

CLICK HERE TO DOWNLOAD

ESCROW AGREEMENT

This Escrow Agreement effective as of February __, 201__, by and among Acme Incorporated ("Acme"), having an office at 700 West Main Street, Barrington, Illinois 60010, Keystone Capital Corporation ("Keystone"), having an office at 570 Lake Cook Road, Suite 405, Deerfield, Illinois 60015 and ABC Bank (the "Escrow Agent"), having an office at 1200 N. Clark Street, Chicago, Illinois 60622.

WITNESSETH:

WHEREAS, Acme and Keystone have entered into an equipment leasing program whereby Keystone is leasing to Acme certain equipment pursuant to a proposal letter dated December 1, 201__. ("Letter Proposal")

WHEREAS, the Letter Proposal provides that in connection with Equipment Package No. 1 described therein that Acme will make a security deposit in the amount of 20% of equipment cost which will be held in an interest earning account and/or certificate of deposit with the secured lender ("Secured Party") financing the Leases ("Leases") of the equipment which comprises Equipment Package No. 1. The security deposit will secure Acme's obligation to fulfill its obligations under the Leases.

WHEREAS, the Leases will be documented by certain lease schedules ("Lease Schedules") entered into between Keystone, as lessor, and Acme, as lessee, to the Master Lease Agreement dated October 15, 201__ ("Master Lease") also between Keystone, as lessor, and Acme, as lessee.

WHEREAS, Acme and Keystone desire to establish the security deposit with funds deposited with the Escrow Agent which will be administered pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the premises and covenants and agreements contained herein, the parties agrees as follows:

1. ESTABLISHMENT OF ESCROW ACCOUNT

(a) Acme and Keystone hereby appoint ABC Bank to act as Escrow Agent to hold and administer the security deposit for the Leases, pursuant to the terms of this Escrow Agreement.

(b) Acme, or Keystone at the direction of Acme, shall deliver to Escrow Agent, an amount equal to \$1,450,926.40 by check or wire transfer, as the initial funding of the escrow, prior to acceptance of the initial Lease Supplement containing any equipment from Equipment Package No. 1. Escrow Agent agrees to deposit this initial escrow funding into an interest bearing, separately segregated, money market account ("ABC Bank Account").

(c) From time to time, Acme, or Keystone at the direction of Acme, will deposit additional amounts with the Escrow Agent in accordance with the Letter Proposal and required in specific Lease Schedules. The Escrow Agent shall immediately deposit all said amounts received in the ABC Bank Account.

(d) ABC Bank, at the written direction of Acme, may invest any funds held by it in the ABC Bank Account in one or more certificates of deposit issued by ABC Bank. The ABC Bank Account and any and all such certificates of deposit are collectively referred to herein as the "Security Deposit".

2. WITHDRAWALS FROM ESCROW ACCOUNT

(a) In the event of a default under any Equipment Package No. 1 Lease Supplement which has not been financed, Keystone shall provide notice to Escrow Agent that said default has occurred. If the defaulted Lease has been financed, the Secured Party shall provide notice of default to Keystone and Escrow Agent (if Secured Party and Escrow Agent are not the same party). Any such notice shall specify that the conditions entitling Keystone (if the Lease has not been financed) or Secured Party (if the Lease has been financed) to draw on the Security Deposit have been satisfied. Such conditions necessary to draw on the Security Deposit are the following:

- (i) The Lease that is in default;
 - (ii) That notice of default has been previously sent to Acme;
 - (iii) That Acme has failed to cure the default in the time prescribed by the Lease;
- and

Said notice shall also include instructions to the Escrow Agent to pay to Keystone, or the Secured Party if the applicable Lease Supplement has been assigned to Secured Party, past due payments and all applicable late charges and any the future monthly payments pursuant to the specific default remedy prescribed in the Master Lease.

(b) Upon receipt of said notice by Escrow Agent or Keystone, the party receiving said notice shall forward said notice to Acme. Acme shall acknowledge in writing its receipt of said notice and return an executed copy of the notice to Escrow Agent. Upon receipt of the notice executed by Acme, Escrow Agent shall proceed to disburse funds from the Security Deposit to Keystone, or Secured Party as the case may be, pursuant to the terms of the notice.

(c) In the event any amounts are disbursed from the Security Deposit in accordance with Sections 2(a) and 2(b) hereof, Acme agrees to immediately deposit additional funds with ABC Bank such that the Security Deposit will equal 20% of the original equipment cost of all equipment leased under the Leases.

(d) After the first 12 months of each Lease and annually thereafter, the accrued interest earned on the Security Deposit with respect to such Lease shall be distributed to Acme, provided the Acme is not in default under any of the Leases.

(e) Escrow Agent shall make such other distributions from the Security Deposit as indicated in writing executed by Acme, Secured Party and Keystone.

3. DURATION OF THE ESCROW.

(a) This Escrow Agreement shall continue until the earlier of (i) notice of termination executed by Acme, Secured Party and Keystone directing Escrow Agent to disburse the then remaining Security Deposit; or (ii) satisfaction by Acme of all of its obligations under the Equipment Package No. 1 Lease Supplements and all renewals thereof. In the event of a termination pursuant to subparagraph 3(i) above, the then remaining Security Deposit shall be distributed as unanimously agreed to by Acme Secured Party and Keystone. In the event of a termination pursuant to subparagraph 3(ii) above, the then remaining Security Deposit shall be returned to Acme, less any administrative costs.

(b) In the event of the termination of the initial or renewal term of a Lease and Acme does not renew the Lease, the Escrow Agreement shall distribute an amount from the Security Deposit to Acme such that after such distribution the remaining amount of the Security Deposit equals 20% of the original equipment cost of all remaining unexpired Leases, whether in their initial term or any renewal term. Provided, however, under no circumstances shall any distribution be made to Acme from the Security Deposit while any event of default exists under any Lease.

4. COMPENSATION TO ESCROW AGENT. The Escrow Agent shall not be entitled to any compensation for its services performed hereunder. Notwithstanding the previous sentence, the Escrow Agent shall be entitle to reimbursement for its reasonable costs and expenses as provided in Section 6(f) hereof.

5. RESIGNATION OR SUBSTITUTION OF ESCROW AGENT.

(a) Escrow Agent may resign as Escrow Agent under this Agreement by submitting written notice to Acme and Keystone at least sixty (60) days prior to the effective date of said resignation. In the event of said notice, Keystone shall select a substitute escrow agent and deliver to Acme written notice thereof. Upon delivery of said notice, Acme shall have five (5) days to notify Keystone that it does not consent to said substituted escrow agent, with the reasons therefore, such consent not to be unreasonably withheld. If Acme fails to so notify Keystone, Acme shall be deemed to have consented to such substitution. Thereupon, Keystone shall provide Escrow Agent with a written notice providing how the funds

comprising the Security Deposit shall be disbursed to the substitute escrow agent upon the effective date of the resignation of the Escrow Agent.

(b) In the event ABC Bank does not act as Secured Party for all or a portion of the Equipment Package No. 1 Lease Schedules, Keystone shall have the right to substitute the Secured Party as escrow agent for such Lease Schedules. In such event ABC Bank, at the direction of Keystone, shall transfer to the replacement escrow agent the amount of the Security Deposit deposited in accordance with this Agreement which is applicable to the Lease Schedules which are not financed by ABC Bank. However, in no event shall ABC Bank be required to transfer funds out of escrow in connection with any such replacement such that after such transfer it does not hold as Escrow Agent an amount equal to 20% of the equipment cost of the Lease Schedules it has financed.

6. MISCELLANEOUS.

(a) Escrow Agent agrees to provide Acme and Keystone a statement with respect to the Security Deposit on a quarter annual basis.

(b) The Escrow Agent shall be protected in acting upon any notice, request, waiver, consent, receipt or other paper or document believed by the Escrow Agent to be signed by the proper party or parties. The Escrow Agent may act upon any signature believed by it to be genuine and may assume that any person purporting to give any notice or instruction hereunder, believed by it to be authorized, has been and is duly authorized to do so. In this regard the Escrow Agent shall be entitled to rely on the incumbency certificates provided by both Acme and Keystone.

(c) The Escrow Agent shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except its own willful misconduct, and Escrow Agent shall have no duties to anyone except those signing this Agreement.

(d) The Escrow Agent may consult with legal counsel in the event of any dispute or question as to the construction of the foregoing instructions, or the Escrow Agent's duties thereunder; and the Escrow Agent shall incur no liability and shall be fully protected in acting in accordance with the opinion and instructions of counsel.

(e) In the event of any disagreement between the undersigned or any of them, and/or the person or persons named in the foregoing instructions, and/or any other person, resulting in adverse claims and demands being made in connection with or for any papers, money or property involved herein or affected hereby, the Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall

continue, and in so doing the Escrow Agent shall not be or become liable for damages or interest to the undersigned or any of them or to any person named in the foregoing instructions for its failure or refusal to comply with such conflicting or adverse demands; and the Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(i) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the money, papers and property involved herein or affected hereby; and/or

(ii) all differences shall have been adjusted by agreement and the Escrow Agent shall have been notified thereof in writing by all of the persons interested.

(iii) In the event of such disagreement, the Escrow Agent in its discretion, may file a suit in interpleader for the purpose of having the respective rights of the claimants adjudicated, and deposit with the court all documents and property held hereunder, and the undersigned agree to pay all costs and counsel fees incurred by the Escrow Agent in such action and said costs and fees be included in the judgment in any such action.

(f) In the event that the Escrow Agent performs any service not specifically provided hereinabove at the request of the parties, or that there is any assignment or attachment of any interest in the subject matter of this escrow or modification thereof, or that any controversy arises hereunder, or that the Escrow Agent is named a party to, or intervenes in, any litigation pertaining to this escrow or the subject matter thereof, the Escrow Agent shall be reasonably compensated therefor and reimbursed by the parties hereto for all costs and expenses, including attorneys fees, occasioned thereby. The parties hereto agree if any such costs or expenses are incurred as a result of a default by Acme under any Lease that Acme, and no other party hereunder, shall be liable for reimbursement of Escrow Agent for such costs and expenses. Any other costs and expenses shall be reimbursed by the party requesting Escrow Agent to perform such service or the party whose actions or inactions has caused the event which results in the Escrow Agent incurring such costs or expenses.

(g) This Agreement may be executed in counterparts, each of which so executed shall be deemed as original, irrespective of the date of its execution and delivery; and said counterparts together shall constitute one and the same instrument.

(h) The Escrow Agent shall keep the parties hereto advised in writing of all transactions pursuant to this Escrow Agreement. All notices and other communications provided for herein shall be validly given or made if in writing and delivered or sent by registered or certified mail, return receipt requested, the address indicated on the first page hereof. The above addresses may be changed by any party by notice given in the manner provided herein. Any party hereto may send any notice or other communication hereunder to the intended recipient at the address set forth above using any other means (including personal delivery,

expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the intended recipient.

(i) This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective representatives, successors and assigns.

(j) This Agreement and the obligations of the parties hereunder shall be governed by, and construed and interpreted in accordance with, the laws of the State of Illinois, and any controversies arising hereunder shall be decided in a forum in the said state.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the date written above.

ACME INCORPORATED

KEYSTONE LEASING CORPORATION

By: _____

By: _____

Title: _____

Title: _____

ESCROW AGENT:

ABC BANK

By: _____

Title: _____