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## ESCROW AGREEMENT

This Escrow Agreement effective as of September \_\_, 201\_\_, by and among \_\_\_\_\_ ("Lessee"), having an office at 65 Chestnut Street, Hawthorne Hills, Massachusetts 02181, ABC Leasing Corporation ("ABC"), having an office at 1200 Lake Cook Road, Suite 450, Deerfield, Illinois 60015 and \_\_\_\_\_ (the "Escrow Agent"), having an office at \_\_\_\_\_

### WITNESSETH:

WHEREAS, Lessee and ABC have entered into a program to accommodate the lease financing of certain products of Lessee to its users which program is detailed in a certain letter dated November 19, 201\_\_, from ABC to Lessee ("Letter Agreement").

WHEREAS, Section G of the Letter Agreement provides for the establishment of a Loss Reserve Pool, whereby a pool will be established to insure that the risk of poor credits is shared equally by ABC and Lessee.

WHEREAS, Lessee and ABC desire to establish the Loss Reserve Pool with funds deposited with the Escrow Agent 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) Lessee and ABC hereby appoint the \_\_\_\_\_ to act as Escrow Agent to administer the Loss Reserve Pool, pursuant to the terms of this Escrow Agreement.

(b) ABC shall deliver to Escrow Agent, a check in the amount of \$550,000 as the initial funding of the escrow in accordance with the letter dated September 4, 201\_\_, from Lessee to ABC. Escrow Agent agrees to deposit this initial escrow funding in an interest bearing, separately segregated, money market account with First Midwest Bank of Deerfield, 725 Waukegan Road, Deerfield, Illinois 60015 ("First Midwest Bank Account").

(c) From time to time, ABC will deposit additional amounts to the escrow account in accordance with Section G of the Letter Agreement. The Escrow Agent shall immediately deposit all said amounts received in the First Midwest Bank Account.

#### 2. WITHDRAWALS FROM ESCROW ACCOUNT

(a) In the event of a default under a lease acquired by ABC from Lessee involving a lessee previously identified as a marginal credit, ABC shall provide notice to Escrow Agent that said default has occurred and pursuant to Section G of the Letter Agreement that, the conditions have been fulfilled entitling ABC to draw on the Loss Reserve Pool. Said notice should indicate that the following:

(i) That the account is in default;

(ii) That notice of default has been previously sent to both the user and Lessee;

- (iii) That the Lessee has failed to cure the default in the time prescribed by the Lease; and
- (iv) Instructions to the Escrow Agent to pay ABC past due payments and all late charges and the future monthly payments pursuant to Section G of the Letter Agreement.

(b) Upon receipt of said notice by Escrow Agent from ABC, Escrow Agent shall forward said notice to Lessee. Lessee 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 Lessee, Escrow Agent shall proceed to disburse funds from the escrow account to ABC pursuant to the terms of the notice.

(c) Escrow Agent shall make such other distributions from First Midwest Bank Account as indicated in writing executed by both Lessee and ABC.

3. DURATION OF THE ESCROW. This Escrow Agreement shall continue until the earlier of (i) notice of termination executed by Lessee and ABC directing Escrow Agent to disburse all remaining funds in the escrow account; (ii) depletion of the amounts held in escrow and the termination of the business arrangement between ABC and Lessee; or (iii) in the event the business arrangement between Lessee and ABC terminates while funds remain in the escrow account, all remaining funds should be returned to Lessee, less any administrative costs, upon completion of the last payment of the last poor credit account. ABC shall notify Escrow Agent upon completion of said payment and a direction to release all remaining amounts in the escrow account to Lessee.

4. COMPENSATION TO ESCROW AGENT. The Escrow Agent shall bill ABC for fees in establishing and maintaining the escrow account based upon its hourly billing rates.

5. RESIGNATION OF ESCROW AGENT. Escrow Agent may resign as Escrow Agent under this Agreement by submitting written notice to Lessee and ABC at least sixty (60) days prior to the effective date of said resignation. In the event of said notice, Lessee and ABC shall provide Escrow Agent with a joint written notice providing how the funds in the escrow account shall be disbursed upon the effective date of the resignation of the Escrow Agent. In the event that the Escrow Agent fails to receive joint instructions from Lessee and ABC regarding disposition of the escrowed funds, Escrow Agent, on the resignation date, shall distribute 50% of the remaining funds in the Escrow to Lessee and 50% to ABC.

6. MISCELLANEOUS.

(a) Escrow Agent agrees to provide Lessee and ABC a photocopy of the bank statement of the First Midwest Bank Account on a monthly basis within five (5) days of receipt of the statement by Escrow Agent from First Midwest Bank.

(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.

(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 jointly and severally to pay such compensation and expenses, and to indemnify the Escrow Agent against any loss, liability or expenses, including attorneys' fees, incurred in any act or thing done hereunder.

(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.

(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.

LESSEE

ABC LEASING CORPORATION

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

By:

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

Title:

ESCROW AGENT:

\_\_\_\_\_

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

Title: A Partner

LAWYERS' MENTOR