

Fill in this information to identify the case:

Debtor 1 ProSomnus, Inc.

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: District of Delaware

Case number 24-10972-JTD

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2024 MAY 15 PM 3:27

CLERK
US BANKRUPTCY COURT
DISTRICT OF DELAWARE

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Highland Capital Corporation</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Highland Capital Corporation</u> Name <u>370 Pascack Road</u> Number Street <u>Twp. of Washington NJ 07676</u> City State ZIP Code Contact phone <u>877-527-4422</u> Contact email _____	Where should payments to the creditor be sent? (if different) _____ Name _____ Number Street _____ City State ZIP Code Contact phone _____ Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

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Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 2 3 4 8

7. How much is the claim? \$ 112,944.00. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Money loaned

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: Manufacturing equipment
Basis for perfection: UCC-1 Financing Statement
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ 112,944.00
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ 0.00

Annual Interest Rate (when case was filed) 3.67 %

Fixed
 Variable

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10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ 0.00

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No

Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

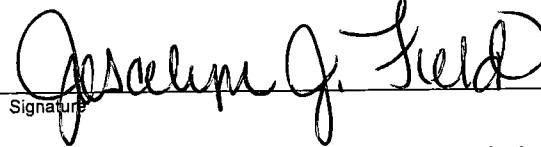
I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 05/13/2024
MM / DD / YYYY


Signature

Print the name of the person who is completing and signing this claim:

Name Joscelyn J. Field
First name Middle name Last name

Title Senior Paralegal

Company Highland Capital Corporation
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 370 Pascack Road
Number Street

Twp. of Washington NJ 07676

City State ZIP Code

Contact phone 877-527-4422 Ext. 4738 Email JField@Highlandcc.com

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KURTZMAN CARSON CONSULTANTS

INTERNATIONAL FINANCIAL SERVICES CORPORATION

1113 S. Milwaukee Avenue, Suite 301
Libertyville, IL 60048
PHONE: 800-258-3531 FAX: 847-549-0119

LEASE DISCOUNT SUMMARY

TO: HIGHLAND CAPITAL CORPORATION

LESSEE: PROSOMNUS SLEEP TECHNOLOGIES, INC.
5860 W Las Positas Blvd.
Pleasanton, CA 94588
Lease #21-152-01

1st PAYMENT DUE BANK: September 15, 2021

OF PAYMENTS DISCOUNTED: 58 DS
CS

PAYMENT AMOUNT PER MONTH: \$4,344.00

RECEIVED THUS FAR: 1 - the first payment

BILLED FOR: N/A

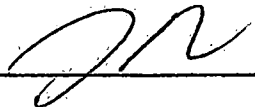
TOTAL BILLED & REC'D: N/A

DISCOUNT RATE: 3.65%

PRESENT VALUE OF 58 PAYMENTS OF \$4,344.00 DISCOUNTED AT 3.782% IN ARREARS
EQUALS: \$230,517.07 DISCOUNT PROCEEDS.

PLEASE PAY AS DESCRIBED ON THE ATTACHED FUNDING INSTRUCTIONS

INTERNATIONAL FINANCIAL SERVICES CORPORATION

By: 

Title: Lease & Loan Funding Specialist

Date: August 31, 2021

HCC Highland Capital Corporation

370 PASCACK RD • TWP OF WASHINGTON, NJ 07676 • TOLL FREE: (877) 527-4422 • FAX: (877) 526-4422

May 9, 2024

NOTICE OF ASSIGNMENT

Re: Master Equipment Lease Agreement #21-152-01 dated August 2, 2021 ("Agreement") by and between Prosomnus Sleep Technologies, Inc. as ("Lessee") and International Financial Services Corporation as ("Lessor").

Please be advised that the above referenced Lessor has assigned all of its rights, title and interest (but none of its obligations) under the Agreement to:

Highland Capital Corporation
370 Pascack Road
Township of Washington, NJ 07676
Phone: 877-527-4422

Effective immediately, Highland Capital Corporation will perform all servicing, including but not limited to billing and collecting for the above-referenced Agreement.

Lessor hereby directs you to remit all payments for the Agreement as directed by Highland Capital Corporation. All inquiries with respect the Agreement and your accounts should be directed to Highland Capital Corporation.

Yours Truly.

HIGHLAND CAPITAL CORPORATION



Joscelyn Field
Senior Paralegal

NOTICE OF ASSIGNMENT

Re: Lease #21-152-01 dated August 2, 2021 ("Agreement") by and between PROSOMNUS SLEEP TECHNOLOGIES, INC. as Debtor and International Financial Services Corporation.

Please be advised that the above referenced Lender has assigned all of its rights, title and interest (but none of its obligations) under the Agreement to:

Highland Capital Corporation

~~5 Center Avenue~~ 370 Pascaack Road
~~Little Falls, NJ 07424~~ Twp. of Washington, NJ
Phone: 877-527-4422 07676

Effective immediately, Highland Capital Corporation will perform all servicing, including but not limited to billing and collecting for the above-referenced Agreement.

Lender/Lessor hereby directs you to remit all payments for the Agreement as directed by Highland Capital Corporation. All inquiries with respect the Agreement and your account should be directed to Highland Capital Corporation.

Yours Truly,

INTERNATIONAL FINANCIAL
SERVICES CORPORATION

By: 

Name/Title: Jordan Dombrowski, Lease & Loan Funding Specialist

INTERNATIONAL FINANCIAL SERVICES CORPORATION

1113 S. Milwaukee Avenue, Suite 301

Libertyville, IL 60048

PHONE: 800-258-3531 FAX: 847-549-0119

MASTER EQUIPMENT LEASE AGREEMENT #21-152

LESSEE: PROSOMNUS SLEEP TECHNOLOGIES, INC.
5860 W Las Positas Blvd. Ste. 25
Pleasanton, CA 94588
CONTACT: Mindy Hungerman
PHONE: (844) 537-5337

1. Subject to the terms and conditions contained herein, Lessor hereby leases to Lessee, and Lessee leases from Lessor, the items of personal property (which, together with any replacement parts, additions, substitutions, repairs or accessories now or hereafter incorporated in or affixed to it, hereinafter referred to collectively as the "Equipment", which Lessee confirms is being leased and will be used solely for commercial or business purposes (and not for consumer, personal, family or household purposes) described more fully in an equipment schedule (hereafter "Equipment Schedule") executed by Lessor and Lessee that specifically incorporates the terms and conditions of this Master Equipment Lease Agreement by reference (any such Equipment Schedule hereinafter referred to as a "Lease").

