

Office: 203.354.6001 (o)  
E-Mail: [dlee@NMEF.com](mailto:dlee@NMEF.com) with copy to  
[JLittier@NorthMillEF.com](mailto:JLittier@NorthMillEF.com)

**PARSONEX CAPITAL ADVISORS LLC AS ADMINISTRATOR**

DocuSigned by:  
*Jessica Lankes*  
By: 95282571204946F...

Jessica Lankes  
Chief Operating Officer  
8310 S. Valley Highway, Suite 110  
Englewood, CO 80112

Office: 303-662-8700  
E-mail: [jessica@parsonex.com](mailto:jessica@parsonex.com)



**EXHIBIT A**  
Form of Claim Letter  
[NMEF Letterhead]

Sent: Via \_\_\_\_\_

[date]

[Administrator]

**RE: Agreement between Parsonex Special Situations Fund, LLC, Traction Capital and Leasing, Inc. and North NMEF Equipment Financing, LLC. with Parsonex Capital as the Administrator dated as of \_\_\_\_\_, 2022 (the “Agreement”)**

To Whom It May Concern:

You are hereby notified pursuant to Section 3.a. of the Agreement that a vehicle claim for a defaulted lease under the contract number [INSERT] dated as of \_\_\_\_\_, 202\_ (the “Defaulted Contract”) has incurred a default and North NMEF Equipment Financing, LLC. (“NMEF”) makes demand for payment of the sum of \_\_\_\_\_ (\$\_\_\_\_\_ ) (the “Claim Amount”) or the amount remaining in the First Loss Account (as defined in the Agreement) on the date of payment.

The amount demanded above constitutes the amount due and payable to NMEF under that certain Master Assignment Agreement and First Loss Sharing Agreement dated as of \_\_\_\_\_, 2022.

By its signature below Parsonex Special Situations Fund, LLC hereby acknowledges that it has received all documents required to be sent to it by NMEF in relation to the Defaulted Claim and assignment related thereto.

Please remit the Default Amount to NMEF within [5] days of your receipt of this Notice.

By execution on behalf of NMEF, the person signing certifies that he/she is the duly elected and acting \_\_\_\_\_ of NMEF, is authorized to execute this letter, and has determined in good faith that the Default Amount is due and owing under the Master Assignment Agreement.

Very truly yours,

NORTH MILL EQUIPMENT FINANCE, LLC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Acknowledged and agreed by Parsonex Special Situations Fund, LLC:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

cc: Parsonex Special Situations Fund, LLC  
at fadams@pxcapgroup.com; jessica@parsonex.com

Traction Capital and Leasing, Inc.  
At dakota@tractionlease.com

**EXHIBIT B**  
Recovery Worksheet

<b><u>Recovery Worksheet</u></b>					
	NMEF Book Value @ Default				
	Plus: 3rd Party Collection Fees				
	Plus: 3rd Party Recovery Fees				
	Plus: 3rd Party Legal Fees				
	Plus: 3rd Party Maintenance Fee				
	Less: Net Recovery of Sale of Defaulted Truck				
	T. Recovery Fees				
	<b>NET LEASE GAIN OR LOSS</b>				
	Sharing Agreement				
	Parsonex Share	95%			
	NMEF Share	5%			
	<i>(1) Equals the unamortized principal balance of the defaulted lease (including the unamortized Traction lease spread)</i>				

**EXHIBIT C**  
Credit Enhancement Agreement

**FIRST AMENDMENT TO THE  
CREDIT ENHANCEMENT REIMBURSEMENT AND INDEMNIFICATION AGREEMENT**

THIS FIRST AMENDMENT TO THE CREDIT ENHANCEMENT REIMBURSEMENT AND INDEMNIFICATION (“**Amendment**”) is made and entered into as of August 4, 2022 (the “Effective Date”) by and between TRACTION CAPITAL AND LEASING, INC, a Wyoming Corporation (“**Company**”), and PARSONEX SPECIAL SITUATIONS FUND, LLC, a Delaware limited liability company (“**Lender**”).

**RECITALS:**

A. Company and Lender previously entered into that certain Credit Enhancement Reimbursement and Indemnification Agreement dated February 21, 2022 (the “**Agreement**”), pursuant to which Lender agreed to provide a credit enhancement facility to the Company to originate Class 8 Trucks, subject to the terms and condition of the Agreement.

