

## BROKER AGREEMENT

THIS BROKER TRANSACTION AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between, Generation Capital Associates, a New York Corporation, (hereinafter "GCA") with its principal place of business at 20 Exchange Place, Suite 4990 49th Floor, New York NY 10005 and \_\_\_\_\_ (hereinafter "Broker"), a(n) \_\_\_\_\_, with its principal place of business at \_\_\_\_\_.

From time to time Broker desires to make referrals to GCA for Leases of Equipment (as such terms are hereafter defined) between lessees and GCA, and GCA desires from time to time to have Broker make said referrals to it subject to the terms and conditions set forth in this Agreement.

In consideration of GCA's acceptance of such referrals and of Broker's warranties and representations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Broker and GCA hereby agree:

1. **DEFINITIONS:** The following terms shall have the meaning set forth below:
  - A. **Equipment:** All goods that are leased to a lessee pursuant to a Lease, including all substitutions, replacements, additions and Attachments.
  - B. **Transaction:** The leasing or financing of Equipment to a lessee when the leasing or financing of the Equipment results from a referral by Broker, or is arranged by Broker with GCA as Lessor.
  - C. **Lease:** Any written agreement and all related documents in connection therewith, including without limitation all addenda, equipment, schedules, financing statements or other writings, pursuant to which GCA has leased personal property or fixtures to an individual, partnership, corporation or other entity (hereinafter "Lessee") for business purposes and which Lease is arranged by Broker
2. **ACCEPTANCE OF TRANSACTION REFERRALS:** This Agreement shall not obligate GCA to accept transactions referred by Broker nor obligate Broker to refer transactions to GCA.
3. **AUTHORITY OF BROKER:** Broker is and shall at all times act as an independent contractor and as such shall have no authority to incur any obligation on behalf of GCA; to make any statements or representation on behalf of GCA; to bind or commit GCA in any transaction; nor to make, alter or execute any document or agreement on behalf of GCA. Broker shall not represent to any party that Broker is employed by or represents or acts as an agent for GCA. Broker is an independent contractor and no partnership, agency, joint venture or any other similar relationship with GCA exists or is contemplated. Broker shall not accept service of any legal process in any action which may be brought against GCA.
4. **BROKER OBLIGATIONS:** With respect to any proposed Transactions referred by Broker to GCA, and at the time of the presentation of such Transactions by Broker to GCA, Broker shall furnish to GCA credit and financial information with respect to a prospective Lessee, together with a complete description of the Equipment and cost thereof, and such other information as may from time to time be requested by GCA.
  - A. **Rebrokered, Sub-brokered or Super-brokered Transactions:** Broker will notify GCA at the time of submission if the transaction is rebrokered (as that term is generally understood in the leasing industry), and list the originating source. Broker acknowledges they have verified the existence and validity of the originating source and will provide that information to GCA if requested.
  - B. **Split Transaction:** A Lease Application shall not be split between various funding sources without full disclosure in advance to GCA. In the event a Lease Application should be for less than the full amount of equipment, Broker warrants that it will disclose such facts to GCA in writing at the time the Lease Application is submitted to GCA.
5. **DOCUMENTATION:** All Transactions shall be documented on/with GCA documents provided and acceptable to GCA. Any documentation, materials and/or supplies furnished by GCA to Broker shall at all times remain the sole exclusive property of GCA and shall be immediately returned to GCA upon demand.
6. **ACCEPTANCE OF LEASE TRANSACTION:** GCA shall have five (5) working days following receipt of any proposed Lease Transaction referred to it by Broker within which to accept or decline same. During this period of time Broker shall not refer the proposed Lease Transaction to any other equipment financing company.
7. **EXPENSES OF BROKER:** Broker shall be responsible for payment of all costs and expenses incurred in connection with the discharge of any Broker's obligations hereunder.
8. **COMPENSATION OF BROKER:** Upon GCA's approval, acceptance and funding of a Transaction, Broker shall be paid by GCA, as full compensation for referring the Transaction to GCA, GCA's standard brokerage fee in accordance with GCA's then current commission schedule for such transactions. If for any reason the referred lease by broker has a first payment default, the broker fee shall be returned to GCA in full within 30 days of the default notice. If the referred lessee on the lease defaults within the first 90 days, broker shall return 50% of the broker fee to GCA within 30 days of notification.
9. **TERMINATION:** This Agreement shall be effective upon execution hereof and shall continue in effect until terminated by either party upon thirty (30) days written notice, except that GCA may, at its option, terminate this Agreement effective immediately upon breach of any term, representation or warranty hereof by Broker. The rights and obligations of the parties hereunder with respect to Transactions originated prior to termination of this Agreement shall survive such termination.
10. **INDEMNITY:** Broker shall indemnify and hold GCA harmless from any and all expenses, injury, damage, loss or claims, including reasonable attorney's fees, which GCA may hereafter incur, pay or suffer as a result of any acts or omissions of Broker, its agents, principals, employees, or representatives. Broker further agrees that any defense that accrues to it may be used by GCA.
11. **BROKER'S WARRANTIES AND REPRESENTATIONS:** With respect to all Transactions referred to GCA, Broker represents and warrants that:
  - A. The Lease is the only lease executed with respect to the equipment and no agreement exists with respect to the Lease or the Equipment except as the same has been furnished by Broker to GCA.