Each Equipment Schedule shall be considered a separate independent and enforceable lease. An executed counterpart of this Master Equipment Lease Agreement (including any supplements, addenda or riders hereto) or xerographic copy hereof, together with an executed Equipment Schedule, shall be the original of the lease for the Equipment described on such Equipment Schedule and together they constitute and shall be referred to herein as the "Lease" with respect to such Equipment. To the extent that this Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code of the applicable jurisdiction, no security interest in this Lease may be created through the transfer of possession of any counterpart other than a photocopy of the Master Equipment Lease Agreement marked "Copy" and the Equipment Schedule marked "Original". All other executed counterparts of the Equipment Schedule shall be marked "Duplicate".

2. With respect to each Lease, the term of each Lease (the "Entire Term") shall commence upon the Commencement Date and shall continue for the number of months (plus any partial month, if the Commencement Date is other than the first day of a month) stated in such Equipment Schedule. Lessee authorizes Lessor to insert such Commencement Date, provided that such date shall not be earlier than the date of delivery to Lessee of all or a substantial part of the Equipment.

3. The total rent for the Entire Term of each Lease is equal to the monthly rent payment multiplied by the number of months as both are stated in the Equipment Schedule (plus a pro-rata portion of one month's rent, if the Commencement Date is other than the first day of a month). Lessee agrees to pay the total rent in monthly installments, in advance, each in such stated amount (except, in the event the commencement date is other than the first day of a month, the first installment shall be a pro-rata portion of such amount), commencing on the Commencement Date and continuing on the first day of each month thereafter. The "Advance Rentals" stated in the Equipment Schedule shall be paid by Lessee prior to Lessor's acceptance of the Equipment Schedule, and shall be applied to such rental installments as stated therein. In the event the term of this Lease does not commence for any reason whatsoever, the Advance Rentals shall be retained by Lessor not as a penalty but as liquidated damages to cover Lessor's Administrative expenses in processing the application for the Equipment Schedule. Advance Rentals or Security Deposits shall be retained until all obligations of the Lessee have been fulfilled, including but not limited to the return of the Equipment in good working order, freight and insurance prepaid, and if not applied to Lessee's obligations, shall be returned to Lessee upon full satisfaction of Lessee's obligations. Payment of all rentals and other amounts payable hereunder shall be made to Lessor at its above stated address or as it shall otherwise designate in writing. THIS MASTER EQUIPMENT LEASE AGREEMENT AND EACH EQUIPMENT SCHEDULE EXECUTED BY LESSEE IN CONNECTION HEREWITH IS IRREVOCABLE AND MAY NOT BE CANCELED, TERMINATED OR REVOKED BY LESSEE DURING THE TERM THEREOF FOR ANY REASON WHATSOEVER.

4. LESSEE REPRESENTS THAT IT HAS SELECTED THE EQUIPMENT PRIOR TO HAVING REQUESTED LESSOR TO PURCHASE THE SAME FOR LEASING TO LESSEE AND IN THE EVENT THE EQUIPMENT DOES NOT WORK PER THE SELLER'S ORIGINAL SPECIFICATIONS, THE LESSEE SHALL BEAR AND INDEMNIFY THE LESSOR FOR ALL LOSSES ASSOCIATED THERETO (INCLUDING ITS ANTICIPATED RESIDUAL). LESSEE AGREES THAT LESSOR HAS NOT MADE AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING (WITHOUT LIMITATION) LESSOR'S TITLE TO OR THE SUITABILITY OF THE EQUIPMENT, ITS DURABILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, ITS MERCHANTABILITY, ITS CONDITION, ITS CAPACITY, ITS OPERATION, ITS PERFORMANCE, ITS DESIGN, ITS MATERIALS, ITS WORKMANSHIP AND/OR ITS QUALITY AND AS BETWEEN LESSEE AND LESSOR OR LESSOR'S ASSIGNEE, LESSEE LEASES THE EQUIPMENT "AS IS". LESSEE REPRESENTS THAT ALL THE EQUIPMENT SPECIFIED AND LEASED BY LESSEE IN ALL SCHEDULES IS STANDARDIZED WITHIN ITS INDUSTRY AND FURTHER THAT ITS COMMERCIAL VALUE IS NOT CONTINGENT UPON USE BY THE LESSEE.

Officer's Initials for Lessee: ML

LESSOR AND LESSOR'S ASSIGNEE SHALL NOT BE LIABLE TO LESSEE OR ANY THIRD PARTY FOR ANY LOSS DAMAGE, INJURY OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY ANY OF THE EQUIPMENT OR THE USE OR MAINTENANCE THEREOF OR ANY DEFECT THEREIN, THE FAILURE OF OPERATION THEREOF, OR ANY REPAIR, SERVICE OR ADJUSTMENT THERETO, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY THEREOF OR BY ANY INTERRUPTION OR SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED, INCLUDING (WITHOUT LIMITATION) ANY LOSS OF ANTICIPATORY PROFITS OR ANY OTHER INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, NOR SHALL LESSOR BE LIABLE FOR ANY DAMAGES WHICH MAY BE ASSESSED AGAINST LESSEE IN ANY ACTION FOR INFRINGEMENT OF ANY UNITED STATES PATENT, TRADEMARK OR COPYRIGHT. LESSOR MAKES NO WARRANTY AS TO THE TREATMENT OF THIS LEASE FOR TAX OR ACCOUNTING PURPOSES, OR AS TO THE COMPLIANCE OF THE EQUIPMENT WITH APPLICABLE GOVERNMENT REGULATIONS OR REQUIREMENTS, WHICH SHALL BE THE SOLE RESPONSIBILITY OF THE SELLER NAMED IN THE EQUIPMENT SCHEDULE AND/OR MANUFACTURER OF THE EQUIPMENT. NO REPRESENTATION OR WARRANTY AS TO THE EQUIPMENT OR ANY OTHER MATTER BY SELLER SHALL BE BINDING ON LESSOR NOR SHALL THE BREACH OF SUCH RELIEVE LESSEE OF, OR IN ANY WAY AFFECT, ANY OF LESSEE'S OBLIGATIONS TO LESSOR AS SET FORTH HEREIN. Lessee agrees to look solely to the manufacturer or the carrier of the Equipment ("Seller") (which are solely responsible for supplying Lessee with all literature and manuals respecting the Equipment) for any claim arising from any defect, breach of warranty, failure or delay in delivery, misdelivery or inability to use the Equipment for any reason whatsoever and Lessee's obligations to Lessor hereunder shall not in any manner be affected thereby, including (without limitations) Lessee's obligations to pay Lessor all rent and other amounts payable under this Lease.