B. Seller and Purchaser desire to amend the Agreement as set forth herein.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Capitalized Terms. Capitalized words used in this Amendment shall have the meaning ascribed to them in the Agreement, unless the context clearly requires otherwise.
2. Substitution of Amur. Company and Lender agree that all references to Amur in the Agreement are hereby amended to and replaced by “North Mill Equipment Finance, LLC (“**NMEF**”)”.
3. Revised Interest. Company and Lender agree that Section 3(c) of the Agreement (“Interest”) is hereby deleted and replaced in its entirety with the following:

“Interest. The Facility shall bear interest at 20% per annum for the full amount of the Credit Enhancement Amount regardless of the balance of the Account. The Company shall be obligated to pay to Lender (at the address provided by Lender, as the same may change from time to time) interest monthly, in arrears, no later than the third (3<sup>rd</sup>) business day of each month during the Term (each, an “**Interest Payment**”). However, the initial one hundred twenty (180) days of interest due hereunder shall be accrued and deferred until the Final Payment due date and Lender shall waive any Late Payment Fees and Late Interest Rate (the late interest rate of 24% less the Interest Rate of 20%) incurred from the Effective Date thru July 30, 2022 The accrued interest amount shall be due on the Final Payment date. If the Company is unable to secure a senior credit facility by August 5, 2022, then the Company shall pay to Lender an amount equal to One Hundred and Twenty Thousand Dollars and 00/cents (\$120,000) no later than August 19, 2022. Interest

shall be calculated based upon 360 annual days times the number of days outstanding for the applicable period.”

4. Revised Establishment of First Loss Facility; Repayment. Company and Lender agree that Section 2 of the Agreement is hereby deleted and is replaced in its entirety with the following:

a. In Connection with Company’s lease financing transactions with North Mill Equipment Finance LLC, (“NMEF”), Lender intends to enter into a “**Facility**” with NMEF pursuant to which Lender shall establish a separate account (the “**Account**”) for the benefit of NMEF in connection with leases originated by the Company and financed by NMEF; all pursuant to and subject to the terms of the agreements agreed upon by Lender and NMEF. The initial balance of the Account for the Facility shall be \$1,500,000.00 (the “**Account Cap**”). In the event of all of the following shall occur: (a) a qualified default (as set forth in and subject to the applicable leasing documentation) under any leases originated by the Company and financed by NMEF occurs; (b) NMEF has consistently and actively serviced the subject leasing account(s); (c) the lease default in question is uncured for a period in excess of fifty-five days from the initial date of default; and (d) NMEF, in accordance with Section 3a of the First Loss Sharing Agreement, has submitted a claim, claim letter, and recovery worksheet acceptable to Lender, then NMEF shall have the right to present a claim equal to and consistent with the terms outlined on the recovery worksheet. Notwithstanding anything herein or any other documents to the contrary, in no event shall the Lender be obligated to fund any Default Payment or other amounts in excess of the Account Cap.

b. In the event Lender makes a Default Payment from the Account, Lender shall notify the Company of the Default Payment within five (5) business days, (the “**Default Payment Notice**”). Within three (3) days of the receipt of a Default Payment Notice; Company shall remit to Lender an amount equal to the Default Payment (the “**Repayment**”).

c. Furthermore, in the event NMEF requires the Account to be replenished up to the amount of the Account Cap following any Default Payment (the “**Replenishment Amount**”), the Company shall be obligated to remit to the Account any such Replenishment Amount (each, a “**Replenishment Payment**”) within three (3) days of receipt of a notice from Lender or NMEF, as the case may be, that a Replenishment Amount is required.

5. Non-Conforming Leases. If the Company or any of its subsidiaries originates any leases that do not qualify under the terms of this Agreement or that certain Master Assignment Agreement by and between Company and NMEF (each, a “**Nonconforming Lease**”); Company will be obligated to deposit all compensation from originating the Non-Conforming Lease into the Company operating account at Bank of America.

6. Defaulted Truck Warranty Recovery. If the Company receives any payments, rebates, or other form of compensation (the "Warranty Payment") from the warranty company for any terminated or defaulted lease; Company shall within three (3) business days of receipt remit to Lender an amount equal to the Warranty Payment. Any Warranty Payment made within the three (3) days of the receipt of a Default Payment Notice; Lender will credit the Repayment amount. Any Warranty Payments made after the three (3) days of the receipt of a Default Payment Notice; Lender will credit the future Repayment amount. Any Warranty Payment(s) made to Lender and not applied to any Repayment; Lender at the Term of the Facility shall credit the outstanding Facility Final Payment amount.

