

[Execution copy]

**MASTER GUARANTEE AGREEMENT – FINANCE LEASE**  
(Medium Term Credits - Electronic Compliance Program)

dated as of \_\_\_\_\_, 20\_\_

between

[\_\_\_\_\_] ,  
as Lessor

and

**EXPORT-IMPORT BANK OF THE UNITED STATES**

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MGA No. \_\_\_\_-F

LESSOR INFORMATION  
(MGA No. \_\_\_\_-F)

(1) Full Name of Lessor:

\_\_\_\_\_

(2) Type of Entity (e.g., national association, corporation, partnership, etc.):

\_\_\_\_\_

(3) Jurisdiction of Organization of Lessor and, if different, its ultimate parent company  
(i.e., where incorporated or equivalent):

\_\_\_\_\_

(4) Notice Information:

Unless otherwise specified in a notice delivered in accordance with Section 10.02 of this Agreement, all notices to the Lessor shall be delivered to the following address:

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention:

\_\_\_\_\_

Facsimile:

\_\_\_\_\_

Telephone:

\_\_\_\_\_

E-Mail:

\_\_\_\_\_

The parties set forth below have caused the Master Guarantee Agreement – Finance Lease (Medium Term Credits – Electronic Compliance Program) to be duly executed and delivered as of the date set forth on the cover page hereto.

EXPORT-IMPORT BANK OF THE  
UNITED STATES

By: \_\_\_\_\_  
(Signature)

Name \_\_\_\_\_  
(Print)

Title: \_\_\_\_\_  
(Print)

LESSOR:

\_\_\_\_\_  
(Print Full Name of Lessor)

By:<sup>1</sup> \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Title: \_\_\_\_\_  
(Print)

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Title: \_\_\_\_\_  
(Print)]

MGA No. \_\_\_\_\_-F

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<sup>1</sup> Provide for one or more signatures to the extent needed to bind the Lessor.

## TABLE OF CONTENTS

LESSOR INFORMATION .....	preceding this Table of Contents
SIGNATURE PAGE .....	preceding this Table of Contents
BACKGROUND RECITALS .....	1
SECTION 1. DEFINITIONS AND PRINCIPLES OF CONSTRUCTION.....	1
1.01 Defined Terms.....	1
1.02 Principles of Construction .....	9
SECTION 2. APPROVAL OF TRANSACTIONS; CREDIT AND LEASE DELIVERY REQUIREMENTS .....	10
2.01 Applications and Approvals .....	10
2.02 Amount, Term and Use of Credits .....	10
2.03 Principal Component of Guaranteed Rent.....	11
2.04 Interest Component of Guaranteed Rent.....	11
2.05 Reserved.....	11
2.06 Lease Delivery Requirements .....	12
2.07 Credit Availability Period.....	12
2.08 Lease Agreement.....	12
2.09 Application of Payments .....	12
SECTION 3. GUARANTEE ELIGIBILITY REQUIREMENTS .....	13
3.01 Cash Payment.....	13
3.02 Local Cost Goods and Services.....	13
3.03 Insurance .....	13
3.04 Reserved.....	13
3.05 Ancillary Services .....	13
3.06 Amount.....	13
3.07 Exposure Fee.....	14
SECTION 4. THE GUARANTEES.....	15
4.01 The Guarantees.....	15
4.02 Coverage of the Guarantees.....	15
4.03 Binding Guarantees .....	15
4.04 Timely Demand.....	15
4.05 No Amendment .....	15
4.06 No Termination Without Consent .....	16
4.07 Revocation of Lessee's Payment.....	16
SECTION 5. ISSUANCE OF GUARANTEES.....	16
5.01 General.....	16
5.02 Lease Delivery Approvals .....	16
5.03 Replacement Lease Agreement and Lease Supplements .....	16
5.04 Lease Agreement and Lease Supplement Completion .....	17
SECTION 6. CONDITIONS PRECEDENT.....	17
6.01 Conditions Precedent to the Effectiveness of this Agreement.....	17
6.02 Conditions Precedent.....	17
SECTION 7. COMMITMENT FEES AND PAYMENT METHOD.....	18
7.01 Commitment Fees.....	18
7.02 Method of Payment .....	18

SECTION 8. CLAIM PROCEDURES.....	18
8.01 Failure to Pay.....	18
8.02 Demand on Ex-Im Bank.....	19
8.03 Assignment to Ex-Im Bank .....	19
8.04 Conditions of Guarantee.....	20
8.05 Payment by Ex-Im Bank .....	20
8.06 Rights After Payment by Ex-Im Bank.....	21
SECTION 9. UNDERTAKINGS OF THE LESSOR.....	21
9.01 Register .....	21
9.02 Notices .....	21
9.03 Prohibited Amendments .....	22
9.04 Delivery of Documents.....	22
9.05 Payments Following Demand on Ex-Im Bank .....	22
9.06 Transfer of Rights, Duties and Responsibilities under this Agreement.....	22
9.07 Indemnification, Suspension.....	23
9.08 Maintenance of Transaction Documents.....	23
9.09 Inspection .....	23
SECTION 10. MISCELLANEOUS.....	23
10.01 Governing Law; Waiver of Jury Trial.....	23
10.02 Notices .....	23
10.03 Computations .....	24
10.04 Benefit of Agreement.....	24
10.05 Entire Agreement .....	25
10.06 Amendment or Waiver.....	25
10.07 Termination .....	25
10.08 Suspension and Cancellation by Ex-Im Bank.....	25
10.09 Reliance on Lessor’s Evidence of Authority .....	26
10.10 Counterparts.....	26
10.11 English Language .....	26
10.12 Severability .....	26
Annex A - Form of Request for Ex-Im Bank Approval (Finance Lease)	
Exhibit A-1 - Form of Fee Letter	
Annex B - Form of Ex-Im Bank Approval (Finance Lease)	
Schedule B-1 - Required Lease Provisions	
Annex C - Conditions Precedent - Medium Term Credits (Finance Lease)	
Exhibit C-1 - Form of Exporter’s Certificate	
Exhibit C-2 - Form of Request for Lease Delivery Approval	
Annex D - Form of Assignment of Credit (Finance Lease)	
Annex E - Form of Opinion of Lessor’s Counsel as to Form of Lease	
Annex F - Form of Ex-Im Bank Approval of Form of Lease Agreement	
Annex G - Form of Remarketing Agreement	

THIS MASTER GUARANTEE AGREEMENT – FINANCE LEASE (Medium Term Credits - Electronic Compliance Program) (this “Agreement”) is made by and between the Lessor specified on the Lessor Information sheet preceding the table of contents to this Agreement, and the Export-Import Bank of the United States, an agency of the United States of America (“Ex-Im Bank”). Capitalized terms used herein shall be defined as provided in Section 1.

## BACKGROUND RECITALS

### WHEREAS:

(A) the Lessor intends to establish export financing Medium Term Credits, pursuant to which the Lessor shall extend lease financing guaranteed by Ex-Im Bank for the benefit of Lessees approved by Ex-Im Bank under transactions, each of which:

(i) shall provide for either (a) the purchase of Goods and/or Services in the United States by the Lessor for export to the User’s Country and lease thereof to a Lessee; or (b) the export of Goods and/or Services by the Lessor in the United States for lease to a Lessee in the User’s Country;

(ii) may provide for the purchase of Local Cost Goods and Services in the User’s Country and lease thereof to a Lessee; and

(iii) may provide for the payment of the related Exposure Fees;

(B) the establishment of the Credits will facilitate exports from the United States to the User’s Country;

(C) a condition to the Lessor's extension of each Credit is the availability of the Guarantee; and

(D) a condition to the issuance of the Guarantee with respect to each Credit is the satisfaction of the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

## SECTION 1. DEFINITIONS AND PRINCIPLES OF CONSTRUCTION

1.01 Defined Terms. For the purposes of this Agreement, the following terms shall have the meanings specified below.

“Agreement” shall mean this Master Guarantee Agreement – Finance Lease (Medium Term Credits - Electronic Compliance Program), including any Annex, Exhibit or other attachment hereto, as amended or otherwise modified from time to time.

“Amended Exporter’s Certificate” shall mean any Exporter’s Certificate amending any previously delivered Exporter’s Certificate.

“Ancillary Services” shall mean with respect to each Transaction:

(i) the services of the Lessor in its capacity as a Lessor that are provided in connection with the relevant Credit;

(ii) the services of a financial intermediary or advisor, provided that such Person has been retained by the Lessee, the Lessor, any Guarantor or Ex-Im Bank and such services relate to assisting the Lessee or any Guarantor in obtaining, structuring and/or meeting the financial requirements of the relevant Credit or assisting Ex-Im Bank in its analysis of the relevant Credit, any underlying project and/or the business of the Lessee or any Guarantor,

(iii) the services of an advisor or consultant with respect to technical matters (including engineering consultants, yield consultants and insurance advisors) where: (A) Ex-Im Bank has required that such a consultant be retained in order to assist Ex-Im Bank in its analysis of the relevant Credit and/or the business operations of the Lessee or any Guarantor; (B) the services of such consultant relate to the relevant Credit; and (C) the experience, expertise and overall competence of such consultant is satisfactory to Ex-Im Bank (in its sole and absolute discretion); and

(iv) the services of attorneys engaged by the Lessee, any Guarantor, the Lessor or Ex-Im Bank and provided in connection with the relevant Credit.

“Ancillary Services Provider” shall mean the Person who provides Ancillary Services.

“Business Day” shall mean either (a) solely for purposes of the definitions of “LIBOR” and “Special LIBOR”, any day on which dealings in Dollar deposits are carried on in the London interbank market and on which the Federal Reserve Bank of New York and commercial banks in London and New York City are open for domestic and foreign exchange business<sup>2</sup> or (b) for all other purposes (unless otherwise specified herein or agreed to in writing by Ex-Im Bank), any day on which the Federal Reserve Bank of New York is open for business.

“Cash Payment” shall mean the payment that a Lessee is required to make pursuant to Section 3.01.

“Commitment Fee” shall have the meaning set forth in Section 7.01.