5. Lessee and Lessor agree and acknowledge that it is the intent of both parties that in the event Article 2A of the Uniform Commercial Code ("UCC") is deemed to be applicable to this Lease; this Lease shall qualify as a statutory finance lease under the UCC. Lessee acknowledges and agrees that Lessee has selected both: (1) the Equipment; and (2) the supplier from whom Lessor is to purchase the Equipment. Lessee acknowledges that Lessor has not participated in any way in Lessee's selection of the Equipment or of the supplier, and Lessor has not selected, manufactured or supplied the Equipment. **LESSEE IS ADVISED THAT IT MAY HAVE RIGHTS UNDER THE CONTRACT EVIDENCING THE LESSOR'S PURCHASE OF THE EQUIPMENT FROM THE SUPPLIER CHOSEN BY LESSEE AND THAT LESSEE SHOULD CONTACT THE SUPPLIER OF THE EQUIPMENT FOR A DESCRIPTION OF ANY SUCH RIGHTS.** Lessor agrees to order the Equipment from Seller but shall not be liable for specific performance or damages if, for any reason Seller delays or fails to fill such order. Lessor has no obligation to install the Equipment. Lessee acknowledges that Lessor is not the manufacturer or a supplier or a dealer of the Equipment and that Lessor has not recommended Seller to Lessee. Lessee hereby waives any claim against Lessor with respect to negligence or strict liability in the design, construction or manufacture of the Equipment.

This Lease shall constitute an Equipment Lease Agreement and nothing herein shall be construed as conveying to Lessee any right, title or interest in any of the Equipment.

6. Lessee shall accept the Equipment upon its delivery and authorizes Lessor to insert herein the serial numbers and any additional description of the items of Equipment so delivered. Unless Lessee gives Lessor and Seller written notice of each defect or other proper objection to any item of Equipment within five (5) days after delivery thereof, it shall be conclusively presumed that the Equipment was duly delivered and unconditionally accepted by Lessee. If Lessee wrongfully refuses delivery of any item of Equipment for any reason whatsoever, then and in that event, Lessee agrees to pay the price invoiced to Lessor by Seller, or if such payment is not made, Lessee indemnifies and holds Lessor harmless from and against, and agrees to protect and (at Lessor's option) to defend Lessor at Lessee's sole expense against (with counsel acceptable to Lessor), any claim or liability and damage by Seller with reference to such item of Equipment. Upon such payment, the applicable Lease shall terminate as to such item of Equipment only, and the rental thereunder shall be proportionately adjusted. Lessor shall not be responsible for the failure of the purchase order to contain any description, specification, term, or condition with respect to any item Leased hereunder, or its delivery, assembly or installation not set forth herein.

7. Lessee shall keep the Equipment within the United States at the "Location" of Equipment stated in the Equipment Schedule or, if none is specified, at Lessee's above-stated address within the United States, and Lessee shall not remove any of the Equipment therefrom without Lessor's prior written consent.

8. Lessee shall use the Equipment in a careful manner and shall at all times, at its sole expense, keep and maintain the Equipment in good working condition, order, repair and appearance and comply with all laws, ordinances, regulations or requirements of any governmental authority, official, board or department relating to its installation, possession, use or maintenance. Lessee shall not make any alterations, additions or improvements to the Equipment, which are not readily removable without causing damage to or reducing the value of the Equipment. All alterations, additions, or improvements not readily removable shall become property of the Lessor. If a maintenance service contract is offered and/or recommended by the original manufacturer, Lessee agrees to cause the Equipment to be maintained under the original manufacturer's maintenance service program/contract or by maintenance service contracts offered by independent agents certified by the original manufacturer for the term of the Lease.

Officer's Initials for Lessee: MA

Lessee at its expense shall keep all Equipment current with the seller's latest safety, mechanical and software enhancements/ upgrades offered or recommended. At the end of this Lease, Equipment Lease Schedule or any renewal hereto, if the Lessee does not purchase the Equipment or enter into a renewal with the Lessor, any fees, charges or assessments of any kind whatsoever charged by the original manufacturer or their agent to re-certify, refurbish, or update the Equipment to qualify the Equipment for a resale, renewal lease, rental, or new maintenance or service agreement, shall be borne by the original Lessee. In lieu of the expenses / reimbursements in the immediately preceding sentence, the Lessor, at its sole election, shall have the right to bill and collect a one-time restocking / refurbishing fee in an amount equal to twelve and one-half percent of the original equipment cost. Any electronic / electrical / digital waste or scrap fees or any other taxes, charges, or fees assessed on the disposal of any of the Equipment under the Lease, shall be borne by the Lessee.

9. The Equipment is, and shall at all times remain, the property of the Lessor and Lessee shall have no right, title or interest therein or thereto except as expressly set forth herein. Upon Lessor's request, Lessee shall affix and keep in a prominent place on each item of Equipment such labels, plates and/or other markings indicating that the Equipment is owned by Lessor as Lessor shall specify. Lessor shall have the right during normal hours, upon reasonable prior notice to Lessee, to enter upon the premises where the Equipment is located in order to inspect, observe or remove the Equipment or to otherwise protect Lessor's interest. No invoice of Seller to Lessee shall, at any time, be deemed to have passed title to any of the Equipment to Lessee. Lessee hereby irrevocably and unconditionally assigns to Lessor all of Lessee's rights (but not its obligations) under any invoice or purchase order relating to the Equipment. Lessee shall not change or remove any insignia, label, plate or lettering that is on the Equipment at the time of delivery thereof, or that is thereafter placed thereon, indicating Lessor's ownership thereof. Except as may otherwise be provided by any written purchase or renewal option duly executed by Lessor, Lessee shall have no right to purchase or otherwise acquire title to or ownership of any of the Equipment or to extend the term of this Lease.

10. The Equipment shall be and remain personal property notwithstanding the manner in which it may be attached or affixed to realty. Lessee represents, warrants and covenants that, unless Lessee owns the premises in which the Equipment is to be located and such premises are not subject to any mortgage or lease, Lessee shall provide to Lessor, within ten (10) days following the execution by Lessee of a Lease, with a waiver from each landlord and/or mortgagee of the premises in which the Equipment is to be located of any rights which such landlord and/or mortgagee may have in respect of any of the Equipment (including, but not limited to, claims against the Equipment by reason of accession or distraint, or that the Equipment constitutes a fixture affixed to real property) and to procure for Lessor, in form acceptable to Lessor, such documents with respect to such waiver as Lessor may reasonably request.

11. In the event Article 2A of the UCC is deemed to be applicable to this Lease, Lessee hereby agrees to waive any and all rights and remedies given by Section 2A-508 through 2A-522 of the UCC, including but not limited to the right to: reject the Lease and Equipment; cancel the Lease; revoke acceptance of the Equipment; "cover" by making any purchase or lease of Equipment in substitution for property due from Lessor; grant a security interest in the Equipment in its possession and control for any reason; recover damages under such UCC-2A sections for any breach of warranty and/or seek remedies of specific performance, replevin or the like for any Equipment. In addition, to the extent permitted by applicable law, Lessee also hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages or which may otherwise limit or modify any of Lessor's rights or remedies.