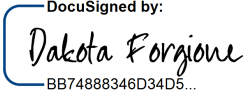
7. Additional Condition. Lender shall have the right to terminate the Agreement if the Company is unable to secure a senior credit facility by August 05, 2022, by providing to Company written notice of such election. In the event Lender elects to terminate the Agreement as set forth herein, the Agreement shall terminate on the date set forth in Lender's notice and the parties shall have no further rights or obligations thereunder except for those that specifically survive termination, PROVIDED, HOWEVER, Company shall remain specifically obligated to pay and be liable for any outstanding amounts due under the Agreement and Company shall pay to Lender outstanding amounts due under the Agreement (including those amounts due under this Amendment) within three (3) business days of the termination date set forth in Lender's notice.

8. Miscellaneous. In the event of any conflict between this Amendment and the Agreement, the terms of this Amendment shall control. The Agreement is hereby reinstated, ratified, and reaffirmed. Except as specifically modified herein, the terms of the Agreement shall remain unchanged and in full force and effect. This Amendment may be executed in multiple counterparts, all of which taken together shall be deemed one original. Copies of signatures shall be binding and accepted for all purposes.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the date first set forth hereinabove.

COMPANY:

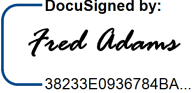
TRACTION CAPITAL AND LEASING, INC,  
a Wyoming Corporation

By:   
Name: Dakota Forgione  
Its: President

LENDER:

PARSONEX SPECIAL SITUATIONS FUND, LLC

a Delaware limited liability company

By:  \_\_\_\_\_  
Name: Fred Adams \_\_\_\_\_  
Its: CIO \_\_\_\_\_



**Certificate Of Completion**

Envelope Id: AA9F5088B74E4774A0C3AB51DF9B9423	Status: Completed
Subject: Please DocuSign: TRACTION CAPITAL AND LEASING Final Revised Documents	
Source Envelope:	
Document Pages: 32	Signatures: 6
Certificate Pages: 10	Initials: 0
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Jessica Lankes
Time Zone: (UTC-07:00) Mountain Time (US & Canada)	8310 S. Valley Highway
	Suite 110
	Englewood, CO 80112
	jessica@parsonex.com
	IP Address: 96.90.163.161

**Record Tracking**

Status: Original	Holder: Jessica Lankes	Location: DocuSign
8/9/2022 11:57:40 AM	jessica@parsonex.com	

**Signer Events**

Dakota Forgione  
 dakota@tractionlease.com  
 President  
 Security Level: Email, Account Authentication (None)

**Signature**

DocuSigned by:  
  
 BB74888346D34D5...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 68.235.50.240

**Timestamp**

Sent: 8/10/2022 7:42:22 AM  
 Viewed: 8/10/2022 9:35:49 AM  
 Signed: 8/10/2022 9:36:00 AM

**Electronic Record and Signature Disclosure:**  
 Accepted: 8/10/2022 9:35:49 AM  
 ID: 32ed3994-c7be-4cc6-9cf7-afa36c37884e


David C. Lee  
 DLee@nmef.com  
 CEO  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 DAAF68A6AE3C4E8...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 160.72.129.186

Sent: 8/10/2022 7:43:21 AM  
 Viewed: 8/10/2022 7:53:26 AM  
 Signed: 8/10/2022 7:53:30 AM

**Electronic Record and Signature Disclosure:**  
 Accepted: 8/10/2022 7:53:26 AM  
 ID: 4f709842-7fe0-4f6d-8560-d03209d7b652

Fred Adams  
 fadams@pxcapgroup.com  
 CIO  
 Apex Integrated Sand LLC  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 38233E0936784BA...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 73.153.248.16

Sent: 8/10/2022 7:43:22 AM  
 Viewed: 8/10/2022 8:39:12 AM  
 Signed: 8/10/2022 8:44:54 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Jessica Lankes  
 jessica@parsonex.com  
 COO  
 Parsonex  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 95282571204946F...  
 Signature Adoption: Uploaded Signature Image  
 Using IP Address: 73.229.162.141  
 Signed using mobile

Sent: 8/10/2022 7:43:22 AM  
 Viewed: 8/10/2022 7:43:31 AM  
 Signed: 8/10/2022 7:43:43 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

<b>In Person Signer Events</b>	<b>Signature</b>	<b>Timestamp</b>
--------------------------------	------------------	------------------

<b>Editor Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
-------------------------------	---------------	------------------

<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
------------------------------	---------------	------------------