“Comprehensive Guarantee” shall mean a Guarantee providing for compensation by Ex-Im Bank under such Guarantee for failures in payment of the relevant Guaranteed Amount regardless of the cause of the default.

“Credit” shall mean an export financing credit established by the Lessor for which Ex-Im Bank has issued an Ex-Im Bank Approval.

“Demand Date” shall have the meaning set forth in Section 8.05(a).

“Disbursement Percentage” shall mean, with respect to any Supply Contract, the percentage (if any) set forth in Part A of the relevant Exporter’s Certificate.

“ECP Web Site” shall mean the secure web site established by Ex-Im Bank to facilitate the electronic application for, and approval of, Guarantees under this Agreement.

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<sup>2</sup> The Lessor is permitted to use an alternative definition of a Business Day if Ex-Im Bank agrees in writing.

“Event of Default” shall mean a default by the Lessee of any of its obligations under the relevant Lease Agreement, after the giving of any notice and the expiration of any grace period provided for in that Lease Agreement.

“Ex-Im Bank Application” shall have the meaning set forth in Section 2.01(a)(i).

“Ex-Im Bank Approval” shall have the meaning set forth in Section 2.01(b).

“Ex-Im Bank Transaction Number” shall mean the number specified as such in the relevant Ex-Im Bank Approval.

“Exporter” shall mean any Person specified as such in an Ex-Im Bank Approval or otherwise approved by Ex-Im Bank.

“Exporter’s Certificate” shall mean the exporter’s certificate in the form of Exhibit C-1 to Annex C (or in such other form that Ex-Im Bank shall require from time to time).

“Exposure Fee” shall mean, in connection with each Transaction, a risk premium in the amount specified as such in the relevant Ex-Im Bank Approval. In the event of any refund of any portion of an Exposure Fee in accordance with the terms and conditions of this Agreement, the Exposure Fee shall mean the original Exposure Fee less the amount of any such refund.

“External Indebtedness” shall mean, with respect to any Lessee, any obligation (whether present or future, actual or contingent, secured or unsecured, as principal, surety or otherwise) for the payment or repayment of money, which obligation is denominated (or is payable at the option of the payee) in a currency other than that of the Lessee’s Country.

“Federal Funds Rate” shall mean, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such a day is not a Business Day, for the next preceding Business Day) by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (519) or any successor publication thereto, or, if such rate is not published for any day which is a Business Day, the rate specified as the “offered” Federal funds rate on such day in The Wall Street Journal (Eastern Edition, U.S.) under the table entitled “Money Rates.”

“Fee Letter” shall have the meaning set forth in Section 7.01(a)(ii).

“Final Lease Delivery Date” shall have the meaning set forth in Section 2.07.

“Finance Lease” shall mean, for the purposes of this Agreement, a lease that would be classified as a financing lease under International Accounting Standards.<sup>3</sup> Ex-Im Bank shall determine what does

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<sup>3</sup> Under International Accounting Standards, a lease is classified as a finance lease if it transfers substantially all the risks and rewards incident to ownership. Classification is made at the inception of the lease. Whether a lease is a finance lease or an operating lease depends on the substance of the transaction rather than the form. Situations that would normally lead to a lease being classified as a finance lease include the following: the lease transfers ownership of the asset to the lessee by the end of the lease term; the lessee has the option to purchase the asset at a price which is expected to be sufficiently lower than fair value at the date the option becomes exercisable that, at the inception of the lease, it is reasonably certain that the option will be exercised; the lease term is for the major part of

and does not constitute a Finance Lease for the purposes of this Agreement, and such determination, in the absence of manifest error, shall be conclusive and binding with respect to this Agreement.

“Financed Portion” shall mean the portion of the Net Contract Price of Goods and Services that may be covered under the Guarantee in accordance with Section 3.06(a).

“Fixed Rate Rent” shall mean Guaranteed Rent computed by application of interest at a fixed rate.

“Floating Rate Rent” shall mean Guaranteed Rent computed by application of interest at a floating rate.

“Foreign Content” shall mean, with respect to any Supply Contract, the U.S. Dollar amount representing the foreign content in such contract as set forth in Section 2 of the relevant Ex-Im Bank Approval. Ex-Im Bank shall determine what does and does not constitute Foreign Content, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“Foreign Currency Guarantee” shall mean a Guarantee issued pursuant to an MGA Foreign Currency Supplement.

“Goods” shall mean goods specified in the relevant Ex-Im Bank Approval which are purchased in the United States under a Supply Contract and exported from the United States to the User’s Country; *provided* that Ex-Im Bank shall determine what does and does not constitute Goods, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“Governmental Authority” shall mean the government of any country, or any agency, department or any other administrative authority or instrumentality thereof, and any local or other governmental authority within such country.

“Guarantee” shall have the meaning set forth in Section 4.01.

“Guarantee Availability Date” shall mean the date specified as such in an Ex-Im Bank Approval.

“Guaranteed Amount” shall have the meaning set forth in Section 4.02.

“Guaranteed Interest Rate” shall mean, with respect to each Credit, the rate of interest specified in the relevant Ex-Im Bank Approval; *provided* that if an alternative interest rate becomes applicable as authorized by Ex-Im Bank in the relevant Ex-Im Bank Approval (or an amendment thereto); then in each such case the Guaranteed Interest Rate shall mean such alternative rate.

“Guaranteed Rent” shall mean, with respect to each Lease Delivery, as of any Rent Payment Date, the sum of (a) the amount of the Lease Supplement Financed Amount scheduled to be paid on such Rent Payment Date (calculated either by the Level Amortization Method or the Level Rent Method, as specified in the relevant Ex-Im Bank Approval) plus (b) interest on the unpaid amount of the Lease Supplement Financed Amount, calculated at the Guaranteed Interest Rate, from and including the immediately preceding Rent Payment Date to and excluding such Rent Payment Date.

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the economic life of the asset, even if title is not transferred; at the inception of the lease, the present value of the minimum lease payments amounts to at least substantially all of the fair value of the leased asset; and the lease assets are of a specialized nature such that only the lessee can use them without major modifications being made.

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“Guaranteed Termination Value” shall mean, with respect to each Lease Delivery, as of any Rent Payment Date, the sum of (a) the amount of Lease Supplement Financed Amount scheduled to be outstanding on such Rent Payment Date (calculated either by the Level Amortization Method or the Level Rent Method, as specified in the relevant Ex-Im Bank Approval), plus (b) interest on amount calculated in clause (a) at the Guaranteed Interest Rate, from and including the immediately preceding Rent Payment Date to and excluding such Rent Payment Date.

“Guarantor” means any Person specified as such in an Ex-Im Bank Approval.

“Initial Eligibility Date” shall mean, with respect to each Transaction, the date specified as such in the relevant Ex-Im Bank Approval. Ex-Im Bank shall make all determinations of the Initial Eligibility Date for each Transaction, and such determinations shall be conclusive and binding for all purposes.

“Initial Exporter’s Certificate” shall mean the initial Exporter’s Certificate delivered to the Lessor prior to the first Lease Delivery with respect to the relevant Supply Contract.

“Interest Period” shall mean, with respect to each Lease Delivery, (a) the period commencing on the applicable Lease Delivery Date and extending up to, but not including, the next Rent Payment Date; *provided*, however, that if such Lease Delivery Date is within sixty (60) days of such Rent Payment Date (or within any other time period agreed to in writing by Ex-Im Bank and specified in the relevant Ex-Im Bank Approval)<sup>4</sup>, the Interest Period shall extend up to, but not include, the next succeeding Rent Payment Date; and (b) thereafter the period commencing on each Rent Payment Date and extending up to, but not including, the next Rent Payment Date.

“Interestholder” shall mean the Person listed as the holder of an interest in the Lease Agreement in the register maintained by the Lessor pursuant to Section 9.01, or, if no such register is maintained, the Lessor.

“Lease Agreement” shall mean a written agreement which is entered into by a Lessee, any Guarantor, the Lessor and any other Persons, providing for the lease of Goods and Services and Local Cost Goods and Services, if any, by the Lessor to the Lessee, which agreement shall contain the Required Lease Provisions.

“Lease Delivery” shall mean delivery to the Lessee by the Lessor, and the acceptance by the Lessee, of Goods and Services and Local Cost Goods and Services under a Lease Supplement for which Ex-Im Bank has issued a Lease Delivery Approval

“Lease Delivery Approval” shall mean the electronic approval of a Guarantee by Ex-Im Bank of any Request for Lease Delivery Approval.

“Lease Delivery Date” shall mean, in relation to any Lease Delivery, the Business Day on which the Lessor shall make such Lease Delivery.

“Lease Delivery Documents” shall have the meaning set forth in Section II(B)(3) of Annex C.

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<sup>4</sup> The Lessor and a Lessee may agree on a slightly longer or shorter billing cycle so long as it is still a reasonable period. Any such period must be agreed to by Ex-Im Bank and specified in the relevant Ex-Im Bank Approval.

“Lease Delivery Identification Number” shall mean, with respect to each Request for Lease Delivery Approval, the identification number provided by Ex-Im Bank to the Lessor.

“Lease Supplement” shall mean a supplement to a Lease Agreement entered into by the Lessor and the Lessee, which agreement shall among other things specifically identify the assets leased, by model and manufacturer’s serial number if possible, the beginning and ending dates of the lease, the Rent Payment Dates, the amount of rent payable on each Rent Payment Date, the termination value payable by the Lessee as of each Rent Payment Date in the event of a default by the Lessee, and under which the Lessee shall accept the lease equipment for the purposes of the Lease Agreement.

“Lease Supplement Financed Amount” shall mean, in relation to any Lease Supplement, the Financed Portion and any Local Cost Financed Portion of payments to an Exporter, Local Cost Provider, or Ancillary Services Provider and/or Ex-Im Bank under such Lease Supplement, together with, if the Exposure Fee is financed, any Exposure Fee payable in connection therewith.

“Lessee” shall mean the Person specified as such in an Ex-Im Bank Approval, which shall be the foreign lessee of (i) Goods and Services and any Local Cost Goods and Services that have been sold or provided by the Exporter(s) or Local Cost Provider(s), as the case may be, to the Lessor and leased to such lessee; or (ii) Goods and Services owned by the Exporter, and any Local Cost Goods and Services that are provided to the Exporter by Local Cost Provider(s), and leased by the Exporter, as Lessor, to such lessee.