12. Lessee shall bear the entire risk of loss, theft, destruction of or damage to the Equipment or any part thereof from any cause whatsoever during the term of this Lease and thereafter until redelivery to a location designated by Lessor, and shall not be relieved of the obligation to pay the total rent or any other obligation hereunder because of any such occurrence. No loss or damage to the Equipment or any part thereof shall affect any obligation of Lessee under this Lease, which shall continue in full force and effect. Lessee shall advise Lessor in writing within five (5) days of any item of Equipment becoming lost, stolen or damaged and of the circumstances and extent of such damage. In the event of damage to any of the Equipment, Lessee, at its sole expense and at the option of Lessor, shall immediately place the same in good condition and repair. If Lessor determines that any of the Equipment is lost, stolen or destroyed or damaged beyond repair and/or does not perform to Seller's initial specifications, Lessee, at its sole expense and at the option of Lessor, shall (a) replace the same with like equipment in good condition and repair, or (b) acquire Lessor's interest in such item of Equipment by paying Lessor in cash (in addition to any other amount due hereunder) the unpaid balance of the total rent for the unexpired term hereof attributed to such item of Equipment with the future rent being discounted to its present value at a discount rate of 1.5% per annum as of the date of payment, plus Lessor's residual value as may be allocated to such Equipment.

13. Lessee shall, at its expense, keep the Equipment fully insured in favor of Lessor against loss, fire, theft, damage or destruction from any cause whatsoever in an amount not less than the greater of (a) the total rent hereunder, plus Lessor's residual value as may be allocated to such Equipment, or (b) the full replacement cost of the Equipment without consideration for depreciation. Lessee shall also provide such additional insurance against injury, loss or damage to persons or property arising out of the use or operation of the Equipment as is customarily maintained by owners of like property, with companies satisfactory to Lessor. Each policy shall provide that, as to the interest or coverage of Lessor or Lessor's assignee, the insurance afforded thereby shall not be suspended, forfeited, or in any manner prejudiced by any default or by any breach of warranty condition, or covenant on the part of Lessee. Lessor, at its option, may apply any

Officer's Initials for Lessee: MM

proceeds of such insurance to replace or repair such Equipment and/or to Lessee's obligations hereunder. If Lessee shall fail to provide any such insurance or, within ten (10) days after Lessor's request therefor, shall fail to deliver the policies or certificates thereof to Lessor, then Lessor, at its option, shall have the right to procure such insurance and to add the full cost thereof to the rent payment next becoming due, which Lessee agrees to pay as additional rent. The amount of such insurance shall be sufficient so that neither Lessor nor Lessee will be considered a co-insurer. Lessee also shall carry public liability insurance, both personal injury and property damage covering the Equipment. All such insurance shall be in form, issued by such insurance companies and be in such amounts as shall be satisfactory to Lessor, and shall provide that losses, if any, shall be payable to Lessor as both "additional insured" and "loss payee", and all such liability insurance shall include Lessor as an "additional insured". Lessee shall pay the premiums for such insurance and deliver to Lessor satisfactory evidence of the insurance coverage required hereunder. Each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that it will give Lessor at least ten (10) days prior written notice of the effective date of any alteration or cancellation of such policy, and that Lessor's coverage under such policy shall not be affected by any default, misrepresentation or other breach by Lessor or Lessee under this Lease or such policy. Lessee hereby irrevocably appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payments of and execute and endorse all documents, checks or drafts received in payment for loss or damage under any such insurance policy. In any event, Lessee shall be liable for any loss, damage, expense or costs suffered or incurred by Lessor relating to or in any manner pertaining to this Lease, the Equipment or the use or operation of the Equipment.

14. Lessee covenants and agrees at all times to keep the Equipment free and clear of all levies, liens and encumbrances, and to pay all charges, taxes and fees that may now or hereafter be imposed upon the ownership, leasing, rental, sale, gross receipts, purchase, possession or use of the Equipment (except taxes on or measured by Lessor's net income) and shall give Lessor immediate written notice of any of the foregoing and hereby indemnifies Lessor against any loss caused thereby. If any of same shall remain unpaid when due, Lessor may pay same and add such payment to the rent payment next becoming due, as additional rent. Lessee shall execute and deliver to Lessor upon Lessor's request such further instruments, financing statements and documents containing such other assurances as Lessor deems necessary or advisable for the confirmation or perfection of Lessor's rights hereunder or to otherwise effectuate the intents of this Lease.

15. Lessee shall and does hereby indemnify and save Lessor, its officers, employees, agents, servants, successors and assigns, harmless from any and all liabilities (including, without limitation, negligence, tort and strict liability), damages, expenses, claims, actions, proceedings, judgments, settlements, losses, liens, and obligations (each, an "Indemnified Claim"), including (without limitation) counsel fees and costs, arising out of the ordering, purchase, delivery, rejection, non-delivery, ownership, selection, possession, leasing, renting, financing, operation (regardless of where, how and by whom operated), control, use condition (including but not limited to latent and other defects, whether or not discoverable by Lessee), maintenance, delivery, transportation, storage, repair, return or other disposition of the Equipment, any claims arising under federal, state or local environmental protection and hazardous substance clean up laws and regulations and any claims of patent, trademark or copyright infringement or, in the event that Lessee shall be in default hereunder, arising out of the condition of any item of Equipment sold or disposed of after use by Lessee, including (without limitation) claims for injury to or death of persons and for damage to property. The indemnities and obligations herein provided shall continue in full force and effect notwithstanding the expiration, termination or cancellation of this Lease for any reason whatsoever and irrespective of whether Lessor ever accepts this Lease. Lessee shall give Lessor prompt written notice of any Indemnified Claim and, at Lessor's sole option, shall defend Lessor against any Indemnified Claim at Lessee's sole expense with counsel selected by Lessor. Lessee is an independent contractor and nothing contained herein shall authorize Lessee or any other person to operate any item of Equipment so as to incur any liability or obligation for or on behalf of Lessor.