<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
-------------------------------------	---------------	------------------

<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
----------------------------------	---------------	------------------

<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
---------------------------	---------------	------------------

A. Stewart Loewenstein  
sloewenstein@pxcapgroup.com  
Security Level: Email, Account Authentication  
(None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

**COPIED**

Sent: 8/10/2022 7:43:23 AM

<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
-----------------------	------------------	------------------

<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
----------------------	------------------	------------------

<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
--------------------------------	---------------	-------------------

Envelope Sent	Hashed/Encrypted	8/10/2022 7:42:22 AM
Certified Delivered	Security Checked	8/10/2022 7:43:31 AM
Signing Complete	Security Checked	8/10/2022 7:43:43 AM
Completed	Security Checked	8/10/2022 9:36:00 AM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
-----------------------	---------------	-------------------

<b>Electronic Record and Signature Disclosure</b>
---

# **INFORMED CONSENT**

## **INFORMED CONSENT AND AGREEMENT TO USE ELECTRONIC DOCUMENTS AND SIGNATURES**

**("Consent and Agreement")**

**Please carefully review this Informed Consent and Agreement to Use Electronic Documents and Signatures. If you consent and agree to electronically receive, review and sign the documents in the envelope subject to the terms below, check the "I agree to use Electronic Records and Signatures" box and then click the "Review Document" button below.**

### **Why We Are Asking for Your Consent**

We must ask for and obtain your consent before using electronic documents and signatures in its relationship with you. This is for documents such as investment advisory agreements with us and account agreements and related documents with the Custodian, as described in more detail below. We and the Custodian are each required by law to give you certain information "in writing" – which means you are entitled to receive and review paper documents and, if your signature is required, to sign the paper documents by hand. In order to use an electronic process instead of paper, we and the Custodian need your consent.

### **Your Consent and Agreement and What it Means**

Your Consent is optional. It is solely up to you whether or not to do so. If you want to use electronic documents and signatures, then you must consent and agree to the terms and conditions relating to the system and process that we and the Custodian will use, as set forth

below. You will be asked for your consent each time we send you an envelope of electronic documents.

By checking the "I agree to use Electronic Records and Signatures" box and then clicking the "Review Documents" button below, you will be giving your informed consent and agreement to use the electronic documents and signature system and process described below to electronically receive, review, and electronically sign paperless documents sent to you in electronic envelopes. You will be agreeing to be bound by any documents you electronically sign the same as if you had received a paper copy of the document and signed it by hand with an ink pen. If you do not agree to the terms of this Consent and Agreement, do not check the "I agree..." box. Note that even if you agree now, in the future after receiving an electronic document, you will be able to choose whether or not to electronically sign that document or ask for a paper version to sign. You may also withdraw your consent as described below.

## **To Whom You are Giving Your Consent**

This Consent and Agreement is between you and either (a) the independent investment advisory firm whose investment advisory agreement or other Advisor Form (as defined below) is presented for your electronic signature ("*Investment Advisor*") or (b) or the broker-dealer/custodian whose account application or other Custodian Form (as defined below) is presented for your electronic signature (the "*Custodian*," depending on whether the documents presented to you are Advisor Forms or Custodian Forms, as defined below. We are independent of and not owned, affiliated with or supervised by the Custodian. If the electronic document presented is an Advisor Form, then this Consent and Agreement is between you and us. If the electronic document presented is a Custodian Form, then this Consent and Agreement is between you and the Custodian. For ease of reference, the terms "*Counterparty*," "*we*" and "*us*" as used in this Consent and Agreement refer to either Investment Advisor or the Custodian, as applicable, based on whether the electronic document presented is an Advisor Form or a Custodian Form, as defined below.

## **What Documents You will Receive Electronically**

By agreeing to this Consent and Agreement you will receive, review and sign electronically the electronic documents presented in the envelope. These electronic documents may include, but are not limited to

- Investment Advisor's documents, such as, but not limited to, Investment Advisor's investment advisory or similar agreement, and Investment Advisor's Form ADV or other disclosure brochure ("*Advisor Forms*").

- Custodian documents, such as, but not limited to, the account application agreement and other documents and forms relating to your account with the Custodian ("*Custodian Forms*").

We may always, in our sole discretion, provide you with any document on paper, even if you have authorized electronic delivery. Sometimes the law, or our agreement with you, requires you to give us a written notice. You must still provide these notices to us on paper, unless we tell you how to deliver the notice to us electronically.