“Lessee’s Country” shall mean the country specified as such in an Ex-Im Bank Approval.

“Lessor” shall mean the Person specified on the Lessor Information sheet preceding the table of contents to this Agreement.

“Level Amortization Method” shall mean, in relation to the Guaranteed Rent under any Lease Supplement, amortization of the equal amounts of Lease Supplement Financed Amount on each Rent Payment Date throughout the term of the Lease Supplement.

“Level Rent Method” shall mean, in relation to the Guaranteed Rent under any Lease Supplement, equal payments of Guaranteed Rent (including both the amortization of Lease Supplement Financed Amount and interest components of rent) on each Rent Payment Date throughout the term of the Lease Supplement (sometimes known as “mortgage-style” amortization).

“LIBOR”<sup>5</sup> shall mean, in relation to any Interest Period, the rate of interest per annum (rounded upward, if necessary, to the nearest 1/16 of 1%) quoted by the principal London office of the Lessor or an affiliate of the Lessor designated by the Lessor at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period for the offering to leading banks in the London interbank market of U.S. Dollar deposits for a period and in an amount comparable to such Interest Period and the principal amount upon which interest is to be paid during such Interest Period.

“Local Cost Financed Portion” shall mean the U.S. Dollar value of Local Cost Goods and Services eligible for a Guarantee and in an amount specified in the relevant Ex-Im Bank Approval.

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<sup>5</sup> If a Lessor wishes to use a different definition and Ex-Im Bank and the relevant Lessee agree, this different definition may be used and the Lessor's Request for Ex-Im Bank Approval should note that an alternative Reference Rate is requested. Ex-Im Bank's agreement to use an alternative Reference Rate must be noted in the relevant Ex-Im Bank Approval.

“Local Cost Goods and Services” shall mean, with respect to any Transaction, any goods and/or services specified as such in the relevant Ex-Im Bank Approval. Ex-Im Bank shall determine what does and does not constitute Local Cost Goods and Services, and such determination shall be conclusive and binding for all purposes.

“Local Cost Provider” shall mean either the Exporter or any Person located in the User’s Country that provides Local Cost Goods and Services, as specified in the relevant Ex-Im Bank Approval.

“Margin” shall mean, with respect to Floating Rate Rent, the positive or negative percentage rate added to the Reference Rate.

“Medium Term Credit” shall mean any Credit designated a “Medium Term Credit” by Ex-Im Bank.

“MGA Foreign Currency Supplement” shall mean any Master Guarantee Agreement – Finance Lease Foreign Currency Supplement for medium-term credits, entered into between the Lessor and Ex-Im Bank on or after the date hereof, including any Annex or other attachment thereto, as amended or otherwise modified from time to time.

“MGA No.” shall mean the identification number Ex-Im Bank assigns to this Agreement.

“Net Contract Price” shall mean, with respect to a Supply Contract, the U.S. Content plus the Foreign Content.

“Non-Ex-Im Bank Payment” shall have the meaning set forth in Section 9.05.

“OECD Arrangement” shall mean the OECD Arrangement on Guidelines for Officially Supported Export Credits adopted in 1998 by members of the Organization for Economic Cooperation and Development (as amended or modified from time to time).

“Operating Lease” shall mean, for the purposes of this Agreement, any lease that is not a Finance Lease.

“Other Rent” shall mean, with respect to any Lease Supplement, any rent payable under such Lease Supplement in excess of Guaranteed Rent.

“Password” shall mean the password provided to the Lessor by Ex-Im Bank, which password shall be used (in conjunction with the Lessor’s User Identification) to access the ECP Web Site.

“Person” shall mean an individual, corporation, partnership, trust, unincorporated organization or any other enterprise, or a Governmental Authority.

“Reference Rate” shall mean LIBOR or any alternative rate of interest specified in an Ex-Im Bank Approval.

“Rent Payment Date” shall mean each date on which an installment of rent is due as specified in an Ex-Im Bank Approval.

“Request for Lease Delivery Approval” shall mean a request in the form of Exhibit C-2 to Annex C (or in such other form required by Ex-Im Bank from time to time).

“Request for Ex-Im Bank Approval” shall have the meaning set forth in Section 2.01(a).

“Required Lease Provisions” shall mean the provisions set forth in Annex B-1 (or such other provisions as may be required by Ex-Im Bank from time to time).

“Responsible Division” shall mean the Ex-Im Bank division identified as the “Responsible Division” in the relevant Ex-Im Bank Approval for a Transaction or in any notice delivered by Ex-Im Bank to the Lessor.

“Security” shall have the meaning set forth in Section 8.03(b).

“Services” shall mean services (including Ancillary Services) set forth in the relevant Ex-Im Bank Approval which are performed under a Supply Contract (excluding any services that qualify as Local Cost Goods and Services); *provided* that Ex-Im Bank shall determine what does and does not constitute Services, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“Special Ancillary Services” shall mean Ancillary Services (i) for which Ex-Im Bank has selected the Ancillary Services Provider and required a Lessee or another Person to pay for such services; (ii) that Ex-Im Bank has determined, in its sole discretion, are necessary in order for the underlying Transaction to go forward and cannot be reasonably obtained in the United States; or (iii) that the Lessor provides in connection with financing the Credit and for which the Lessor charges a one-time fee.

“Special LIBOR” shall mean, with respect to any Interest Period, the rate of interest per annum specified as the “\$ Libor BBA Fixing – Interbank Fixing” rate (or any successor title) in the Financial Times under the table entitled “World Interest Rates – Domestic Money Rates” (or any successor title) in effect on the day two Business Days prior to the first day of the relevant Interest Period for a term similar to the term of such Interest Period. If no rate is specified for such day, the applicable rate shall be the rate specified for the immediately preceding day for which a rate is specified, and if more than one rate is specified, the applicable rate shall be the highest of all such rates. In the event the Financial Times either completely ceases publication or discontinues publication of the Dollar LIBOR Interbank fixing rate, then Ex-Im Bank shall determine Special LIBOR by reference to a financial publication with a similar international or U.S. circulation, which publication shall be selected by Ex-Im Bank in its sole discretion.

“Supply Contract” shall mean (i) the contract(s) (or, if no contract is executed, any other document(s) satisfactory to Ex-Im Bank) for the purchase of Goods and/or Services and Local Cost Goods and Services, entered into between a Lessor and an Exporter, Ancillary Services Provider or Local Cost Provider, as the case may be or (ii) if the Lessor is a U.S. entity and takes title to the Goods and/or Services and Local Cost Goods and Services, the Lease Agreement entered into between the Lessor and the Lessee, as supplemented by the relevant Lease Supplements; *provided*, in each case, multiple contracts (or other documents) among the same parties with respect to a Transaction will be considered a single “Supply Contract” for all purposes under this Agreement.

“Total Financed Amount” shall mean the amount specified as such in the relevant Ex-Im Bank Approval for each Transaction.

“Transaction” shall have the meaning set forth in Section 2.01(b).

“Transaction Documents” shall mean with respect to each Transaction, the Lease Delivery Documents, Ex-Im Bank Approval, Lease Agreement and all Lease Supplements, with respect to such Transaction.

“U.S.” or “United States” shall mean the United States of America.

“U.S. Content” shall mean, with respect to any Supply Contract, the U.S. Dollar amount representing the U.S. content in such contract as set forth in Section 2 of the relevant Ex-Im Bank Approval. Ex-Im Bank shall determine what does and does not constitute U.S. Content, and such determination, in the absence of manifest error, shall be conclusive and binding for all purposes.

“U.S. Content Percentage” shall mean, with respect to any Supply Contract, the percentage specified as such in Part A of the relevant Exporter’s Certificate.

“U.S. Dollars” or “US\$” shall mean the lawful currency of the United States of America.

“User” shall mean the Person specified as such in each Ex-Im Bank Approval, which Person is the foreign user of the Goods, Services and any Local Cost Goods and Services leased by the Lessor specified in such Ex-Im Bank Approval.

“User Identification” shall mean the identification code provided by Ex-Im Bank to the Lessor, which identification code shall be used (in conjunction with the Lessor’s Password) to access the ECP Web Site.

“User’s Country” shall mean the country specified as such in the Ex-Im Bank Approval.

“Utilization” shall mean the making of a Lease Delivery .

1.02 Principles of Construction. The following principles of construction shall apply to this Agreement:

(a) The meanings set forth for defined terms in Section 1.01 or elsewhere in this Agreement shall be equally applicable to both the singular and plural forms of the terms defined.

(b) Unless otherwise specified, all references in this Agreement to Sections, Schedules, Annexes and Exhibits are to Sections, Schedules, Annexes and Exhibits in or to this Agreement.

(c) The headings of the Sections in this Agreement are included for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement. Any footnotes in this Agreement are for informational purposes only and shall not in any way affect the meaning or construction of any provision of this Agreement.

(d) Any provision of this Agreement that obligates the Lessor to "require" a Lessee to do a specified act shall mean that the Lessor is obligated to cause a duly authorized officer of the relevant Lessee to agree in writing that the Lessee will do such specified act.

(e) In the event of any inconsistency between the terms of the Ex-Im Bank Approval with respect to a Transaction and the terms of this Agreement or of any other agreement or instrument relating to the Transaction, as between the Lessor and Ex-Im Bank the terms of such Ex-Im Bank Approval shall govern and shall supersede the terms hereof or thereof to the extent of such difference. In the event of

any inconsistency between the terms of this Agreement and any other agreement or instrument relating to a Transaction (other than the terms of the relevant Ex-Im Bank Approval), as between the Lessor and Ex-Im Bank the terms of this Agreement shall govern.