16. **LESSEE SHALL NOT ASSIGN, PLEDGE, MORTGAGE OR OTHERWISE TRANSFER OR ENCUMBER ANY OF ITS RIGHTS UNDER THIS MASTER EQUIPMENT LEASE AGREEMENT, ANY EQUIPMENT SCHEDULE OR IN THE EQUIPMENT OR ANY PART THEREOF, NOR SUBLET, ANY PART THEREOF, NOR PERMIT ITS USE BY ANYONE OTHER THAN LESSEE AND ITS REGULAR EMPLOYEES, WITHOUT LESSOR'S PRIOR WRITTEN CONSENT. ANY SUCH PURPORTED TRANSFER, ASSIGNMENT OR OTHER ACTION WITHOUT LESSOR'S WRITTEN CONSENT SHALL BE VOID.** Lessor may, without notice, transfer or assign this Master Equipment Lease Agreement or any Equipment Schedule or any interest therein and may mortgage, pledge, encumber or transfer any of its right or interest in and to same or any part thereof and, without limitation, each assignee, transferee and mortgagee shall have the right to further transfer or assign its interest. Each such assignee, transferee, mortgagee and Pledgee shall have all of the rights (but none of the obligations) of Lessor under this Lease, and Lessee hereby acknowledges notice of Lessor's intended assignment of Lessor's interest in this Lease and, upon such assignment, Lessee agrees not to assert against any of such transferee, assignee, mortgagee or Pledgee any defense, claim, counterclaim or set-off that Lessee may have against Lessor, whether arising under this Lease transaction or otherwise. Any assignee of Lessor's rights under this Lease shall be considered a third party beneficiary of all of Lessee's representations, warranties, and obligations hereunder to Lessor. Lessee agrees that after receipt by Lessee of written notice of an assignment from Lessor or from Lessor's assignee, all rent and other amounts which are then and thereafter due under this Lease shall be paid un-conditionally to such Assignee at the place of payment designated in such notice. Lessee acknowledges that any assignment of Lessor's

Officer's Initials for Lessee: MS

interest would neither materially change the Lessee's obligations hereunder nor materially increase the burden or risk imposed on the Lessee under this Lease. Lessee further acknowledges that an assignment by the Lessor of its interest hereunder will be permitted even if the assignment would deem to materially affect the Lessee's interest.

17. As used in this Lease, the term "Event of Default" shall mean any one or more of the following: (a) the failure by Lessee to make any payment within ten (10) days when due hereunder or the failure by an Obligor (as hereinafter defined) to pay when due any of the Liabilities (as hereinafter defined); (b) the failure by an Obligor to observe or perform (i) any other agreement or obligation to be observed or performed hereunder or under any agreement, document or instrument delivered to Lessor by or on behalf of any Obligor or otherwise relating to any of the Liabilities (collectively, the "Other Documents"), or (ii) any other obligation of an Obligor to Lessor; (c) any representation or warranty made by or on behalf of any Obligor in this Lease or in any of the Other Documents shall at any time prove to have been incorrect or untrue when made; (d) the making by an Obligor of any misrepresentation to Lessor or the failure on the part of an Obligor to disclose to Lessor any material fact in connection with this Lease or otherwise, either contemporaneously herewith or at any time prior to subsequent to the execution hereof; (e) the breach by an Obligor of any warranty contained herein or in any Other Documents, including, without limitation, Lessee's failure to obtain or maintain any insurance required by Lessee hereunder; (f) a default in the payment of any indebtedness owed to any individual or entity other than Lessor, or a default in the performance or observance of the terms of any agreement, document or instrument pursuant to which such indebtedness was created, secured or guaranteed, the effect of which default is to cause or permit the holder of any such indebtedness to cause the same to be due prior to its stated maturity (whether or not such default is waived by the holder thereof); (g) the failure of an Obligor to pay, withhold, collect or remit when asserted or due any tax, assessment or other sum payable with respect to the Equipment or any security for any of the Liabilities (including, without limitation, any premium on any insurance policy with respect to any of the Equipment or any security for any of the Liabilities, or any insurance policy assigned to Lessor as security for any of the Liabilities), or the making of any tax assessment against any Obligor by the United States or any state or local government; (h) the entry of a judgment against an Obligor or any attachment, levy or execution against any property of an Obligor, or the condemnation or seizure of any part of any property of an Obligor by any governmental authority or court at the instance of such governmental authority; (i) the death of an Obligor, if an individual, or the death of any individual member of an Obligor, if a partnership or joint venture; (j) the change in control, management, ownership, or operations of the Obligor, or the suspension of the usual business of an Obligor, or the dissolution, liquidation or other termination of existence of the Obligor, or the adoption of any resolution for the dissolution, liquidation or other termination of existence of an Obligor, or the sale of material assets of an Obligor; (k) the failure of an Obligor (or any admission in writing by an Obligor of its inability) to generally pay its debts as they become due or the insolvency or business failure of an Obligor; (l) the filing of an application for appointment of trustee, custodian or receiver for any Obligor or of any part of an Obligor's property, or an assignment for the benefit of creditors by an Obligor, or the making or sending of notice of any intended bulk transfer by an Obligor; (m) the filing of a petition in bankruptcy by or against an Obligor, or the commencement by or against an Obligor of any proceeding under any bankruptcy or insolvency law or statute, or any law or statute relating to the relief of debtors or arrangement of debt, readjustment of indebtedness, reorganization, receivership or compositions, or the extension of indebtedness; (n) such a change in the condition or affairs (financial or otherwise) of an Obligor as shall, in sole opinion of Lessor, increase Lessor's risk with respect to this Lease, the Equipment or any of the Liabilities or any security therefor; or (o) Lessee allows a Blocked Person to have an ownership interest in or control of Lessee. "Blocked Person" means any person or entity that is now or at any time (A) on a list of Specifically Designated Nationals issued by the Office of Foreign Assets Control ("OFAC") of the United States Department of the Treasury or any sectoral sanctions identification list, or (B) whose property or interests in property are blocked by OFAC or who is subject to sanctions imposed by law, including any executive order of any branch or department of the United States government, or (C) otherwise designated by the United States or any regulator having jurisdiction or regulatory oversight over Lessor, to be a person with whom Lessor is not permitted to extend credit to or with regard to whom, a Lessee relationship may result in penalties against Lessor or limitations on a Lessor's ability to enforce a transaction. Upon the occurrence of an Event of Default, then, at Lessor's option, and at any time, the entire unpaid total rent for the balance of the Entire Term, with the future rents being discounted to its present value at a discount rate of 1.5% as of the date of payment or judgment, whichever occurs first, hereof shall be at once due and payable and/or Lessor may, without demand or legal process, terminate this Lease and enter upon the premises where the Equipment is located, take possession of and remove same, and exercise any one or more of the following rights and remedies, without liability to Lessee therefor and without affecting Lessee's obligations hereunder; (i) sell, lease or otherwise dispose of the Equipment or any part thereof at one or more public or private sales, leases or other dispositions, at wholesale or retail, for such consideration, on such terms, for cash or on credit, as Lessor may deem advisable, on at least (10) days' prior notice to Lessee of any public sale or of the time after which private sale, lease or other disposition may be made (which notice Lessee acknowledges is reasonable); and/or (ii) retain the Equipment or any part thereof, crediting Lessee with the then reasonable rental value thereof for the balance of the Entire Term of this Lease; and/or (iii) require Lessee to assemble all Equipment at Lessee's sole expense, for Lessor's benefit, at a place reasonably designated by Lessor; and/or (iv) pursue any other remedy granted by an existing or future document executed by Lessee or by law. Lessee agrees to pay all Lessor's expenses, including (but not limited to) the costs of repossessing, storing, repairing and preparing Equipment for sale or lease, commissions payable in connection with any such sale or lease, and reasonable attorney's fees if an attorney shall be consulted. The net proceeds realized from any such sale, lease or other disposition or the exercise of any other remedy, after deducting therefrom an amount equal to the anticipated residual value of the Equipment (discounted to its present value as of the date of default at a