## **How you will Receive Electronic Documents**

Investment Advisor is your agent who chooses which electronic documents to send you for review and electronic signature. This is the case whether those documents are Advisor Forms or Custodian Forms. Investment Advisor will place electronic documents, which may or may not require your signature, in an electronic envelope on the DocuSign system (as described below), and a link to the envelope will be emailed to you. You will access the envelope and electronic documents, review them, and, if you choose, electronically sign them using the DocuSign system. Investment Advisor, and not the Custodian, is responsible for the content of the electronic documents sent to you. Even if the electronic documents are Custodian Forms, they will be selected and prepared by Investment Advisor and sent to you at the direction and on behalf of Investment Advisor. You acknowledge and agree that if you receive any information or electronic document that is erroneous, not intended for you, or, in the case of Custodian Forms, deemed ineligible for electronic signature by the Custodian upon its receipt, it is solely the responsibility of Investment Advisor and not the Custodian. You agree to immediately notify Investment Advisor if you receive any electronic document or information that appears to be in error or not intended for you.

## **How Electronically Signed Documents are Processed**

You acknowledge and agree to the following regarding your receipt of electronic documents and your use of electronic signatures. If an electronic document requires the signatures of others besides you, it will not be submitted to Counterparty for processing or effective as to its contents or any actions it instructs or authorizes until all required signatures have been obtained. If any party whose signature is required declines to electronically sign, then the electronic signature of any party previously obtained will not be effective, and all parties will be required to hand sign a paper document.

## **Withdrawing Your Consent**

Counterparty will ask you for this Consent and Agreement each time it presents an envelope of electronic documents. Once you give your Consent and Agreement for an envelope, you cannot withdraw it for that envelope. You can, however, choose not to give your consent in the future when you are presented with subsequent envelopes. If you do this, you will be unable to proceed electronically and you may be required to use paper documents and signatures. If you give your Consent and Agreement for an envelope, although you may not withdraw it, you can still choose not to electronically sign any or all electronic documents in that envelope. Once you electronically sign a particular document, you cannot withdraw the Consent and Agreement for that document, but you can choose to not electronically sign any other documents included in the same envelope. In addition, before you complete an electronic signature of a document, you may cancel and exit the electronic signing process before clicking the "Confirm Signing" (or other similarly titled button) and closing your browser.

## **Retaining Electronic Documents**

You should retain a copy of all electronic documents we provide to you, including this Consent and Agreement, for your future reference. You can do this by printing the page on paper or saving it to your computer or mobile device. A copy of this Consent and Agreement, as it may be amended from time to time for consents to be given in the future, will also be available to you at [www.docuSign.com](http://www.docuSign.com).

## **Getting Paper Documents**

If instead of receiving and signing electronic documents, you would rather use paper documents, you should contact Investment Advisor. If you electronically sign a document, you can, in addition to printing a paper copy and/or saving it to your computer, obtain a paper copy from Counterparty by contacting Investment Advisor or the Custodian.

## **DocuSign System**

Investment Advisor has entered into an agreement with DocuSign, Inc. ("*DocuSign*") to make the DocuSign electronic signing system available to facilitate your receipt, review and electronic signature of electronic documents. Your use of the DocuSign system is subject to DocuSign's Terms of Use available at [www.docuSign.com/company/terms-of-use](http://www.docuSign.com/company/terms-of-use). Investment Advisor, the Custodian, and DocuSign are not affiliated with each other. Neither Investment Advisor nor the Custodian is responsible for the DocuSign system, and Investment Advisor and the Custodian each disclaims any representations and all warranties regarding the DocuSign system. Your use of the DocuSign system is entirely your choice and solely your responsibility.

## Hardware and Software Requirements

In order to receive electronic documents and electronically sign them, you will need access to a computer or mobile device with internet service and access to an email account. In order to access the electronic documents sent to you, your computer or mobile device must meet certain requirements, the current version of which is shown below. These requirements will change from time to time, and without notice to you, as third-party technology providers update their products. You can visit <https://www.docusign.com/company/terms-of-use/specifications> for the most up to date system requirements. These requirements include (1) an operating system and internet browser that together support the display of PDF documents; and (2) up-to-date PDF reader software. If you have questions related to the current requirements, please contact Investment Advisor.

The Current Version of software and hardware that meets these requirements is identified below. By "*Current Version*," we mean a version of the software that is currently being supported by its publisher. We reserve the right to discontinue support of a Current Version if, in our sole opinion, it suffers from a security flaw or other flaw that makes it unsuitable for use in the transaction.

