



CHASE INDUSTRIES, INC.

EVERGREEN CLAUSES

If ever there was an aspect of equipment leasing which juxtaposed the legal with the unethical, the “evergreen clause” would be that area.

An evergreen clause, or evergreen lease as the word implies, signifies a contract that goes on forever. In actuality, it can end, but only after the lessee sends, within a specified time period, a letter stating his intent to return or purchase the underlying equipment. In practice, the procedure is deliberately made cumbersome by the Lessor. Hence, the lessee unwittingly pays in excess of the total price to which the parties agreed.

Most lease and finance agreements have a \$1.00 buy out. This should nullify any chance of being “ever greened”. By-outs of Fair Market Value not to exceed 10% fixed and a contract without any end position will have evergreen verbiage. These range from monthly automatic renewals going month to month or some automatically renew for 12 months. As a result the customer doesn’t recall 5 years prior what they signed. They keep getting invoices for the same payment amount and their A/P keeps sending the payments in. Months later they sometimes catch it, but it’s too late. They still have to give the leasing company 90 days notice. So now they have to pay 3 more payments then buy the equipment for the designated amount. Sound fair?

INTERIM RENT

The equipment is delivered on the 5th of March. The lease/finance contract defines the ‘delivery date’ the acceptance date’ and the ‘commencement date’. All of which is very confusing. It states the lease payment will be due on the date specified by the Lessor in the month following the commencement day. So they bill for the ‘interim period’ which is from March 5 to March 30, 25 days. Sounds nice and friendly- you only have to pay for a partial month. However, the lease doesn’t actually start until April 1st. At the end of the lease term they bill you again for the month of March. They get almost a full extra payment, just for asking. All of this is perfectly legal as it is ‘stated’ in your contract.

BLANKET LIENS

When you finance or lease a piece of equipment the lender will file a UCC Statement with the corresponding state where the lessee is incorporated. This insures ownership- the lender has a lien on that specific equipment. When the equipment is paid off, the finance company removes the UCC filing and sends the ‘release’ to the customer and they take formal ownership of that equipment.

There are some banks and finance companies that will file a Blanket Lien. This is a lien on everything that is located in the business or practice including accounts receivable. This means they essentially own everything in that practice whether they physician paid cash or owned it prior! Many times this will be the first piece of equipment financed and it is for a small amount, maybe \$15,000. If the owner or physician ever wants to sell a piece of equipment they cannot get clear title if the bank or finance company has filed a blanket lien. And they own everything in that practice, because again, it’s in the



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contract. At Chase Industries we only file a lien on the specific piece of equipment being leased. We never file a blanket lien.

FORCED INSURANCE

All leased equipment requires insurance. A company that finances leased equipment has ownership during the lease, but doesn't actually have possession. If something happens to the equipment, the leasing company must make sure that all the payments will continue to be made.

Most businesses carry adequate insurance and their policy can be amended to list the leasing company as "additional insured and loss payee" on the specific piece of leased equipment.

Some leasing companies do not take the time to do this. Instead, they "provide" insurance on the leased equipment through their chosen company and simply bill for the insurance coverage. You will have no control over the cost, no ability to make changes, and will be paying twice to insure the same piece of equipment. An insurance charge will appear on your monthly lease payment...and good luck trying to remove it!

PREPAYMENT PENALTIES

It is Chase's general policy to allow a lessee to prepay the lease rental payments before the expiration of the lease term assuming the lessee is and has been faithfully and promptly fulfilling his monthly payment obligation to Chase Industries and it assigns.

The payoff is calculated by determining the total equipment cost and service fees to be paid on the lease. After calculating this amount, a refund of unearned service fees is deducted from the aggregate payment schedule to determine the current payoff figure. We employ the bankers "rule of 78's" to calculate the payoff amount. Many leases require you to pay the total of your lease payments regardless of when you prepay the lease. A Chase lease is more favorable than a lease of this type.

There is no additional prepayment penalty added to the payoff calculations, however, it is recommended that you check with your accountant before considering an early payoff as it can affect the tax treatment of a lease. We further recommend that you wait until you are typically mid-way through your initial lease term before considering a lease payoff since the lease is front end loaded on the service fee calculations.