## SECTION 2. APPROVAL OF TRANSACTIONS; CREDIT AND LEASE DELIVERY REQUIREMENTS

2.01 Applications and Approvals. (a) Request for Ex-Im Bank Approval. Ex-Im Bank will consider approval of a Guarantee with respect to each proposed lease financing transaction for which the Lessor has submitted

(i) a fully completed application in the form of Annex A hereto (a “Request for Ex-Im Bank Approval”); and

(ii) a fully completed Ex-Im Bank “Application for Medium-Term Insurance or Guarantee” or such other form that Ex-Im Bank shall require from time to time (an “Ex-Im Bank Application”);

*provided* that such proposed lease financing transaction satisfies the terms and conditions provided herein, including, without limitation, the Guarantee eligibility requirements set forth in Section 3. The Lessor may only request approval of a Comprehensive Guarantee with respect to a proposed lease financing of a Foreign Currency Credit if the Lessor and Ex-Im Bank have entered into an MGA Foreign Currency Supplement and all conditions to the effectiveness of such agreement have been satisfied.

(b) Ex-Im Bank Approval; Special Modifications for Foreign Currency Transactions. (i) A Guarantee of the relevant Credit with respect to each transaction approved by Ex-Im Bank (each, a “Transaction”) consisting of either (A) the sale of Goods and/or Services to a Lessor by an Exporter (or Exporters) in one or more shipments to be leased by the Lessor to a Lessee (and of any related sale of Special Ancillary Services or Local Cost Goods and Services to be leased by the Lessor to a Lessee) which is to be financed by a lease under such Credit, or (B) the lease of Goods and Services to be exported from the United States by an Exporter, as Lessor, in one or more shipments to be leased to a Lessee (and of any related sale of Special Ancillary Services or Local Cost Goods and Services) which is to be financed by a lease under such Credit, shall be evidenced by Ex-Im Bank's issuance of a letter of approval in the form of Annex B hereto (as amended from time to time, an “Ex-Im Bank Approval”). Any modifications required by Ex-Im Bank with respect to any Transaction shall be set forth in the Ex-Im Bank Approval with respect to such Transaction.

(ii) If Section 3 (Terms of Ex-Im Bank Guarantee) of the Ex-Im Bank Approval with respect to a particular Transaction states that the Guarantee of the relevant Credit is a Foreign Currency Guarantee, then for all purposes of such Transaction the terms of this Agreement shall be deemed to be modified as provided in the MGA Foreign Currency Supplement.

2.02 Amount and Use of Credits. (a) The Lessor shall establish each Credit pursuant to the terms and conditions set forth in this Agreement, the relevant Lease Agreement and Lease Supplement(s) and the relevant Ex-Im Bank Approval, in favor of the Lessee and in the amount specified in such Ex-Im Bank Approval.

(b) Each Credit shall be used to enable the relevant Lessee to finance:

(i) the Financed Portion of the Net Contract Price incurred on and after the Initial Eligibility Date by a Lessor for the purchase of Goods and Services to be leased to a Lessee;

(ii) if provided in the Ex-Im Bank Approval, the Local Cost Financed Portion of the costs incurred on or after the Initial Eligibility Date by a Lessor in respect of Local Cost Goods and Services, if any, to be leased to a Lessee; and

(iii) if provided in the Ex-Im Bank Approval, the Exposure Fee payable on such Financed Portion and Local Cost Financed Portion.

For purposes of this Section 2.02(b), costs with respect to services shall be deemed to have been incurred on the date the services were performed, as evidenced by the invoice of the provider of such services, and costs with respect to goods shall be deemed to have been incurred on the date the goods were shipped, as evidenced by the on-board date of the relevant bill of lading.

2.03 Principal Component of Guaranteed Rent. In each Transaction, the Lessor shall require that the Lessee shall pay all Lease Supplement Financed Amount under the Credit (a) in the number of successive periodic installments of Guaranteed Rent indicated on the relevant Ex-Im Bank Approval, (b) according to either the Level Amortization Method or the Level Rent Method, as provided in the relevant Ex-Im Bank Approval, *provided* that, on the last Rent Payment Date, the Lessor shall require that the Lessee shall pay in full the amount of the Credit then outstanding, and (c) with each such rent payment payable on a Rent Payment Date.

2.04 Interest Component of Guaranteed Rent . (a) Payments to the Lessor. In each Transaction, the Lessor shall require that, on each Rent Payment Date, the Lessee pay Guaranteed Rent that includes interest on all Lease Supplement Financed Amount scheduled to be outstanding from time to time under the Credit, calculated at an interest rate per annum equal to the relevant Guaranteed Interest Rate.

(b) Payments to Ex-Im Bank. (i) Notwithstanding Section 2.04(a), the Lessor shall require that, if Ex-Im Bank shall have made a claim payment to the Lessor with respect to any Floating Rate Rent, then, beginning on the date of such claim payment, Special LIBOR shall apply to each such installment of Floating Rate Rent in place of the Reference Rate contained in the relevant Lease Agreement or Lease Supplement(s) for all purposes and each such installment of Floating Rate Rent shall bear interest at a rate equal to the greater of (A) Special LIBOR and (B) Special LIBOR plus the Margin.

(ii) Notwithstanding any provision of a Lease Agreement or Lease Supplement with respect to a Credit providing for the payment of additional interest on any amounts of rent, fees or other unpaid and overdue amounts owing to the Lessor, in each Transaction the Lessor shall require that, if Ex-Im Bank shall have made a claim payment to the Lessor, then, beginning on the date of such claim payment, if any amount of Guaranteed Rent then owing to Ex-Im Bank is not paid in full when due, whether at stated maturity, by acceleration or termination or otherwise, the Lessee shall pay to Ex-Im Bank on demand interest on such unpaid amount (to the extent permitted by applicable law) for the period from the date such amount was due to Ex-Im Bank until such amount shall have been paid in full at an interest rate per annum equal to one percent (1%) per annum above the Guaranteed Interest Rate (as modified, if required, by 2.04(b)(i)).

2.05 Reserved .

2.06 Lease Delivery Requirements. Upon satisfaction of the conditions set forth in Section 6, Lease Deliveries under the Credit with respect to each Credit may be made by delivery to the Lessee by the Lessor, and the acceptance by the Lessee, of Goods and Services and Local Cost Goods and Services under a Lease Supplement under which the Guaranteed Rent will reimburse the Lessor for the Financed Portion and Local Cost Financed Portion of payments to an Exporter, Local Cost Provider, or Ancillary Services Provider and/or Ex-Im Bank .

2.07 Credit Availability Period. Subject to the terms and conditions provided herein and in the relevant Ex-Im Bank Approval, including, without limitation, the conditions set forth in Section 6, the Lessor may only make Lease Deliveries under the Credit with respect to each Transaction during the period from the date of the Ex-Im Bank Approval of such Transaction up to and including the Final Lease Delivery Date for such Credit. "Final Lease Delivery Date" shall mean the date specified as such in an Ex-Im Bank Approval or, if earlier, the date on which the full remaining balance of the Credit is canceled either (a) by the Lessee prior to the earlier of the Lessee's execution of a Lease Agreement with respect to such Credit or the Lessee's execution of the initial Lease Supplement under such Credit, (b) by any of the parties to a Lease Agreement with respect to such Credit, in accordance with the provisions of such Lease Agreement or (c) by Ex-Im Bank in accordance with Section 10.08.

2.08 Lease Agreement . (a) The obligation of the relevant Lessee to repay all Lease Supplement Financed Amount under the Credit extended to such Lessee shall be evidenced by a Lease Agreement together with the Lease Supplement(s) relating to such Credit.

(b) Each Lease Agreement shall contain the Required Lease Provisions. No Lease Agreement or Lease Supplement shall modify the terms of the Required Lease Provisions. The Lessor shall be the only party named as the payee under any Lease Agreement.

(c) The Lessor shall have the duty to ensure that each Lease Agreement is in the form required by this Agreement; *provided* that for the avoidance of any doubt the Lessor and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07 the Lessor shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Lessor to comply with its obligation under this Section 2.08(c) but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

(d) The Lessor shall have the duty to ensure that each Lease Supplement is in the form required by this Agreement; *provided* that for the avoidance of any doubt the Lessor and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07 the Lessor shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Lessor to comply with its obligation under this Section 2.08(d) but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

2.09 Application of Payments. For each Credit, the Lessor and Ex-Im Bank shall each apply payments received by it under the applicable Lease Agreement and Lease Supplement(s) (whether at stated maturity, by reason of acceleration or termination, prepayment or otherwise) in the following order of priority:

(a) interest due on demand on any unpaid amounts (to the extent permitted by applicable law) of Guaranteed Rent, fees or other amounts owing to the Lessor in connection with such Credit, but only to the extent such amounts are included in the Guaranteed Amount;

(b) Commitment Fees, Exposure Fees and all other amounts due to Ex-Im Bank under this Agreement and the Lease Agreement, in each case relating to such Credit;

(c) installments of Guaranteed Rent and Other Rent, if any, due under such Credit, to be allocated pro rata in accordance the amounts of Guaranteed Rent and Other Rent then scheduled to be due;

(d) any termination payment due under such Lease Agreement, but only to the extent such amounts are included in the Guaranteed Amount; and

(e) all other amounts due under this Agreement relating to such Credit or otherwise due under such Credit and not otherwise provided for in this Section 2.09.

Payments with respect to multiple Lease Supplements pertaining to any Lease Agreement shall be applied pro rata to such Lease Supplements in accordance with the above priorities.

### SECTION 3. GUARANTEE ELIGIBILITY REQUIREMENTS

3.01 Cash Payment. For each Credit, the Lessee shall have made or caused to be made a cash payment (a "Cash Payment") for the purchase of Goods and Services in an amount equal to not less than fifteen percent (15%) of the Net Contract Price as set forth in the Ex-Im Bank Approval. The Lessor may finance any such Cash Payment.

3.02 Local Cost Goods and Services.<sup>6</sup> For each Credit, Ex-Im Bank will provide a Guarantee with respect to the financing of Local Cost Goods and Services only if specifically provided for in the relevant Ex-Im Bank Approval. The Guarantee of each such Credit shall only cover costs in respect of Local Cost Goods and Services subject to the provisions of Annex C hereto and in an amount not to exceed the Local Cost Financed Portion.

3.03 Insurance. The Lessor shall require that U.S. insurers be given a non-discriminatory opportunity to bid for marine and transit hazards insurance related to the Goods and/or Services.