### *Operating Systems*

Windows® XP, Windows Vista®, Windows® 8, Windows® 7, Mac OS®X

### *Browsers*

Final release versions of Internet Explorer® 7.0 or above (Windows only), Mozilla® Firefox–Current Version (Windows and Mac), Safari™ 6.2 or above (Mac only), Google Chrome® - Current Version

### *Mobile*

Apple iOS 6.0 or above; Android™ 4.0 or above

### *PDF Reader*

Acrobat® or similar software may be required to view and print PDF files

### *Screen Resolution*

1024 x 768 minimum

## *Enabled Security Settings*

Allow per session cookies

Your email notifications are made available in HTML (regular Web hypertext) format, and your electronic documents are made available in PDF format. Your electronic documents may be viewed electronically via the Web and printed with a local printer. You may also save your electronic documents to your local hard drive the way you would any other file from the Internet. Depending upon your comfort level with accessing and storing electronic documents, you should determine whether electronic or paper documents and delivery is best for you. For viewing, printing, storing or downloading your email announcements or the linked web pages, you should use the latest version of your web browser with JavaScript enabled. To access the PDF format for printer-friendly electronic documents, you will also need Adobe Acrobat Reader™. If you do not have Adobe Acrobat Reader installed on your computer, you can download the necessary software free at any time at [www.adobe.com](http://www.adobe.com)

If accessing the DocuSign system via a mobile device, please understand that wireless network coverage and Wi-Fi network speed varies by provider and geographic location. Counterparty is not responsible for limitations and/or failures in performance associated with any wireless or Wi-Fi service used to access the DocuSign system or for the security of any wireless or Wi-Fi service (see "Security and Privacy Information," below).

## **Updating Your Email Address and Other Contact information**

It is your responsibility to provide us with accurate and complete e-mail address and other contact

information, and to maintain and update promptly any changes in this information. In addition, Counterparty may periodically ask you to confirm or update your email and any other information needed to contact you electronically. You may update your email address by contacting Investment Advisor.

## **Security and Privacy Information**

In accessing electronic documents and electronically signing them, you should use a computer operating system that has a firewall (software that is designed to prevent unauthorized access to



your computer by blocking suspicious people or websites) and that it is turned on and up-to-date. You should also make sure that your computer has anti-virus software that it is turned on and that your subscription is current.

Emails sending you links to envelopes with electronic documents for electronic signature are not encrypted (unless the email expressly says that it is encrypted); but the contents of the envelopes are protected. For security and confidentiality, unencrypted emails will not include your name, full account number, or any other personal identifier. Be aware, however, that some email addresses may use part or all of your name. If you use a work email address, your employer or other employees may have access to your email. Although Counterparty believes that email is a reasonably reliable method of delivery, as with any form of communication, there is a risk of misdelivery or interception.

DocuSign has agreed with Investment Advisor to safeguard the security and privacy of all confidential customer information. DocuSign's privacy policy applies to your use of the DocuSign system. In addition, Investment Advisor's privacy policy applies to information we receive from you as part of the electronic signature process. Links or references to where you can view Investment Advisor's and Custodian's respective privacy policies may be contained in the email notifying you of the documents on which your electronic signature is requested or the documents themselves. You may also contact Investment Advisor to be directed to its and/or Custodian's privacy policy.

Accessing the DocuSign system via a mobile device involves the electronic transmission of information across the networks of your wireless service provider. Counterparty is not responsible for the privacy or security of wireless data transmissions. Use only reputable service providers and check with your wireless service provider for information about its privacy and security practices.

## **The Effect of Your Consent and Agreement**

By checking the "I agree to use Electronic Records and Signatures" box and then clicking the "Review Documents" button below you are providing your electronic signature on this Agreement and indicating that you acknowledge, agree and demonstrate that

- You have read this Consent and Agreement and understand it.
- You consent to electronically receive and review the electronic documents included in the electronic envelopes that will be sent to you.

- You have the hardware and software described above, an active email account, and you can (1) access, view, and print on paper or save on your computer this electronic Consent and Agreement and the electronic documents and (2) access the Web sites described above, including their content, in either HTML or PDF formats, as applicable.
- Your electronic signature on any of the electronic documents, including this Consent and Agreement, will bind you to that document the same as if you had signed a paper copy of the document with an ink pen. You will not contest the validity or enforceability of any electronic document you receive or electronically sign because the document and your signature are in electronic form.
- You understand that you should contact Investment Advisor to report any problem with the electronic signature process.