Officer's Initials for Lessee: ml

discount rate of 1.5% per annum) and all expenses (which amount shall be retained by Lessor), shall be applied toward payment of the discounted unpaid rentals hereunder through the end of the Entire Term of the Lease (discounted to its present value as of the date of default at a discount rate of 1.5% per annum) and any other amounts due hereunder, with Lessee to remain liable for any deficiency. Any amount due Lessor under this Section 17 shall be deemed liquidated damages for the breach hereof and not a penalty. All rights and remedies of Lessor shall be cumulative and not alternative and are in addition to any other remedies provided by law. Lessor's failure to exercise or delay in exercising any right or remedy shall not be construed as a waiver thereof, nor shall a waiver on one occasion be construed to bar the exercise of any right or remedy on a future occasion.

If any Equipment Schedule is deemed at any time to be a lease intended as security, Lessee grants Lessor a security interest in the Equipment to secure its obligations under such Equipment Schedule, all other Equipment Schedules and all other indebtedness at any time owing by Lessee to Lessor. Lessee agrees that upon the occurrence of an Event of Default, in addition to all of the other rights and remedies available to Lessor hereunder, Lessor shall have all of the rights and remedies of a secured party under the Uniform Commercial Code.

For purposes of this Lease, (a) the term "Obligor" shall mean Lessee and any guarantor, Pledgor or hypothecator, and any other party liable for any of the Liabilities of Lessee in addition to Lessee, and (b) the term "Liabilities" shall mean all liabilities and obligations of any kind of all Obligors (or any partnership, joint venture or other group of which an Obligor is a member) to Lessor whether (i) for the account of Lessor, or as agent for others, (ii) acquired directly or indirectly by Lessor from Lessee or otherwise, (iii) absolute or contingent, joint or several, secured or unsecured, liquidated or un-liquidated, due or not due, contractual or tortious or now existing or hereinafter arising, or (iv) incurred by an Obligor as principal, surety, endorser, guarantor or otherwise, and including without limitation all expenses and attorney's fees, incurred by Lessor in connection with any such liabilities or obligations or any security therefor.

18. Whenever any rental or other amount payable to Lessor by Lessee hereunder is not paid within ten (10) days of such payments due date, Lessee agrees to pay Lessor, on demand, as liquidated damages and not as a penalty; (a) with respect to rental payments, (as a fee to offset Lessor's collection and administrative expenses) the greater of twenty-five dollars (\$25.00) or ten percent (10%) of the overdue amount to the extent permitted by applicable law. Such amount(s) shall be payable in addition to all amounts payable by Lessee as a result of exercise of any of the remedies herein provided. Lessee agrees to also reimburse Lessor for any expenses (including Lessor's attorney's fees and costs) arising out of or caused by the Lease.

19. Lessee agrees that this Lease is irrevocable for the Entire Term, that Lessee's obligations under this Lease are absolute and unconditional and shall continue without abatement and regardless of any disability of Lessee to use the Equipment or any part thereof because of any reason including, but not limited to war, act of God, governmental regulations, strike, loss, damage, destruction, obsolescence, failure of or delay in delivery, failure of the Equipment to operate properly, termination by operation of law or any other cause. Lessee warrants that the application, statements and credit or financial information submitted by it to Lessor are true and correct and made to induce Lessor to enter into this Lease and to order the Equipment from Seller. Lessee (and any Guarantors) agree to provide Lessor accountant prepared year-end financial statements using Generally Accepted Accounting Principles within ninety (90) days of the fiscal year-end and quarterly internal financial statements using Generally Accepted Accounting Principles within thirty (30) days of the quarter end. Lessee warrants that this Lease has been duly authorized, executed and delivered by Lessee, and constitutes the legal, valid and binding obligation of Lessee, enforceable in accordance with its terms, and that no provision of this Lease is inconsistent with Lessee's charter, by-laws, or any loan or credit agreement or other instrument to which Lessee is a party or by which Lessee or its property may be bound or affected or conflicts with any applicable law, rule or regulation, and no claim, action or suit is pending or has been threatened that would adversely affect Lessee's ability to enter into or perform its obligations under this Lease. Lessee shall not change its name or its address without providing Lessor with at least thirty (30) days prior written notice thereof.

20. Lessee warrants, covenants and agrees that upon expiration or termination of this Lease and any renewal hereof, with respect to any item of Equipment, Lessee shall, at its expense, return such Equipment to Lessor or to a place designated by Lessor within the continental United States (freight and insurance prepaid). When received by Lessor, the Equipment shall be: in good working order; reasonably clean and cosmetically good; in the same condition as when shipped to Lessee, reasonable wear and tear excepted; if applicable to the operation of the Equipment, free of consumables and of fuel, chemicals, or wastes and free of all toxic, hazardous, or dangerous materials not originally part of the Equipment; and at the Manufacturer's minimum acceptable and current engineering level and most recent software upgrade, and certified by the Manufacturer as eligible for its prime-shift maintenance contract, if generally available, at then prevailing rates without the need for Lessor to incur any repair, rehabilitation, or certification expense ("Maintenance Certified"). **HOLDOVER:** If the Lessee does not return the Equipment at the end of the Lease or pay the appropriate purchase option (if any) without prior approval from Lessor, the Lessor at its election may extend the Lease for one year intervals at double the initial rent per month. De-installation and return of the Equipment shall be performed by mechanics and technicians then currently trained and qualified by the original manufacturer and/or approved by Lessor in conformance with the manufacturers' original specification. All accessories, including but not limited to interconnect cabling, wiring, instruction manuals, electrical schematics, spare parts shall be returned in good working order. Lessee acknowledges that failure to return the Equipment as specified above will result in partial or total loss for which Lessee shall be responsible.

21. Lessee further agrees that upon expiration of this Lease it shall pay promptly all costs, expenses and obligations of every kind and nature relating to the Equipment which may arise or become due during the term of this Lease, whether or not specifically mentioned herein. No rental or other sums payable by Lessee pursuant to this Lease shall be subject to set-off, deduction, counterclaim, abatement, recoupment, or reduction, nor shall this Lease terminate, nor shall Lessee be entitled to any credit against such rental or other sums for any reason whatsoever, including, but not in any way limited to, any damage to or destruction of the Equipment or any item thereof, any limitation, restriction, deprivation or prevention of, or any interference with Lessee's use of the Equipment or any item thereof, whether the sale shall be lawful or unlawful, any dispossession of Lessee from the Equipment or any item thereof by title paramount or otherwise, the requisition or taking by statute or by exercise of the power of eminent domain or other governmental authority or otherwise, or by injunction or by any private person, of the Equipment or any item thereof, the prohibition of Lessee's business in whole or in part, whether pursuant to law or otherwise or any reason whether similar or dissimilar to the foregoing.