3.04 Reserved.

3.05 Ancillary Services. (a) Ancillary Services shall be treated in the same manner as any other Services (including, without limitation, the requirements set forth in this Agreement for Guarantee support with respect to the financing of such Services) and must be authorized by Ex-Im Bank in the relevant Ex-Im Bank Approval.

(b) Ex-Im Bank will not guarantee any Lease Supplement Financed Amount with respect to Ancillary Services or Special Ancillary Services unless there has been a Utilization with respect to Goods or Services (excluding Ancillary Services) under such Credit.

3.06 Amount. Subject to the terms and conditions of this Agreement, the relevant Lease Agreement and Lease Supplement and the relevant Ex-Im Bank Approval, the Guarantee shall cover Lease Supplement Financed Amount for each Lease Delivery up to the following maximum amount:

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<sup>6</sup> Guarantee support for Local Cost Goods and Services must be specifically authorized by Ex-Im Bank's Board of Directors.

(a) an amount equal to the lesser of (i) eighty-five percent (85%), (ii) the U.S. Content Percentage and (iii) the Disbursement Percentage (if any), in each case, of the U.S. Dollar invoice value of Goods and Services to be financed by such Lease Delivery; plus

(b) the Local Cost Financed Portion of Local Cost Goods and Services to be financed by such Lease Delivery; plus

(c) an amount equal to 100% of the Exposure Fee on the amounts disbursed pursuant to (a) and (b) above.

3.07 Exposure Fee. (a) In order to be eligible for a Guarantee, each Lessee must pay or cause to be paid an Exposure Fee to Ex-Im Bank as follows:

(i) if the relevant Ex-Im Bank Approval indicates that the Exposure Fee is payable “as disbursed”, no later than each Lease Delivery Date and in an amount equal to the percentage specified in such Ex-Im Bank Approval multiplied by the amount of the Financed Portion and Local Cost Financed Portion made on such Lease Delivery Date,

(ii) if the relevant Ex-Im Bank Approval indicates that the Exposure Fee is payable “up front” and “financed”, no later than the date of the first Lease Delivery and in the entire amount set forth in such Ex-Im Bank Approval,

(iii) if the relevant Ex-Im Bank Approval indicates that the Exposure Fee is payable “up front” and “not financed,” prior to the date of the first Utilization and in the entire amount set forth in such Ex-Im Bank Approval, and

(iv) in accordance with Section 7.02 hereof.

(b) In the case of each Credit for which (i) the relevant Ex-Im Bank Approval indicates that the Exposure Fee is payable “up front” and (ii) a portion of the Credit has been cancelled by the Lessee or not fully disbursed on or before the Final Lease Delivery Date, Ex-Im Bank shall refund the Exposure Fee applicable to such cancelled or undisbursed amount of Credit, *provided* that (A) the Lessee has given the Lessor a written request for an Exposure Fee refund and the Lessor has forwarded such request to Ex-Im Bank within 180 days after the Final Lease Delivery Date and (B) Ex-Im Bank determines that the Exposure Fee applicable to such cancelled or undisbursed amount exceeds \$1,000. If an Exposure Fee refund is due with respect to an Exposure Fee that has been financed, unless otherwise agreed to by Ex-Im Bank, Ex-Im Bank shall pay such refund to the Lessor on the next Rent Payment Date that is at least thirty (30) days after the date of Ex-Im Bank’s receipt of such refund request; the Exposure Fee refund shall be applied to the installments of Guaranteed Rent under the Credit in the inverse order of their maturity, and, in cases where more than one Lease Supplement is outstanding, *pro rata* to each Lease Supplement. If an Exposure Fee refund is due with respect to an Exposure Fee that has not been financed, Ex-Im Bank shall pay such refund to the Lessee within thirty (30) days after the date of Ex-Im Bank’s receipt of such refund request. Notwithstanding the above, (i) for so long as there exists an Event of Default or event which but for the giving of notice or the lapse of time or both would constitute an Event of Default, Ex-Im Bank shall not be obligated to pay any Exposure Fee refund and (ii) Ex-Im Bank is authorized to set-off and apply any Exposure Fee refund against any outstanding obligations of the Lessee to Ex-Im Bank.

## SECTION 4. THE GUARANTEES

4.01 The Guarantees. If the Ex-Im Bank Approval of a Credit indicates that Ex-Im Bank's Guarantee is a "Comprehensive Guarantee", then, subject to the terms and conditions set forth in this Agreement and such Ex-Im Bank Approval, Ex-Im Bank guarantees the payment of Guaranteed Rent in an amount up to and including the Guaranteed Amount for such Credit (the "Guarantee"). In no event shall the liability of Ex-Im Bank hereunder with respect to any Credit established for any Transaction exceed the Guaranteed Amount for such Credit.

4.02 Coverage of the Guarantees. The Guarantee for each Credit shall extend to the following amounts (collectively, the "Guaranteed Amount"):

(a) with respect to the full Credit, that portion of Guaranteed Termination Value as at the scheduled due date of the first defaulted installment of Guaranteed Rent that consists of (x) the disbursed and outstanding Lease Supplement Financed Amount with respect to which Ex-Im Bank has issued one or more Lease Delivery Approvals, *provided* that in no event shall the liability of Ex-Im Bank under this clause 4.02(a)(x) with respect to the Lease Agreement and all Lease Supplements pertaining to the Credit exceed the Total Financed Amount for such Credit, plus (y) unpaid interest on the amounts described in Section 4.02(a)(x) above, accrued at the Guaranteed Interest Rate to the scheduled payment date thereof; and

(b) interest on any due and unpaid amounts described in Section 4.02(a) above, accrued at the Guaranteed Interest Rate from the scheduled due date of the first defaulted installment of Guaranteed Rent to the date of payment thereof by Ex-Im Bank.

4.03 Binding Guarantees. After the issuance of a Lease Delivery Approval with respect to a Lease Delivery, the Guarantee with respect to such Lease Supplement Financed Amount shall be binding on Ex-Im Bank even though payment under the relevant Lease Agreement and/or Lease Supplement(s) is held to be unenforceable, except to the extent provided in Sections 4.04, 4.05 and/or 4.06. Ex-Im Bank acknowledges and agrees that the binding nature of a Guarantee shall not be affected by any Lessee's failure to comply with any of the Guarantee eligibility requirements set forth in Section 3. Ex-Im Bank reserves the right to pursue any or all other available remedies in the event of any such failure.

4.04 Timely Demand. In the event that the Lessor fails to make demand on Ex-Im Bank on behalf of an Interestholder within the time period required in Section 8.02(b)(vi), the Guarantee of the unpaid installment of Guaranteed Rent as to which such timely demand was not made shall automatically terminate with respect thereto. This termination shall be without prejudice to the right of the Lessor, on behalf of an Interestholder, to make demand on Ex-Im Bank under this Agreement for any other due and unpaid installments of Guaranteed Rent under any Lease Agreement or Lease Supplement.

4.05 No Amendment. In the event that the Lessor or an Interestholder, without Ex-Im Bank's prior written consent, agrees to an amendment or deviation prohibited by Section 9.03, Ex-Im Bank shall have the right to terminate the Guarantee with respect to all or a portion of the Guaranteed Amount of the Credit affected by such amendment or deviation if the Lessor or such Interestholder, as the case may be, does not rescind or otherwise remedy the effect of such amendment or deviation to the satisfaction of Ex-Im Bank within thirty (30) calendar days after notice from Ex-Im Bank to the Lessor and the relevant Interestholder to rescind or otherwise remedy the effect of such amendment or deviation. Ex-Im Bank shall exercise its right to terminate the Guarantee with respect to such Credit pursuant to this Section 4.05 by providing written notice thereof to the Lessor and all affected Interestholders. Any termination of the Guarantee with respect to a Credit by Ex-Im Bank under this Section 4.05 will be deemed effective as of

the date on which the Lessor or the relevant Interestholder, as the case may be, agreed to the prohibited amendment or deviation.

4.06 No Termination Without Consent. In the event that, without the prior written consent of Ex-Im Bank, the Lessor (whether or not acting on the instructions of an Interestholder) shall terminate a Lease Agreement or Lease Supplement or shall declare all or any part of the Guaranteed Termination Value under a Lease Agreement or Lease Supplement to be immediately due and payable or to be due and payable upon the demand of the Lessor, then Ex-Im Bank shall have the right to terminate the Guarantee with respect to all or a portion of the Guaranteed Amount with respect to such Lease Agreement and all Lease Supplements thereunder. Ex-Im Bank shall exercise its right to terminate the Guarantee pursuant to this Section 4.06 by providing written notice thereof to the Lessor and all affected Interestholders. Any termination of the Guarantee by Ex-Im Bank under this Section 4.06 will be deemed effective as of the date of the relevant declaration by the Lessor.

4.07 Revocation of Lessee's Payment. Notwithstanding the provisions of Section 4.04, the Guarantee issued in connection with any Credit shall continue to be binding on Ex-Im Bank with respect to any payment, or any part thereof, of Guaranteed Rent or Guaranteed Termination Value under any Lease Agreement or Lease Supplement that is rescinded or must otherwise be returned by the Lessor or an Interestholder if such rescission or return of payment has been compelled by law as the result of the bankruptcy or insolvency of the Lessee or any Guarantor, or if such rescission or return of payment is a result of any law, regulation or decree applicable to the Lessee or any Guarantor. A demand on Ex-Im Bank for payment pursuant to the Guarantee of any such returned amount must be made promptly in writing but in no event later than thirty (30) days after the Lessor or an Interestholder has actually returned such amount. At least fifteen (15) days prior to making such demand on Ex-Im Bank, the Lessor or affected Interestholder shall have made demand for payment on the Lessee or any such Guarantor, whichever is the party unaffected by the rescission action.

## SECTION 5. ISSUANCE OF GUARANTEES

5.01 General. A Guarantee will apply to all Lease Deliveries with respect to which Ex-Im Bank has issued a Lease Delivery Approval.