- B. The equipment is free of all security interests, claims, liens, and encumbrances of any kind or nature whatsoever. The Equipment has been delivered to and accepted by Lessee in a condition satisfactory to Lessee at the location specified in the Lease, and the Equipment is being utilized exclusively for business purposes.
- C. The vendor is not affiliated with Lessee or Broker and is a bona fide dealer who regularly stocks and sells equipment of the type which is the subject of the Lease.
- D. Each Lessee and/or guarantor is in existence, has the full legal right, power, and authority to enter into the Lease or guaranty and all signatures, names, addresses, amounts and other statements contained in the Lease and Guaranty are true and correct.
- E. No rental payments or other amounts due under such Lease have been prepaid by Lessee or any supplier and no deposit has been paid by Lessee on the Equipment or Lease except as stated in the Lease.
- F. No representations or warranties have been made by Broker to any Lessee or guarantor other than those representations or warranties contained in the Lease.
- G. All information supplied by Broker to GCA concerning the Lessee, the Equipment, or otherwise with respect to the proposed Transaction is true and correct, to the best of the Broker's knowledge, and Broker acknowledges that GCA is relying on said information in deciding to accept or reject the Lease transaction referral.
- H. No part of the money required to commence the Lease has been loaned, rebated or advanced by Broker and Broker has entered into no reciprocal agreements with any Lessee or officer, director, employee or guarantor of Lessee.
- I. Broker shall not solicit or accept collection of any payment due under a Lease, repossess or consent to the return of any Equipment, modify or terminate the Lease, or waive any of GCA's rights thereunder.
- J. Compliance with Laws and Regulations: Broker has taken all action necessary for compliance with applicable laws and regulations, including but not limited to disclosure of the right to request specific reasons for credit denial set forth under Regulation "B" of the Equal Credit Opportunity Act (the "ECOA Disclosure").
- K. All representations and warranties made by Broker to GCA or Lessee are true, correct, and not misleading, false or fraudulent in any respect.
12. OBLIGATIONS SURVIVE TERMINATION: Broker's obligations, representations, and warranties under this Agreement shall survive the expiration or termination of this Agreement.
13. BREACH OF BROKER'S WARRANTIES OR REPRESENTATIONS: If Broker shall breach any of its warranties, representations, or obligations contained herein, or should GCA discover the Broker misrepresented any fact pertaining to a Lease, or should GCA discover that Broker was aware of and did not notify GCA of misrepresentation of any fact by Lessee or Vendor pertaining to a Lease, the Broker shall unconditionally guaranty the full performance of all the terms and conditions of the Transaction including the immediate payment of the balance of rent for the remaining terms of the Lease.
14. ATTORNEY'S FEES: Should GCA retain legal counsel to enforce the terms and conditions of this Agreement, Broker shall pay GCA a sum equal to all its expenses, including reasonable attorney's fees incurred by GCA whether or not litigation is instituted.
15. NOTICES: Any written notice or demand under this Agreement may be given to a party by mail at its address set forth herein or at such other address as the party may provide in writing from time to time. Notice or demand so made shall be effective when deposited in the United States mail duly addressed with postage prepaid, or if given by FAX, at such time as the FAX is successfully transmitted.
16. ASSIGNMENT AND SUCCESSORS IN INTEREST: Broker shall not assign, transfer, pledge or otherwise dispose of its interest in this Agreement. GCA may freely assign any interest it has in this Agreement. Subject to the foregoing prohibition against Broker's assignment, this Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties.
17. CHOICES OF LAW, VENUE AND JURISDICTION: This Agreement shall be deemed to have been entered into in Salt Lake County and shall be construed in accordance with the laws of the State of Utah. Broker hereby agrees that in the event a suit is brought in any qualified state or federal court located in the State of Utah, Broker consents to the jurisdiction of such courts and consents to venue in the County of Salt Lake, State of Utah, or at GCA's option, venue may be in any other county or judicial district appropriate under the applicable Rules of Procedure.
18. SEVERABILITY: If any provision of this Agreement is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision.
19. ENTIRE AGREEMENT: This agreement is the entire, final, and complete Agreement of the parties pertaining to the referral of Lease Transactions by Broker to GCA and supersedes or replaces all written or oral communications heretofore made or existing by and between the parties or their representatives with respect thereto and no modification hereof or addition hereto shall be binding unless agreed to in writing and signed by the party against whom enforcement is sought.
20. CAPTIONS: The captions of the various paragraphs hereof are for reference only and are not part of this Agreement.

IN WITNESS WHEREOF, this Broker Transaction Agreement is executed in duplicate effective the above date.

Generation Capital Associates

BROKER/LESSOR:

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

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

Its \_\_\_\_\_

Its \_\_\_\_\_