22. LESSEE HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING DIRECTLY OR INDIRECTLY FROM OR IN CONNECTION WITH THIS LEASE SHALL BE LITIGATED ONLY IN THE STATE AND COUNTY OF LESSOR'S PRINCIPAL PLACE OF BUSINESS OR SUCH OTHER FORUM AS LESSOR SHALL ELECT. Lessee consents to the jurisdiction and venue of the foregoing courts and consents that any process or notice of motion or other application to either of such courts or a judge thereof may be served inside or outside the state of Lessor's principal place of business by registered or certified mail, return receipt requested, directed to Lessee at its address set forth in this Lease (and service so made shall be deemed complete, five (5) days after the same has been posted as aforesaid) or by the personal service, or in such other manner as may be permissible under the rules of such courts. Lessee appoints each and every officer of Lessor as agent for the purpose of accepting service of any process within the state of Lessor's principal place of business, subject only to the condition that the officer promptly mails a copy of that process to Lessee at its address for notices hereunder.

23. EACH OF THE PARTIES HEREBY UNCONDITIONALLY WAIVE ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY RELATED DOCUMENTS, ANY DEALINGS BETWEEN LESSEE AND LESSOR RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN LESSEE AND LESSOR. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

24. THIS SECTION DOES NOT APPLY IF LESSOR HAS AGREED IN WRITING TO PASS THE INVESTMENT TAX CREDIT (ITC) AND DEPRECIATION TO LESSEE. If, as to any Equipment, under any circumstances and for any reason whatsoever, except through the fault of the Lessor, Lessor shall lose or shall not have the right to claim, or there shall be disallowed or recaptured (collectively a "loss") (1) any portion of the maximum ITC, allowable under the Internal Revenue Code of 1954, as amended, for new property with a useful life equivalent to the lease term for such Equipment; or (2) any portion of the claimed depreciation deductions for such Equipment, based on the cost thereof, Lessee agrees to pay Lessor upon demand an amount which, in the reasonable opinion of Lessor, will cause Lessor's after tax net yield in respect of such Equipment to equal the net yield that Lessor would have received if Lessor had not suffered such loss.

25. THIS LEASE SHALL BE CONSTRUED UNDER THE LAWS OF THE STATE OF LESSOR'S PRINCIPAL PLACE OF BUSINESS, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAW OR CHOICE OF LAW. This Lease shall not become effective until accepted by Lessor at its above-described office, and upon such acceptance shall, subject to Section 16 hereof, inure to and bind the parties, their successors, legal representatives and assigns. No provision hereof that may be construed as unenforceable shall in any way invalidate any other provision hereof, all of which shall remain in full force and effect. All representations, warranties, indemnities and agreements of Lessee contained in this Lease shall survive and continue in full force and effect notwithstanding termination or expiration of this Lease.

26. Any notice to a party hereunder shall be in writing and shall be deemed to have been given when delivered personally, or delivered via electronic mail, or delivered by a nationally-recognized overnight courier service (signature required), or when mailed to said party by certified mail (return receipt requested), addressed to recipient at its address set forth above or at such other address as may be last known to the sender. Whenever the sense of this Agreement requires, words in the singular shall be deemed to include the plural and words in the plural shall be deemed to include the singular. If more than one Lessee is named herein the liability of each shall be joint and several. This Agreement constitutes the entire mutual understanding of the parties regarding the within subject matter and may not be modified except in writing, signed by the party against whom such modification is asserted. Lessee shall have no option or other rights to purchase or otherwise acquire title to or ownership of any of the Equipment unless such option is set expressly forth in writing signed by a duly authorized officer of the Lessor. Upon the request of Lessor, Lessee shall at any time and from time to time after the execution and delivery of the Lease, execute and deliver

such further documents and do such further acts as Lessor may reasonably request in order fully to effect the purposes of this Lease, and any assignment hereof. Notwithstanding Lessee's acknowledgment, if any, that this is a "true lease", Lessee hereby authorizes Lessor, at its option and as contemplated by Section 9-509 of the UCC or otherwise, to file financing statements covering the Equipment signed only by Lessor for Lessee, and agrees to pay Lessor the actual fee for such filing, recording or stamp fees or taxes arising from the filing or recording of any such instrument or statement. In the event a court with competent jurisdiction rules that this Lease is a secured transaction governed by usury laws and that the interest rate charged under this Lease exceeds the maximum rate of interest allowed by applicable law, then the effective rate of interest hereunder shall be automatically reduced to the maximum lawful rate allowable under the applicable usury laws.

27. This Lease and each applicable Equipment Schedule thereto may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Lease and Equipment Schedule.

28. NONE OF THE PROVISIONS OF THIS LEASE CAN BE AMENDED, MODIFIED OR WAIVED EXCEPT IN WRITING SIGNED BY THE LESSEE AND LESSOR.

LESSOR:

**INTERNATIONAL FINANCIAL
SERVICES CORPORATION**

Signature: _____

Title: Lease & Loan Funding Specialist

Date Accepted: August 2, 2021

LESSEE:

PROSOMNUS SLEEP TECHNOLOGIES, INC.

The undersigned warrants that he is a duly authorized Corporate officer, Member, Partner or Proprietor of the above named Lessee.

Signature: _____

Title: CFO

Date: August 2, 2021

CERTIFIED COPY

INTERNATIONAL FINANCIAL SERVICES CORPORATION

1113 S. Milwaukee Avenue, Suite #301

Libertyville, IL 60048

PHONE: 800-258-3531 FAX: 847-549-0119

ADDENDUM "A"

**FOR MASTER EQUIPMENT LEASE AGREEMENT #21-152
SCHEDULE #01**

AND/OR SECURITY AGREEMENT-MORTGAGE ON GOODS & CHATTELS
AND UNIFORM COMMERCIAL CODE #1 & #3 FILING FORM

LESSEE: PROSOMNUS SLEEP TECHNOLOGIES, INC.

LESSOR: INTERNATIONAL FINANCIAL SERVICES CORPORATION

EQUIPMENT AS DESCRIBED BELOW:

Six (6) New VHF Inc. Model S5 Milling and Grinding Machines, including all attachments and accessories thereto

Including all accessories and attachments now owned or hereafter acquired and all proceeds thereof.

LESSOR:

**INTERNATIONAL FINANCIAL
SERVICES CORPORATION**

Signed By: 

Title: Lease & Loan Funding Specialist

Date: August 2, 2021

LESSEE:

PROSOMNUS SLEEP TECHNOLOGIES, INC.

Signed By: 

Title: CFO

Date: August 2, 2021

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) LITEN SOLUTIONS 800-331-3282
B. E-MAIL CONTACT AT FILER (optional) UCCFILING@TURN@MOLTERS@KLUWER.COM
C. SEND ACKNOWLEDGMENT TO: (Name and Address) <input type="checkbox"/> P.O. BOX 29071 GLENDALE, CA 91209-9071 <input type="checkbox"/> US

Delaware Department of State
 U.C.C. Filing Section
 Filed: 02:25 PM 08/05/2021
 U.C.C. Initial Filing No: 2021-6176219

Service Request No: 20212901670

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor Information in item 1D of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME PROSONNUS SLEEP TECHNOLOGIES, INC.				
OR				
1b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS 5960 W LAS POSITAS BLVD, STE 25		CITY PLEASANTON	STATE CA	POSTAL CODE 94588

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor Information in item 1D of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME				
OR				
2b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME INTERNATIONAL FINANCIAL SERVICES CORPORATION				
OR				
3b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
3c. MAILING ADDRESS 1113 S. MILWAUKEE AVENUE, SUITE 301		CITY LIBERTYVILLE	STATE IL	POSTAL CODE 60048

4. COLLATERAL: This financing statement covers the following collateral:

UCC#21-152-01 Six (6) New VHF Inc. Model S5 Milling and Grinding Machines, including all attachments and accessories thereto. Debtor is not authorized and has no title to sell, transfer or otherwise convey any of the foregoing collateral including proceeds of insurance.

5. Check only if applicable and check only one box. Collateral is new or used (see UCC 9-102.1) inventory equipment fixtures other

6a. Check only if applicable and check only one box:

Public Finance Transaction Manufactured Home Transaction If a Debtor is a Transferee/Assignee Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignator Seller/Purchaser Bailor/Bailor Licensor/Licensee

8. OPTIONAL FILER REFERENCE DATA:

18-0-81028464-61828000

FILING OFFICE COPY — UCC

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

Lien Solutions
Representation of filingThis filing is Completed
File Number : 20216216163
File Date : 06-Aug-2021

A. NAME & PHONE OF CONTACT AT FILER (optional) Name: Wolters Kluwer Lien Solutions Phone: 800-331-3282 Fax: 818-662-4141	
B. E-MAIL CONTACT AT FILER (optional) uccfilingreturn@wolterskluwer.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address) 14089 - INTERNATIONAL	
Lien Solutions P.O. Box 29071 Glendale, CA 91209-9071	81848611 DEDE

File with: Secretary of State, DE

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER 20216176698 8/5/2021 SS DE	1b. <input type="checkbox"/> This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13
2. <input type="checkbox"/> TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement	
3. <input type="checkbox"/> ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9 For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8	
4. <input type="checkbox"/> CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law	
5. <input checked="" type="checkbox"/> PARTY INFORMATION CHANGE: Check one of these two boxes: AND Check one of these three boxes to: This Change affects <input type="checkbox"/> Debtor or <input checked="" type="checkbox"/> Secured Party of record <input type="checkbox"/> CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c <input checked="" type="checkbox"/> ADD name: Complete item 7a or 7b, and item 7c <input type="checkbox"/> DELETE name: Give record name to be deleted in item 6a or 6b	
6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)	
6a. ORGANIZATION'S NAME	
OR	6b. INDIVIDUAL'S SURNAME
	FIRST PERSONAL NAME
	ADDITIONAL NAME(S)/INITIAL(S)
	SUFFIX
7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)	
7a. ORGANIZATION'S NAME	
Source and Loan and Leasing Services	
OR	7b. INDIVIDUAL'S SURNAME
	INDIVIDUAL'S FIRST PERSONAL NAME
	INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)
	SUFFIX
7c. MAILING ADDRESS	
1 PASSAIC AVENUE	CITY FAIRFIELD
	STATE NJ
	POSTAL CODE 07004
	COUNTRY USA
8. <input type="checkbox"/> COLLATERAL CHANGE: Also check one of these four boxes: <input type="checkbox"/> ADD collateral <input type="checkbox"/> DELETE collateral <input type="checkbox"/> RESTATE covered collateral <input type="checkbox"/> ASSIGN collateral Indicate collateral:	
9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment) If this is an Amendment authorized by a DEBTOR, check here <input type="checkbox"/> and provide name of authorizing Debtor	
9a. ORGANIZATION'S NAME	
INTERNATIONAL FINANCIAL SERVICES CORPORATION	
OR	9b. INDIVIDUAL'S SURNAME
	FIRST PERSONAL NAME
	ADDITIONAL NAME(S)/INITIAL(S)
	SUFFIX
10. OPTIONAL FILER REFERENCE DATA: Debtor Name: PROSOMNUS SLEEP TECHNOLOGIES, INC. 81848611	

UCC FINANCING STATEMENT AMENDMENT ADDENDUM**FOLLOW INSTRUCTIONS**

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form

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12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form

12a. ORGANIZATION'S NAME	
INTERNATIONAL FINANCIAL SERVICES CORPORATION	
OR	
12b. INDIVIDUAL'S SURNAME	
FIRST PERSONAL NAME	
ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

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13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see Instruction Item 13): Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); see Instructions if name does not fit

13a. ORGANIZATION'S NAME				
OR	13b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral):

1) Source and Loan and Leasing Services

15. This FINANCING STATEMENT AMENDMENT:
 covers timber to be cut covers as-extracted collateral is filed as a fixture filing16. Name and address of a RECORD OWNER of real estate described in item 17
(if Debtor does not have a record interest):

17. Description of real estate:

18. MISCELLANEOUS: 81848811-DE-0 14089 - INTERNATIONAL FINANC INTERNATIONAL FINANCIAL File with: Secretary of State, DE

**Final Delivery and Acceptance Confirmation
and
Final Funding Authorization**

August 11, 2021

To: International Financial Services Corporation ("IFSC")
1113 S. Milwaukee Avenue, Suite 301
Libertyville, IL 60048

I, Mindy Hungerman, hereby confirm that the equipment has been delivered to PROSOMNUS SLEEP TECHNOLOGIES, INC. at the following address: 5860 W Las Positas Blvd. Ste. 25 in Pleasanton, CA 94588 and installed to my full satisfaction. The equipment is up and running to my complete satisfaction. I hereby authorize final funding to VHF Inc. in the amount of \$218,869.44.

I acknowledge that with this payment 100% of the equipment cost will be funded which means my lease payments will commence on August 15th, 2021. Interim rent will be billed from the date of funding through August 14th, 2021.

IFSC has collected the first payment upfront with the executed documents; therefore, the next payment due is September 15th, 2021.

LESSEE:

PROSOMNUS SLEEP TECHNOLOGIES, INC.

Lease #21-152-01

By: 

Title: CFO

Date: August 11, 2021