5.02 Lease Delivery Approvals. At any time up to and including the Guarantee Availability Date for a Credit, after the relevant Lease Delivery under such Credit is made, the Lessor may request that Ex-Im Bank issue a Lease Delivery Approval with respect to any Lease Delivery made on or prior to the Final Lease Delivery Date pursuant to such Credit by submitting electronically over the ECP Web Site a request (a "Request for Lease Delivery Approval") in the form of Exhibit C-2 to Annex C (or such other form as shall be notified by Ex-Im Bank to the Lessor from time to time). Ex-Im Bank will confirm receipt of each such request by issuing electronically to the Lessor a Lease Delivery Identification Number. If the requirements set forth in this Agreement (including, without limitation, Annex C hereto) are satisfied, Ex-Im Bank will issue a Lease Delivery Approval with respect to each Lease Delivery made on or prior to the Final Lease Delivery Date for the relevant Credit in the manner described in, and pursuant to the terms and conditions of, Annex C. Ex-Im Bank shall evidence each Lease Delivery Approval by recording the word "Approved" in the "Status" column corresponding to the relevant Lease Delivery Identification Number as set forth on the "History Requests" page of the ECP Web Site.

5.03 Replacement Lease Agreement and Lease Supplements. (a) Following the issuance of a Lease Delivery Approval with respect to any Lease Delivery, if any Lease Agreement or Lease Supplement evidencing such Lease Delivery is mutilated, lost, stolen or destroyed, the Lessee shall

execute and deliver a replacement Lease Agreement and Lease Supplements having the same terms as the Lease Agreement or Lease Supplement so mutilated, lost, stolen or destroyed.

(b) The Lessor shall have the duty of ensuring that any replacement Lease Agreement or Lease Supplement is identical in form to the Lease Agreement or Lease Supplement being replaced; *provided* that for the avoidance of any doubt the Lessor and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07 the Lessor shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Lessor to comply with its obligation under this Section 5.03(a) but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

5.04 Lease Agreement and Lease Supplement Completion. With respect to all Lease Agreements and Lease Supplements evidencing a Credit, the Lessor shall ensure: (a) that the text of each such Lease Agreement and Lease Supplement conforms with the text and format required by Section 2.08; (b) that the date of issuance of each such Lease Supplement conforms with all applicable terms and conditions of this Agreement, the relevant Ex-Im Bank Approval and the Lease Agreement for the establishment of such date; (c) that the Lessor's name and address are accurately reflected as payee on the face of each such Lease Agreement and Lease Supplement; (d) that the representation of the amounts or Guaranteed Rent, Other Rent, if any, and Guaranteed Termination Value of each such Lease Agreement and Lease Supplement is accurate and free of ambiguity between the numerical representation and the textual representation of each such amount; and (e) that the due dates set forth in each such Lease Agreement and Lease Supplement conform with all applicable terms and conditions of this Agreement, the relevant Ex-Im Bank Approval and the Lease Agreement for the establishment of such dates; *provided* that for the avoidance of any doubt, the Lessor and Ex-Im Bank each acknowledges and agrees that pursuant to Section 9.07 the Lessor shall indemnify Ex-Im Bank for all actual damages and costs suffered by Ex-Im Bank as a result of any failure by the Lessor to comply with its obligation under this Section 5.04, but any such failure shall in no way affect the binding nature of any Guarantee issued with respect to the relevant Credit.

## SECTION 6. CONDITIONS PRECEDENT

6.01 Conditions Precedent to the Effectiveness of this Agreement. As conditions precedent to the effectiveness of this Agreement, Ex-Im Bank shall have received, in form and substance satisfactory to it, evidence of the authority (including specimen signatures) of each Person who, on behalf of the Lessor, signed this Agreement, will submit the Requests for Lease Delivery Approval or other documents required by this Agreement, and will otherwise act as the Lessor's representative in the performance of this Agreement.

6.02 Conditions Precedent. The Utilization of each Credit and the issuance of any Guarantee with respect thereto shall be subject: (a) to the execution of a Lease Agreement among the relevant Lessee, any Guarantor and the Lessor, in form and substance satisfactory to Ex-Im Bank, (b) to the satisfaction of each of the conditions precedent set forth in the Ex-Im Bank Approval with respect to such Credit, if any, (c) to the satisfaction of each of the conditions precedent set forth in Annex C, and (d) to the satisfaction of each of the conditions precedent to first Utilization set forth in the Lease Agreement.

## SECTION 7. COMMITMENT FEES, EXPOSURE FEES AND PAYMENT METHOD

7.01 Commitment Fees. (a) In connection with each Transaction, if the Lessor is the "Applicant" named on the relevant Ex-Im Bank Application then the Lessor shall either:

(i) pay or cause to be paid to Ex-Im Bank a guarantee commitment fee (a "Commitment Fee") with respect to such Transaction whether or not the Transaction is consummated (including, without limitation, whether or not any Lease Agreement or Lease Supplement is executed), at the rate per annum specified in the relevant Ex-Im Bank Approval on the uncanceled and undisbursed balance from time to time of the Credit, computed on the basis of the actual number of days elapsed (including the first day but excluding the last), using a 360-day year, accruing from the date specified in the relevant Ex-Im Bank Approval to the Final Lease Delivery Date, and payable on the dates specified in such Ex-Im Bank Approval beginning on the date specified therein; or

(ii) include with such Ex-Im Bank Application at the time of submission to Ex-Im Bank a duly authorized and executed letter from the Lessee in the form of Exhibit A-1 to Annex A (a "Fee Letter") pursuant to which the Lessee agrees to pay or cause to be paid to Ex-Im Bank the relevant Commitment Fee.

(b) The Lessor acknowledges and agrees that the Commitment Fee shall continue to accrue and become due and payable as described above during any period in which Utilizations under a Credit are suspended as described in Section 10.08(a).

7.02 Method of Payment. (a) All payments required by Section 3.07 hereof and this Section 7 shall be made without set-off or counterclaim in U.S. Dollars in immediately available and freely transferable funds no later than 11:00 A.M. (New York City time) on the date on which due (as applicable) to Ex-Im Bank at the Federal Reserve Bank of New York for credit to Ex-Im Bank's account: U.S. Treasury Department 021030004 TREAS NYC/CTR/BNF=/AC\_4984 OBI=Export-Import Bank Due \_\_\_\_\_ on EIB Transaction No. AP\_\_\_\_\_-[Country] from [\_\_\_\_\_] for payment of [Exposure Fee][Commitment Fee] or as otherwise directed in writing by Ex-Im Bank's Treasurer-Controller or Assistant Treasurer.

(b) Except as otherwise provided herein, whenever any payment would otherwise fall due on a day that is not a Business Day, the due date for payment shall be the immediately succeeding Business Day and interest and fees shall be computed in accordance with Section 10.03.

## SECTION 8. CLAIM PROCEDURES

8.01 Failure to Pay. In the event that: (a) the Lessee and the Guarantors, if any, respecting any Credit fail for any reason (including, without limitation, debt relief accorded by the United States to the Lessee's Country or the imposition of withholding taxes by the Lessee's Country) to pay in full any regularly scheduled installment of Guaranteed Rent under any Lease Agreement or Lease Supplement for more than thirty (30) calendar days after the due date of such installment; and (b) a period of fifteen (15) calendar days has elapsed since written demand for payment was made by the Lessor on the Lessee and any Guarantors (which demand may be omitted only if and to the extent that the making thereof would be prohibited by any applicable law governing the bankruptcy or insolvency of the Lessee or a Guarantor as appropriate), then the Lessor, on behalf of all Interestholders, may make demand for payment on Ex-Im Bank in accordance with Section 8.02 with respect to the unpaid amount of Guaranteed Termination

Value under all outstanding Lease Supplements executed in connection with such Credit as at the scheduled due date of the first defaulted installment of Guaranteed Rent. For the avoidance of doubt, any failure by a Lessee to make a prepayment of Guaranteed Rent or to make any payment in respect of a purchase option or termination under any Lease Agreement shall not be a payment default that entitles the Lessor to make demand on Ex-Im Bank under this Agreement.

8.02 Demand on Ex-Im Bank. (a) Subject to Section 8.01, the Lessor shall be entitled to make a demand on Ex-Im Bank for compensation. In the event that a demand made pursuant to the previous sentence is not for the full amount of the unpaid Guaranteed Termination Value as at the scheduled due date of the first defaulted installment of Guaranteed Rent, the Lessor shall be entitled to make a second demand on Ex-Im Bank for compensation with respect to all or any part of the remaining amount. Subject to Section 8.02(b), the Lessor's initial demand may be made at any time after the end of the period specified in Section 8.01 and any second demand by the Lessor may be made any time after the first demand and within the time period specified in Section 8.02(b)(vi).

(b) Each demand by the Lessor on Ex-Im Bank must:

(i) be in writing and submitted to the Vice President of Ex-Im Bank's Asset Management Division;

(ii) be made only by the Lessor;

(iii) identify each Lease Agreement and Lease Supplement covered by such demand and, with respect to each such Lease Agreement and Lease Supplement, the Interestholders and the installment(s) of Guaranteed Rent unpaid as of the date of such demand and the unpaid Guaranteed Termination Value as at the scheduled due date of the first defaulted installment of Guaranteed Rent, together with a schedule showing the Guaranteed Rent payable as at each Rent Payment Date;

(iv) include the assignments required under Section 8.03(a);

(v) include a copy of the Lessor's written demand for payment on the Lessee and any Guarantors with respect to all Lease Agreements and Lease Supplements executed under the relevant Credit (or, in the event such demand was omitted with respect to the Lessee or any Guarantor pursuant to Section 8.01, evidence of (x) such party's bankruptcy or insolvency, (y) the applicable prohibition and (z) the Lessor's demand for payment on those parties not subject to such prohibition); and

(vi) (subject to Section 4.07) be made not later than one hundred and fifty (150) calendar days from the due date of the first defaulted installment of Guaranteed Rent on which the Lessor's demand for payment is based.

The Lessor waives any right to make a demand under the Guarantee of a Credit with respect to any Lease Supplement under such Credit that is not covered by the two (2) demands that the Lessor is permitted to make pursuant to this Section 8.02.

8.03 Assignment to Ex-Im Bank. (a) Upon making a demand on Ex-Im Bank pursuant to Section 8.02 with respect to any Lease Supplement(s) executed under a particular Credit, the Lessor and the relevant Interestholder(s) shall each submit to Ex-Im Bank an assignment in the form of Annex D of all of their respective rights, title and interest in and to (i) all outstanding Lease Supplements executed in

connection with such Credit that are covered by the relevant demand, each endorsed by the relevant Interestholder to the order of Ex-Im Bank without recourse to such Interestholder (which Lease Supplements shall not be stamped, marked or amended in a manner prohibited by Section 9.03 or canceled, destroyed, perforated or mutilated), (i) the Lease Agreement, (ii) any Security granted in connection with such Credit and/or all Lease Agreements and Lease Supplements executed in connection with such Credit and (iv) any other instrument or agreement executed by the Lessee or any Guarantor regarding obligations of the Lessee or any Guarantor covered by the Guarantee. The Lessor shall also, at the request of Ex-Im Bank, transfer to Ex-Im Bank or to such Person as may be designated by Ex-Im Bank, all right, title and interest in and to the Goods and Services and Local Cost Goods and Services, if any, free and clear of all liens, charges and encumbrances, together with all certificates of title and other documents and agreements necessary or advisable to effectively transfer all such Goods and Services and Local Cost Goods and Services, if any.

(b) For the purposes of this Agreement, "Security" shall mean any security granted in connection with a Credit and/or Lease Agreements or Lease Supplements to secure amounts related to such Credit and/or the Lease Agreements and Lease Supplements executed in connection with such Credit that are covered by the Guarantee. Security for a particular Credit shall not include: (i) any security obtained by the Lessor and/or the relevant Interestholders with respect to amounts related to such Credit and/or the Lease Agreements and Lease Supplements executed in connection with such Credit but not covered by the relevant Guarantee; (ii) any general security arrangement obtained by or conveyed to the Lessor and/or the relevant Interestholders that is not obtained or conveyed in connection with such Credit and/or such Lease Agreements and Lease Supplements but may be applicable to such Credit and/or such Lease Agreements and Lease Supplements; or (iii) any other form of security or credit support obtained by or conveyed to the Lessor and/or the relevant Interestholders that is not obtained or conveyed in connection with or is otherwise unrelated to such Credit and/or such Lease Agreements and Lease Supplements.

8.04 Conditions of Guarantee. With respect to each Guarantee, Ex-Im Bank hereby waives diligence, presentment, protest and any requirement that the Lessor or any Interestholder exhaust any right or take any action against or give notice to the Lessee, any Guarantors or Ex-Im Bank, except for the written demands for payment by the Lessor on the Lessee, any Guarantors and Ex-Im Bank required under this Agreement.

8.05 Payment by Ex-Im Bank. (a) For each demand on Ex-Im Bank made pursuant to Section 8.02, after the date on which the Lessor shall have properly documented its demand on Ex-Im Bank for payment in accordance with the procedures of this Agreement (the "Demand Date"), with respect to each Lease Agreement and Lease Supplement, Ex-Im Bank shall pay to the Lessor, for the benefit of each Interestholder specified in the relevant demand the Guaranteed Amount.

(b) Ex-Im Bank shall make the payment required by Section 8.05(a) within five (5) Business Days after the Demand Date, unless Ex-Im Bank determines that additional time is required due to the large number of claims then pending at Ex-Im Bank, in which event Ex-Im Bank shall make such payment no later than fifteen (15) Business Days after the Demand Date.

(c) All payments of the Guaranteed Amount due under this Agreement shall be made by Ex-Im Bank to the Lessor, for the benefit of the relevant Interestholders. All such payments to the Lessor shall discharge fully and completely Ex-Im Bank's liability to such Interestholders.

(d) If the Guarantee terminates pursuant to Section 4.04, 4.05 or 4.06 with respect to one or more installments of Guaranteed Rent, all installments of Guaranteed Rent under the Lease Supplements as to

which the Guarantee has terminated shall be deemed to have been paid in full when and as due for the purposes of determining the amount payable by Ex-Im Bank under this Section 8.05.

(e) In the event that Ex-Im Bank fails to make claim payment within fifteen (15) Business Days after the Demand Date, thereby failing to comply with its obligations under Section 8.05(b), for each additional day after the fifteenth Business Day up to the day on which Ex-Im Bank makes claim payment, Ex-Im Bank shall pay the Lessor an additional amount equal to the difference between (i) interest accrued on the defaulted installment(s) of Guaranteed Rent at the Guaranteed Interest Rate as provided in the foregoing provisions of this Section 8.05 and (ii) interest on such installment(s) calculated at a rate per annum equal to the sum of: (x) one percent (1%) and (y) the higher of the Guaranteed Interest Rate or the Federal Funds Rate.

8.06 Rights After Payment by Ex-Im Bank. Upon the first payment by Ex-Im Bank under Section 8.05(a): (a) Ex-Im Bank, by virtue of the assignments made pursuant to Sections 8.03(a), shall acquire all right, title and interest of the Lessor and the Interestholders, respectively, in and to all Lease Supplements executed in connection with such Credit with respect to which demand for payment has been made on Ex-Im Bank, any Security granted in connection with the relevant Credit and the Lease Agreement, and shall be entitled, in Ex-Im Bank's sole discretion, to pursue collection for Ex-Im Bank's own account of all amounts due or to become due on or under such Lease Supplements, the Lease Agreement, and such Security; and (b) thereafter, the Lessor and the Interestholders, with respect to such Lease Supplements, the Lease Agreement, and such Security, shall be entitled only to payments from Ex-Im Bank made in accordance with this Agreement.

## SECTION 9. UNDERTAKINGS OF THE LESSOR

The Lessor agrees that so long as Ex-Im Bank remains liable under this Agreement:

9.01 Register. In the event the Lessor is not the holder of all the interests in the Lease Agreements and Lease Supplements for any Credit, the Lessor shall establish and maintain a register for recording with respect to each Lease Agreement and Lease Supplement executed in connection with such Credit that is held by a Person other than the Lessor: (a) the name and address of each current and previous Interestholder; (b) the date of any transfer or assignment of such interest and the amount of such interest; and (c) the date and amount of each payment made by or on behalf of the Lessee or any Guarantors with respect to such interest. At Ex-Im Bank's request, the Lessor shall make such register available to Ex-Im Bank. The Lessor shall maintain such register with respect to such interests until such time as the Guaranteed Rent under each Lease Agreement or Lease Supplement, as the case may be, has been paid in full or Ex-Im Bank has made a payment under the Guarantee with respect to such Lease Agreement and/or Lease Supplement. After such time, the Lessor need not retain the register, provided the Lessor shall have first delivered to Ex-Im Bank's Asset Management Division a copy of the register, certified by the Lessor as a true, complete and correct copy, which copy Ex-Im Bank shall have found to be satisfactory in form and substance.

9.02 Notices. (a) The Lessor shall notify Ex-Im Bank's Asset Management Division promptly but in no event later than thirty (30) days after receipt of knowledge of: (i) any failure by a Lessee or any Guarantor to pay when due any amount owing under any Lease Agreement or any Lease Supplement; (ii) the occurrence of any payment default by the Lessee on any of the Lessee's material External Indebtedness, which payment default the Lessor reasonably determines could affect materially and adversely the Lessee's ability to pay its obligations under any Lease Agreement or any Lease Supplement; (iii) the receipt of any prepayment made by or on behalf of the Lessee or any Guarantors on

any Lease Agreement or Lease Supplement; (iv) the Lessee's exercise of any purchase, renewal or termination option under any Lease Agreement; and (v) the return of any payment previously made by the Lessee to the Lessor or any Interestholder under the circumstances described in Section 4.07. With respect to events described in clause (iii) or (iv) of the foregoing sentence, notice shall also be sent to Ex-Im Bank's Chief Financial Officer.

(b) The Lessor shall use reasonable efforts to notify Ex-Im Bank's Asset Management Division promptly but in no event later than thirty (30) days after receipt of knowledge of the occurrence of any Event of Default not covered in Section 9.02(a).

(c) The Lessor shall notify Ex-Im Bank promptly if any Person identified pursuant to Section 6.01 ceases to be authorized on behalf of the Lessor to submit Requests for Lease Delivery Approval or other documents required by this Agreement, or otherwise to act as the Lessor's representative in the performance of this Agreement. The Lessor shall notify Ex-Im Bank promptly of each new Person who receives authorization to act on behalf of the Lessor in the manner specified in Section 6.01, which notice shall be accompanied by the evidence of the authority specified in such Section.

9.03 Prohibited Amendments. The Lessor will not, without Ex-Im Bank's prior written consent, agree to any material amendment of the terms of any Lease Agreement or the terms of any Lease Supplement, or consent to any material deviation from the respective provisions thereof, including, without limitation: (a) a change in the payment terms under any Lease Agreement or any Lease Supplement; or (b) a change in the place of payment of amounts payable under any Lease Agreement or any Lease Supplement.

9.04 Delivery of Documents. The Lessor shall deliver or cause to be delivered all documents required by Ex-Im Bank from the Lessor under Annex C hereto.

9.05 Payments Following Demand on Ex-Im Bank. In the event that the Lessor or any Interestholder receives from any party other than Ex-Im Bank a payment under or related to any Lease Supplement, any Lease Agreement or any Security (a "Non-Ex-Im Bank Payment") with respect to any Credit:

(a) After the date of demand on Ex-Im Bank by the Lessor pursuant to Section 8.02 but prior to the date of Ex-Im Bank's first payment under this Agreement, the Lessor or the Interestholder, as the case may be, shall promptly but in no event later than five (5) Business Days after receipt notify Ex-Im Bank of the date and amount of such Non-Ex-Im Bank Payment and such payment shall be applied in accordance with the provisions of Section 2.09.

(b) After Ex-Im Bank's first payment under this Agreement, the Lessor or the Interestholder, as the case may be, shall forward promptly to Ex-Im Bank such Non-Ex-Im Bank Payment.

9.06 Transfer of Rights, Duties and Responsibilities under this Agreement. The Lessor will not, without Ex-Im Bank's prior written consent, assign or otherwise transfer: (a) the Lessor's right to make demand for payment on, and receive payment from, Ex-Im Bank for the benefit of the Interestholders in accordance with the provisions of Section 8; and (b) any of its other rights, duties or responsibilities under this Agreement, except that the foregoing shall not restrict an assignment or transfer to the Private Export Funding Corporation or by operation of law. Nothing in this Section 9.06 is intended to restrict or otherwise limit the Lessor's right to assign or otherwise transfer any interest in any Lease Agreement or Lease Supplement or to grant participations therein.

9.07 Indemnification, Suspension . In the event that the Lessor fails to fulfill any of its responsibilities under this Agreement or any Lease Agreement or any Lease Supplement:

(a) the Lessor shall be liable to Ex-Im Bank for all of the actual damages suffered by, or costs incurred by, Ex-Im Bank as a result thereof and shall indemnify Ex-Im Bank for such actual damages and costs. The Lessor shall not be liable for incidental or consequential damages. The coverage of this Agreement with respect to any interest in a Lease Agreement or Lease Supplement held by the Lessor in its capacity as an Interestholder shall not be affected by any such failure, and such failure shall not impair the rights of any other Interestholder under this Agreement. Ex-Im Bank may enforce its rights under this Section 9.07, and pursue all remedies available with respect thereto, in any court of competent jurisdiction. Notwithstanding anything to the contrary contained herein, the agreements set forth in this Section 9.07 shall survive the termination of this Agreement and the payment of all or any portion of a Guaranteed Amount; and

(b) Ex-Im Bank may, by written notice to the Lessor, suspend the Lessor from concluding Transactions under this Agreement; *provided* that such suspension shall not affect any Transaction with respect to which Ex-Im Bank has issued an Ex-Im Bank Approval.

9.08 Maintenance of Transaction Documents. The Lessor shall maintain at the address indicated in item 4 of the "Lessor Information" sheet accurate and complete records of all Transaction Documents and shall retain all such documents for a period equal to the sum of (a) the repayment period of the subject Transaction (as such period may be amended from time to time with the consent of Ex-Im Bank) plus (b) ten calendar years.

9.09 Inspection. By notice to the Lessor, the Lessor shall permit the representatives of Ex-Im Bank to inspect its Transaction Document files and any matters relating to this Agreement or any Transaction approved hereunder, and shall direct its officers and employees to cooperate and assist in connection therewith. The Lessor shall, at the request of Ex-Im Bank, furnish to Ex-Im Bank copies of and, information with respect to, Transaction Documents within ten (10) Business Days following receipt of such request.

## SECTION 10. MISCELLANEOUS

10.01 Governing Law; Waiver of Jury Trial. (a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, U.S.A.

(b) FOR THE PURPOSES OF THIS AGREEMENT, EACH OF THE LESSOR AND EX-IM BANK HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OR OMISSIONS OF ANY PARTY HERETO, OR ANY OTHER PERSON, RELATING TO THIS AGREEMENT.

10.02 Notices. Except as otherwise specified, all notices given hereunder shall be in writing in the English language, shall include the MGA No. and the applicable Ex-Im Bank Transaction Number (if any) and shall be given by mail, facsimile or personal delivery and deemed to be given for the purposes of this Agreement on the day that such notice is received by the intended recipient thereof.

(a) Notices to the Lessor. Unless otherwise specified in a notice delivered in accordance with this Section 10.02, all notices to the Lessor shall be delivered by e-mail, facsimile or to the street address specified on the Lessor Information sheet preceding the table of contents to this Agreement.

(b) Notices to Ex-Im Bank. Unless otherwise specified in a notice delivered in accordance with this Section 10.02, all notices to Ex-Im Bank shall be delivered:

(i) in the case of notices to Ex-Im Bank with respect to a particular Transaction, to the attention of the Vice President of the Asset Management Division and the Vice President of the Responsible Division at the address or facsimile number specified below:

Address: Export-Import Bank of the United States  
811 Vermont Avenue, N.W.  
Washington, DC 20571  
Facsimile: (1-202) 565-3625 (Asset Management Division)  
Telephone: (1-202) 565-3600 (Asset Management Division)

(ii) in the case of any notice to Ex-Im Bank the required recipient of which is otherwise specified herein, addressed to Ex-Im Bank at the address noted below for the attention of such required recipient and, if by facsimile, sent to the "Bank-wide" facsimile number specified below; and

(iii) in all other cases, addressed or otherwise sent to Ex-Im Bank for the attention of the Group Vice President – Structured and Trade Finance Group as specified below:

Address: Export-Import Bank of the United States  
811 Vermont Avenue, N.W.  
Washington, DC 20571  
Facsimile: (1-202) 565-3226 (Structured and Trade Finance Group)  
(1-202) 565-3380 (Bank-wide)  
Telephone: (1-202) 565-3225 (Structured and Trade Finance Group)  
(1-202) 565-3946 (Bank-wide)

(c) Notices to an Interestholder. Unless otherwise specified in a notice delivered in accordance with this Section 10.02, all notices to an Interestholder shall be delivered, in care of the Lessor, at the Lessor's address. In the case of an Interestholder who is not also the Lessor, a notice shall be deemed to have been given to such Interestholder five (5) Business Days after delivery to the Lessor of such notice.

10.03 Computations. Unless otherwise specified in an Ex-Im Bank Approval with respect to a Transaction, all computations of interest and fees hereunder and under any Lease Agreement or Lease Supplement shall be made on the basis of a year of 360 days and actual days elapsed.<sup>7</sup> All such calculations shall include the first day and exclude the last day of the period of calculation.

10.04 Benefit of Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto.

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<sup>7</sup> If the Lessor requests in the relevant Request for Ex-Im Bank Approval, Ex-Im Bank will agree to use a day count basis of actual/365 days or 30-day month/360 day year instead of actual/360 days, as provided in this Agreement.

10.05 Entire Agreement. This Agreement and the Ex-Im Bank Approval with respect to each Transaction contain the entire agreement between the parties hereto regarding the Guarantee of the relevant Credit with respect to such Transaction. This Agreement contains the entire agreement between the parties hereto regarding all other matters relating to Ex-Im Bank's Guarantees.

10.06 Amendment or Waiver.

(a) Amendment or Waiver of this Agreement. Except for the terms and conditions of Section 10.07 and this Section 10.06, Ex-Im Bank may amend or modify any of the terms and conditions of this Agreement by written notice to the Lessor. Unless agreed by the Lessor in writing, no such change shall affect any Transaction with respect to which Ex-Im Bank has issued an Ex-Im Bank Approval prior to the date of such change. The Lessor may not amend, modify or waive this Agreement without the written consent of Ex-Im Bank. Any amendment or waiver of any provision of this Agreement by Ex-Im Bank in connection with any Transaction shall be limited to the particular Transaction and shall not constitute an amendment or waiver of such provision for any other purpose.

(b) Amendment or Waiver of an Ex-Im Bank Approval. An Ex-Im Bank Approval may not be changed, discharged or terminated (except as expressly provided herein) without the written consent of the parties hereto, and no provision thereof may be waived without the written consent of the party to be bound thereby.

10.07 Termination. In addition to any other discharge or termination provisions expressly provided herein, either the Lessor or Ex-Im Bank may discharge or terminate this Agreement upon fifteen (15) days' prior written notice to the other party hereto; *provided* that such discharge or termination shall not affect any Transaction with respect to which Ex-Im Bank has issued an Ex-Im Bank Approval prior to the date of such discharge or termination without the written consent of the parties hereto.

10.08 Suspension and Cancellation by Ex-Im Bank. (a) If a Lessee fails to pay when due any amount owing under any Fee Letter, any Lease Agreement or any Lease Supplement with respect to a Credit, or if any other Event of Default should occur and be continuing, then Ex-Im Bank, by written notice to the Lessor, the Lessee and any Guarantor, may: (i) suspend further Utilizations of the Credit until Ex-Im Bank is satisfied that the cause of such suspension has been removed; or (ii) cancel the unutilized and uncanceled amount of the Credit. The Lessor shall cause any Lease Agreement to provide for suspensions or cancellations of the relevant Credit in accordance with this Section 10.08.

(b) If all conditions precedent to first Utilization provided in the relevant Lease Agreement and in this Agreement with respect to a Transaction are not fulfilled to the sole satisfaction of Ex-Im Bank on or prior to the "Required Operative Date" specified in the Ex-Im Bank Approval, then after taking into account the circumstances of such failure Ex-Im Bank, by written notice to the Lessor, the Lessee and any Guarantor, may cancel the Credit.

(c) In the event of a cancellation of all or part of a Credit by Ex-Im Bank, (i) if the Lessor is the "Applicant" named on the relevant Ex-Im Bank Application, the Lessor shall pay, or cause the Lessee to pay or cause to be paid, to Ex-Im Bank all commitment fees accrued and unpaid under Section 7.01 and (ii) the Lessor shall pay, or cause the Lessee to pay or cause to be paid, to Ex-Im Bank all other amounts due and payable under this Agreement as of such date. In each Transaction, the Lessor's duty under clause (i) of this Section 10.08(c) shall be satisfied by the delivery to Ex-Im Bank of the Fee Letter referred to in Section 7.01(a)(ii).

10.09 Reliance on Lessor's Evidence of Authority. Ex-Im Bank may rely on the evidence of authorization provided by the Lessor pursuant to Section 6.01 as modified by any notice delivered by the Lessor pursuant to Section 9.02(c) and Ex-Im Bank shall not be required to make any further inquiry with respect to the matters stated therein. Subject to Section 10.07, the Lessor shall be irrevocably bound by each Request for Lease Delivery Approval or other document required by this Agreement or notice delivered hereunder which is purportedly executed or delivered on behalf of the Lessor either (a) through use of the User Identification and Password provided to the Lessor by Ex-Im Bank or (b) in a manner consistent with the evidence of authorization provided pursuant to Section 6.01 as modified by a notice delivered pursuant to Section 9.02(c).

10.10 Counterparts. This Agreement may be signed in separate counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

10.11 English Language. All documents to be delivered by any party hereto pursuant to the terms hereof shall be in the English language, or if originally written in another language, shall be accompanied by an accurate English translation upon which the other parties hereto shall have the right to rely for all purposes under this Agreement.

10.12 Severability. To the extent permitted by applicable law, the illegality or unenforceability of any provision of this Agreement shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement.