

IN THE MATTER OF  
IFC CREDIT CORPORATION

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08-AVC-0013

**ASSURANCE OF VOLUNTARY COMPLIANCE**

1. This Assurance of Voluntary Compliance<sup>1</sup> (“Assurance”) is entered into by the Attorneys General<sup>2</sup> (collectively, “Attorneys General”) of the States of Arizona, Colorado, Connecticut, District of Columbia, Florida, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, and Texas (“Participating States”), and the Respondent, IFC Credit Corporation (“IFC”).
2. IFC is a corporation organized and existing under the laws of the State of Illinois. IFC has a place of business at Morton Grove, Illinois.
3. IFC is one of the leasing companies that purchased and holds Equipment Rental Agreements with customers of NorVergence, Inc. (“NorVergence”) in the Participating States and elsewhere.

**BACKGROUND**

4. This Assurance follows an inquiry by the Attorneys General into IFC’s business dealings with regard to the Rental Agreements. This inquiry was part of a larger inquiry regarding whether the practices of NorVergence and those of IFC and other financing companies in

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<sup>1</sup> This Assurance of Voluntary Compliance shall, for all necessary purposes, also be considered an Assurance of Discontinuance.

<sup>2</sup> Of the states listed, Connecticut is represented by the Commissioner of the Connecticut Department of Consumer Protection, who enters into this Assurance pursuant to the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. Sec. 42-110j, acting by and through his counsel, Richard Blumenthal, Attorney General for the State of Connecticut. For simplicity purposes, the entire group will be referred to as the “Attorneys General,” and such designation, as it includes Connecticut, refers to the Commissioner of the Connecticut Department of Consumer Protection.

connection with the Rental Agreements violate any of the consumer protection statutes listed herein at footnote 3.<sup>3</sup>

**NORVERGENCE'S ALLEGEDLY  
FRAUDULENT BUSINESS SCHEME**

5. The Attorneys General of Illinois, North Carolina, Massachusetts, Pennsylvania, and Texas and the Federal Trade Commission sued NorVergence, alleging that NorVergence's business practices violate their respective consumer protection statutes.
6. Among other things, these complaints filed against NorVergence included the following allegations:
  - a. That NorVergence's sales presentations contained a number of misrepresentations about the nature of NorVergence's offer, including, but not limited to, that:
    - i. NorVergence was offering to lower a potential customer's monthly expenses for telephone service, high speed Internet service, and wireless telephone service, which discounts could be achieved by installing a Matrix box;
    - ii. NorVergence could eliminate all per-minute charges for telephone service, high-speed Internet service, and wireless telephone service using special "voice as data" technology contained in the Matrix box;

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<sup>3</sup> Ariz. Rev. Stat. § 44-1521 *et seq.*; Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101 *et seq.*; Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110b(a), *et seq.*; District of Columbia Consumer Protection Procedures Act, D.C. Code § 28-3901, *et seq.*; Fla. Stat. ch. 501.201 *et seq.*; Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1, *et seq.*; Kan. Stat. Ann. § 50-623, *et seq.*; Louisiana Unfair Trade Practices and Consumer Protection Law LSA-R.S. 51:1401, *et seq.*; Maryland Consumer Protection Act, Maryland Commercial Law Code Annotated § 2-302, *et seq.*; Massachusetts Consumer Protection Act, M. G. L. c. 93A, §§ 1-11, *et seq.*; Michigan Consumer Protection Act, M. C. L. § 445.901, *et seq.*; Missouri Merchandising Practices Act §§ 407.010 *et seq.*; Regulation of Business Practices for Consumer Protection, N.H. Rev. Stat. Ann. § 358-A, *et seq.*; New Jersey Consumer Fraud Act, N.J. Stat. Ann. § 56:8-1, *et seq.*; Consumer Protection from Deceptive Acts and Practices, N.Y. Gen. Bus. Law § 349, *et seq.*; North Carolina Unfair and Deceptive Trade Practices Act N.C.G.S. § 75-1.1, *et seq.*; Ohio Consumer Sales Practices Act, R.C. § 1345.01, *et seq.*; Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1, *et seq.*; Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, *et seq.*; Texas Business & Commerce Code, § 17.41 *et seq.*

- iii. NorVergence arrived at the price for a 60 month contract for the provision of discounted telecommunications services by taking a percentage discount from a customer's monthly telecommunications expenses, usually 30%, and multiplying the remaining percentage, usually 70%, by 60; and
  - iv. In the event NorVergence went out of business, customers' telecommunications service would not be interrupted.
- b. However, those complaints further alleged:
- i. The Matrix box takes one of two formats: it is either a T1 box, which has nothing to do with cellular service, or a firewall/router, which has nothing to do with landline telephone service or cellular service;
  - ii. The Matrix box has an estimated retail value of \$400 to \$1,500;
  - iii. NorVergence crafted the transactions in such a way that the majority of the 60 month contract monthly payment was contained in an "Equipment Rental Agreement", purportedly for the cost of the Matrix box;
  - iv. NorVergence immediately assigned its Rental Agreements to various finance companies or caused its customers to execute Rental Agreements directly with finance companies;
  - v. If NorVergence went out of business, it had no arrangements to provide telecommunications services to its customers; and
  - vi. Shortly after NorVergence's creditors forced the company into bankruptcy on June 30, 2004, NorVergence ceased providing telecommunications services to all of its customers.

- c. The complaints also alleged that NorVergence included unfair terms in its Rental Agreements, such as the purported waiver of defenses clause and the floating venue clause, and failed to disclose clearly and conspicuously the material terms and conditions of those Rental Agreements.

**IFC'S ACTIVITIES IN CONNECTION WITH  
THE NORVERGENCE EQUIPMENT RENTAL AGREEMENTS**

7. In many cases, shortly after the Rental Agreements were executed between NorVergence and its customers, these agreements were assigned to finance companies.
8. Initially, IFC sent monthly invoices to the customers in connection with all the NorVergence Rental Agreements which were assigned to it, and accepted payment from customers on those invoices.

**THE ATTORNEYS GENERAL'S POSITION**

9. The Attorneys General allege that consumers in their states were fraudulently induced to sign the NorVergence agreements, and that such agreements are void *ab initio*.
10. The Attorneys General allege that IFC knew or should have known of the alleged fraud perpetrated by NorVergence and is not entitled to collect from its customers in the Participating States.
11. The Attorneys General also allege that, under the circumstances, the Rental Agreements are unconscionable in that they contain terms that are unreasonable, unfairly harsh, and one-sided in favor of NorVergence and the leasing companies, all in violation of the statutes set forth in footnote 3 to this Assurance and in violation of Section 2-302 of the Uniform Commercial Code.
12. The Attorneys General believe they have authority to investigate IFC's activities in connection with the Rental Agreements, and to file suit against IFC.

### **IFC'S POSITION**

13. IFC denies that it knew or should have known of any alleged fraud perpetrated by NorVergence. IFC asserts that it is not legally responsible for any such alleged fraud perpetrated by NorVergence, and contends that, in accordance with the law of each Participating State, the Rental Agreements with NorVergence customers remain fully enforceable according to their terms notwithstanding any alleged improper conduct by NorVergence.
14. IFC expressly denies that it engaged in any unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the rental of NorVergence telecommunications equipment.
15. At the same time, in light of the allegations directed at NorVergence, the impact of the NorVergence conduct on IFC's customers, and the concerns expressed by the Participating States, IFC is willing to afford its NorVergence customers an opportunity to be released from their obligations under the Rental Agreements pursuant to the conditions described herein, and in order to avoid the cost and burden of litigation.

### **TERMS OF ASSURANCE**

16. This Assurance shall be binding upon and extend to IFC, its subsidiaries, its principals, officers, directors, agents (including, but not limited to third party collection agents), employees, successors and assigns, and any entity or device through which it may now or hereafter act, as well as any persons who have authority to control or who, in fact, control and direct its business.
17. By entering into this Assurance, the Parties agree that there are no admissions of wrongdoing or findings of liability or wrongdoing on the part of IFC, that there has been no concession or agreement by IFC as to the validity and/or merits of any investigation,

that there has been no approval, sanction, or authorization by any of the Participating States of any act or practice of IFC and that this Assurance does not indicate or constitute the existence or non-existence of any fact or circumstance that may have been alleged in connection herewith by any Participating State or by IFC. This Assurance is entered into solely for the purpose of settlement of disputed claims, and to avoid the expense, uncertainty, delay, and inconvenience that would be associated with continued investigation and potential litigation of the issues. Neither the existence of, negotiation of, nor the terms of this Assurance, nor of any offer made to or agreed upon with any State Customer pursuant hereto shall be referred to or offered in evidence of wrongdoing, for any purpose, by any person in any future proceeding other than for enforcement, default, or breach of this Assurance.

18. A State Customer is any IFC customer in any Participating State that has a NorVergence Rental Agreement and has not previously reached a settlement with IFC.

#### **Customer Settlement Program**

19. Each State Customer who elects to participate in, and fully perform under, the settlement terms in the manner described herein, but have not previously reached a settlement with IFC, will be referred to as a "Participating Customer."
20. IFC will offer the following settlement terms to any Participating Customer and any personal guarantor the Participating Customer may have:
  - a. Each Participating Customer must pay all amounts due on its Rental Agreement through July 15, 2004, including any and all monthly payments, taxes, unpaid late fees and/or insurance premiums ("Cure Amount");
  - b. IFC will forgive eighty-four percent (84%) or eighty-two percent (82%) of the remaining contract balance due on each such Participating Customer's obligations

to IFC under the Rental Agreement after July 15, 2004 as described in paragraph d below;

- c. IFC will forgive any late fees, penalties or insurance premiums assessed on the Participating Customer's account with IFC after July 15, 2004.
- d. As to each Participating Customer, IFC agrees to accept, in full satisfaction of the Customer's obligations to IFC under the Customer's Rental Agreement and any personal guarantor's obligations under any related guarantee, payment of the Cure Amount, plus payment of:
  - i. sixteen percent (16%) of the remaining contract balance due to IFC under the Rental Agreement after July 15, 2004 (plus any applicable sales taxes thereon or in connection therewith) if paid on or before November 15, 2008; or
  - ii. eighteen percent (18%) of the remaining contract balance due to IFC under the Rental Agreement after July 15, 2004 (plus any applicable sales taxes thereon or in connection therewith) if paid on or before November 29, 2008 but after November 15, 2008, minus any monthly payments, late fees, penalties or insurance premiums which were due and paid by the Customer after July 15, 2004 ("Settlement Balance").
- e. IFC shall fully credit each Participating Customer for any payments it has made pursuant to the Rental Agreement after July 15, 2004, including, but not limited to, monthly payments and charges for insurance premiums, late fees, and taxes. Payments made after July 15, 2004 which were due on or before that date will not reduce the Participating Customer's remaining balance after July 15, 2004. Payments made after July 15, 2004 which were due after that date will be credited

against the Participating Customer's Settlement Balance. IFC shall issue refunds to those Participating Customers whose payments due and paid after July 15, 2004 exceed the Participating Customer's Settlement Balance.

- f. Within thirty (30) days of the delivery of documents and payment of the Settlement Balance by which any State Customer elects to become a Participating Customer, IFC shall withdraw or cause to be corrected any and all adverse credit information filed by it, if any, as to the Participating Customer as a result of not receiving payment from that Customer on its Rental Agreement after July 15, 2004, by providing written notification to each credit bureau to whom IFC furnished information, if any.

21. IFC agrees that the Settlement Balance shall be paid as follows:

- a. Payment shall be due by the date stated in paragraph 20d, along with mailing the fully executed Settlement and Mutual Release by the Participating Customer, as described in paragraph 24 of this Assurance;
- b. In the event no Settlement Balance is due from a Participating Customer and a refund is warranted, IFC shall pay any such refund within sixty (60) days of IFC's receipt of the fully executed Settlement and Mutual Release.

22. By October 31, 2008 IFC shall mail a Settlement Letter (in the form annexed hereto as Exhibit A) to each State Customer who entered into a Rental Agreement and any personal guarantor thereof. In this mailing, IFC will print on the outside of the envelope the following: "NorVergence-Related Settlement Material Enclosed" in at least 12 point typeface. If any of the letters described in this paragraph are returned to IFC as undeliverable, IFC must make reasonable commercial efforts to locate that customer. As



set forth in Exhibit A, IFC shall inform each State Customer and personal guarantor of, among other things, the following:

- a. The opportunity to elect to participate in the settlement described herein as a Participating Customer in exchange for a release of all claims against IFC, relating to NorVergence;
  - b. The Settlement Balance due from that State Customer and personal guarantor (which shall include any Cure Amount); and
  - c. The State Customer's and/or personal guarantor's options for paying the Settlement Balance if the Customer elects to participate in the settlement.
23. IFC shall include with the letter referenced in paragraph 22 of this Assurance a document titled "Settlement and Mutual Release." Letters in the form of Exhibit A annexed hereto will be accompanied by a Settlement and Mutual Release in the form of Exhibit B annexed hereto. As referenced in those letters, each Participating Customer will be required to provide a notarized signature of a duly authorized officer, partner or other agent of the company and/or the personal guarantor on the Settlement and Mutual Release and return the same to IFC.
24. To the extent set forth in the Settlement and Mutual Release, each Participating Customer shall provide IFC with a release of claims arising under the Rental Agreement and any and all NorVergence related issues and pay the Settlement Balance. As to each Participating Customer who executes a Settlement and Mutual Release and pays the Settlement Balance, IFC shall provide a release of claims arising under the Rental Agreement, to the extent set forth in the Settlement and Mutual Release. To the extent set forth in the Settlement and Mutual Release, each Participating Customer and IFC shall agree to mutually dismiss with prejudice (and without award of costs or attorneys' fees to

any party) any pending litigation arising from the Rental Agreement or IFC's efforts to collect under or enforce the Rental Agreement.

25. If a Participating Customer defaults in payment of their Settlement Balance, IFC may pursue collection of the unpaid Settlement Balance plus interest, and reasonable costs of collection including attorneys' fees, as provided for in the Settlement and Mutual Release.
26. IFC further agrees that it shall not institute any civil action against a Participating Customer for breach of its Rental Agreement or otherwise seek to enforce the Rental Agreement against any Participating Customer. IFC will dismiss any pending litigation against any Participating Customer who is a party to existing litigation provided that, if any such Participating Customer has brought counterclaims or separate claims against IFC, they will be dismissed by the Participating Customer as a condition to IFC's dismissal, which may be accomplished by proffering to and obtaining from counsel for the Participating Customer a stipulation dismissing any and all such claims and counterclaims.
27. In the event that any State Customer does not accept the Settlement outlined in this Assurance and requested in the attached Settlement and Mutual Release or does not execute the Settlement and Mutual Release, the Rental Agreement shall remain in full force and effect and shall be enforceable by all parties to the same extent that it had been enforceable prior to and without regard to IFC's settlement offer. However, notwithstanding any provision authorizing otherwise in any Rental Agreement, if IFC chooses to enforce the Rental Agreement pursuant to this paragraph of the Assurance, then any new lawsuit it initiates will be filed by IFC in the state of the State Customer's residence, unless the State Customer objects thereto, or unless any State Customer has

initiated litigation against IFC, in which case IFC may assert counterclaims or separate claims against such State Customer where its action is pending.

#### **Affidavits of Compliance**

28. Within ninety (90) days of the Effective Date of this Assurance, IFC shall submit an affidavit to each Attorney General of the Participating States, subscribed to by an officer of IFC:
  - a. Attesting that it sent the letters to the State Customers in accordance with the terms of this Assurance;
  - b. Providing an accounting of the Participating Customers, and upon request by any Attorney General of a Participating State, the Participating Customers' Settlement Balances and any payment schedules agreed upon; and
  - c. Providing the names of the State Customers whose letters were undeliverable and returned to IFC.
29. Within six months from the Effective Date of this Assurance, IFC shall submit to each Attorney General an affidavit, subscribed to by an officer of IFC affirming its compliance with the provisions of this Assurance as to the Participating Customers from that Attorney General's state.
30. The affidavits to be provided pursuant to paragraphs 28 and 29 of this Assurance shall be used only for the purposes of assuring compliance with this Assurance, and shall be used, cited or referred to for no other purposes whatsoever, and shall not constitute any admission of liability or obligation whatsoever on the part of IFC, except to provide to the Participating States information concerning the status and compliance with this Assurance.

## General Provisions

31. The Parties have entered into this Assurance on their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Assurance.
32. This Assurance shall be binding upon IFC as well as its principals, officers, directors, agents (including, but not limited to, third party collection agents), employees, successors and assigns, and any entity or device through which it may now or hereafter act, as well as any persons who have authority to control or who, in fact, control and direct its business. In no event shall assignment of any right, power, or authority under this Assurance avoid the obligation to comply with this Assurance.
33. The Parties have negotiated, jointly drafted, and fully reviewed the terms of this Assurance and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Assurance.
34. As used in this Assurance, the plural shall include the singular and the singular shall include the plural.
35. Except as otherwise explicitly provided in this Assurance, nothing herein shall be construed to limit the authority of the Attorneys General to protect the interests of the Participating States or the people of these States.
36. If any portion of this Assurance is held invalid or unenforceable by operation of law, the remaining terms of this Assurance shall not be affected.
37. This Assurance contains the entire agreement among the Parties. Except as otherwise provided herein, this Assurance may be modified only by a written instrument signed by or on behalf of a Participating State and IFC, and then shall be binding only with respect to any or each such State so executing.

38. The exhibits to this Assurance are and shall be considered a part of this Assurance.
39. The Parties have agreed to this Assurance for only settlement purposes. Neither the fact of, nor any provision contained in, this Assurance nor any action taken hereunder shall constitute, or be construed as:
- a. An approval, sanction, or authorization by the Attorneys General of any act or practice of IFC;
  - b. Having any impact on the business practices of IFC, including but not limited to, the terms of equipment rental or lease agreements, other than as specifically provided herein regarding the rental of NorVergence equipment;
  - c. An admission by IFC that any of its acts or practices described in or prohibited by this Assurance are unfair or deceptive or violate any of the consumer protection or other laws of any of the Participating States;
  - d. Any agreement or admission by any party to this Assurance as to the existence or non-existence of any fact or allegation that has been made in connection herewith;  
or
  - e. The applicability of any statute, law, rule, or regulation to the business or agreements of IFC, except to the extent, and then solely for the purposes provided for, herein.
40. Each person executing this Assurance represents to the other party to the Assurance that he or she is duly authorized to execute and deliver this Assurance, and that, upon the occurrence of the Effective Date, this Assurance shall be a valid, binding, and enforceable agreement, and that all formalities required therefore have been or will be undertaken.

41. Unless otherwise prohibited by law, any signature by the parties to this Assurance may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be one and the same Assurance.

#### **Rights of Customers and IFC**

42. Nothing in this Assurance shall be construed to prevent any State Customer who does not become a Participating Customer or IFC (collectively referred to as "rental parties") from pursuing any right or remedy which one rental party may have against the other, except to the extent that a Participating Customer executes a Settlement and Mutual Release pursuant to this Assurance, in which event the rights of the rental parties shall be as provided for therein.

#### **Effective Date**

43. This Assurance shall be effective on October 31, 2008 ("Effective Date").

#### **Violation of Assurance as Prima Facie Proof of Violation of Consumer Protection Statutes**

44. The parties understand that pursuant to the statutes cited in footnote 3 to this Assurance, a violation of any term of this Assurance shall constitute prima facie evidence of a violation of those statutes in any subsequent proceedings brought by the Attorneys General against IFC or any of its officers, agents, directors or employees. It is further understood that upon any default, an Attorney General's Office has the right to file appropriate legal proceedings to enforce this Assurance.

#### **Release**

45. The subject matter of this Assurance is the issues covered in paragraphs 5 through 15 of this Assurance. The Attorneys General acknowledge that execution of this Assurance constitutes a complete settlement and release by the Attorneys General of all the civil claims and causes of action for damages, fines, costs, restitution, injunction, penalties,

and any other remedies that were asserted or could have been asserted by the Attorneys General, either individually or collectively, on or prior to the effective date of this Assurance against IFC as assignor of rights under the Rental Agreement to IFC, arising from the subject matter of this Assurance and pursuant to any common law authority each of the Attorneys General possess, and pursuant to any consumer deceptive or unfair trade practices statutes listed in footnote 3 of this Assurance and the regulations promulgated pursuant to such statutes, as well as any consumer protection laws that each of the Attorneys General has authority to enforce.

**THE PARTIES TO THIS ASSURANCE CONSENT TO THE FORM, CONTENT, AND  
ENTRY OF THIS ASSURANCE ON THE DATES UNDER THEIR RESPECTIVE  
SIGNATURES.**

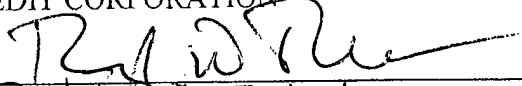


IN THE MATTER OF

IFC CREDIT CORPORATION  
ASSURANCE OF VOLUNTARY COMPLIANCE

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IFC CREDIT CORPORATION

By:   
Name: Rudolph D. Trebels  
Title: CEO and President

Date: October 31, 2008

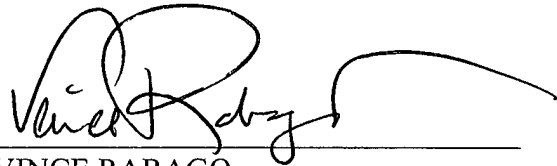
IN THE MATTER OF

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Dated: Oct 7<sup>th</sup>, 2008

TERRY GODDARD  
Attorney General  
State of Arizona

By: 

VINCE RABAGO  
ASSISTANT ATTORNEY GENERAL

ARIZONA ATTORNEY GENERAL  
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TUCSON, AZ 85701

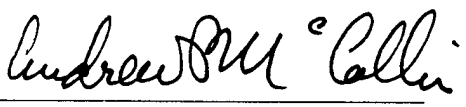
(520) 628-6534  
(520) 628-6532

IN THE MATTER OF )  
IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: October 8, 2008

ON BEHALF OF THE STATE OF COLORADO

JOHN W. SUTHERS  
Attorney General

By:   
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IN THE MATTER OF

IFC CREDIT CORPORATION  
ASSURANCE OF VOLUNTARY COMPLIANCE

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Dated: October 10, 2008

RICHARD BLUMENTHAL  
Attorney General  
State of Connecticut  
on behalf of

COMMISSIONER JERRY FARRELL, JR.  
State of Connecticut  
Department of Consumer Protection

By: Valerie J. Bryan  
Valerie J. Bryan  
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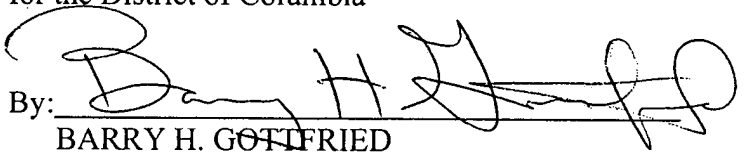
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IFC CREDIT CORPORATION  
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Dated: October 6, 2008

PETER J. NICKELS  
Acting Attorney General  
for the District of Columbia

By: 


BARRY H. GOTTFRIED  
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IN THE MATTER OF

IFC CREDIT CORPORATION  
ASSURANCE OF VOLUNTARY COMPLIANCE

Dated: October 7, 2008

BILL MCCOLLUM  
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By:   
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850-414-3300(P)  
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IN THE MATTER OF

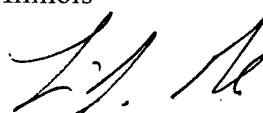
IFC CREDIT CORPORATION  
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Dated: October 10, 2008

LISA MADIGAN  
Attorney General  
State of Illinois

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



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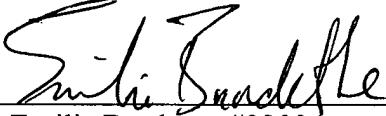
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Dated: October 7, 2008

Steve Six, Attorney General  
State of Kansas

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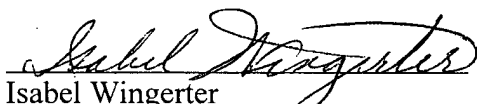
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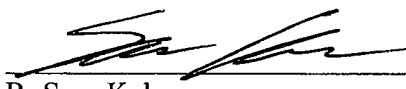
IFC CREDIT CORPORATION  
ASSURANCE OF VOLUNTARY COMPLIANCE

Dated: October 8, 2008

Respectfully Submitted:

**JAMES D. "BUDDY" CALDWELL**  
**Attorney General**

  
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Assistant Attorney General  
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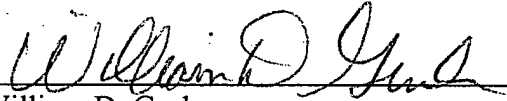
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Dated: October 9, 2008

DOUGLAS GANSLER  
Attorney General  
State of Maryland

By:

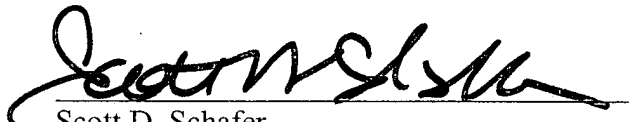


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IFC CREDIT CORPORATION )

**COMMONWEALTH OF  
MASSACHUSETTS**

**MARTHA COAKLEY  
ATTORNEY GENERAL**



Scott D. Schafer  
Assistant Attorney General  
Consumer Protection Division  
Public Protection and Advocacy Bureau  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2516

Date: October 8, 2008

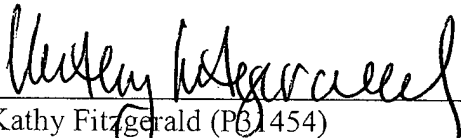
IN THE MATTER OF

IFC CREDIT CORPORATION  
ASSURANCE OF VOLUNTARY COMPLIANCE.

)  
)  
)

Dated: 10/6, 2008

MICHAEL A. COX  
Attorney General  
State of Michigan

By:   
Kathy Fitzgerald (PB 1454)  
Consumer Protection Division  
P.O. Box 30213  
Lansing, MI 48909  
(517) 335-0855

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI  
TWENTY-FIRST JUDICIAL CIRCUIT

STATE OF MISSOURI ex rel., )  
JEREMIAH W. (JAY) NIXON, )  
Attorney General )  
Plaintiff, )

v. )

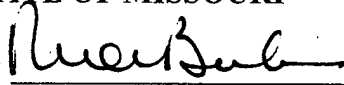
IFC CREDIT CORPORATION, an Illinois )  
Corporation, )  
Defendant. )

Case No. 07-cc-002301

IN THE MATTER OF: )  
IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: 10-10-08

JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL  
STATE OF MISSOURI

By:   
Rex M. Burlison #29935  
Chief Counsel, Eastern District  
815 Olive St., Suite 200  
Saint Louis, MO 63101  
314.340.7652  
314.340.7891 (fax)

IN THE MATTER OF )  
 )  
IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: October 6, 2008

KELLY A. AYOTTE  
Attorney General  
State of New Hampshire

By: 

Richard W. Head  
Associate Attorney General  
33 Capitol Street  
Concord, NH 03301  
Direct Dial: 603-271-1248  
Direct Fax: 603-223-6264  
e-mail: richard.head@doj.nh.gov

IN THE MATTER OF

IFC CREDIT CORPORATION  
ASSURANCE OF VOLUNTARY COMPLIANCE

)  
)  
)

Dated: October 8, 2008

ANNE MILGRAM  
Attorney General  
State of New Jersey

By: Jeffrey Koziar  
Jeffrey Koziar  
Deputy Attorney General


IN THE MATTER OF )

IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated October 20, 2008, 2008

ANDREW M. CUOMO  
Attorney General  
State of New York

By:

  
Keith H. Gordon  
Assistant Attorney General  
Bureau of Consumer Frauds and Protection  
120 Broadway, 3<sup>rd</sup> floor  
New York, NY 10271  
(212) 416-8300

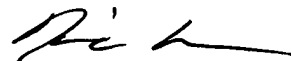


IN THE MATTER OF )  
IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: October 15, 2008

ROY COOPER  
Attorney General  
State of North Carolina

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



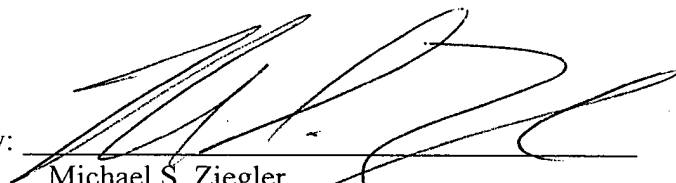
Kevin Anderson  
Assistant Attorney General  
Consumer Protection Division  
114 W. Edenton St.  
P.O. Box 629  
Raleigh, NC 27602-0629  
919-716-6052 (phone)  
919-716-6050 (fax)

IN THE MATTER OF )  
 )  
IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: October 7, 2008

NANCY H. ROGERS  
Attorney General  
State of Ohio

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



Michael S. Ziegler  
Assistant Attorney General  
Consumer Protection Section  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43215  
(614)644-9618

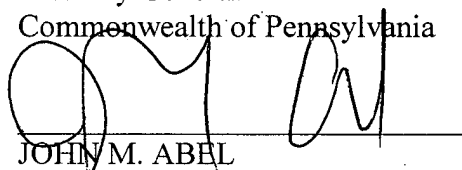
**In the Matter of**  
**IFC Credit Corporation**  
**Assurance of Voluntary Compliance**  
  
**Respondent**

:  
:  
:  
:  
:  
:  
:

Dated this 9 of October, 2008.

THOMAS W. CORBETT  
Attorney General  
Commonwealth of Pennsylvania

BY:




JOHN M. ABEL  
Deputy Attorney General  
ID #47313  
Office of Attorney General  
Bureau of Consumer Protection  
15<sup>th</sup> Floor, Strawberry Square  
Harrisburg, Pennsylvania 17120  
(717) 787-9707

IN THE MATTER OF )  
IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: October 7, 2008

PATRICK C. LYNCH  
Attorney General  
State of Rhode Island

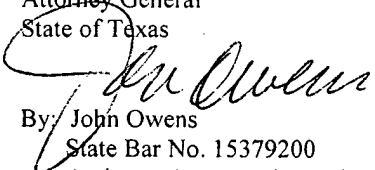
  
Edmund F. Murray, Jr. Esquire (#3096)  
Special Assistant Attorney General  
Rhode Island Department of Attorney General  
150 South Main Street  
Providence, RI 02903-2907  
Tel: (401) 274-4400 x 2401  
Fax: (401) 222-2995  
[emurray@riag.state.ri.us](mailto:emurray@riag.state.ri.us)

IN THE MATTER OF )

IFC CREDIT CORPORATION )  
ASSURANCE OF VOLUNTARY COMPLIANCE )

Dated: October 8, 2008

GREG ABBOTT  
Attorney General  
State of Texas

  
By: John Owens  
State Bar No. 15379200  
Assistant Attorney General  
Consumer Protection & Public Health Division  
300 W. 15<sup>th</sup> St., 9<sup>th</sup> Floor  
Austin, Texas 78711  
512-475-4632



CREDIT CORPORATION

EXHIBIT A  
IFC CREDIT CORPORATION  
SETTLEMENT LETTER

October 31, 2008

[Insert Customer Name and Address]

[Insert Guarantor Name and Address]

Customer Number [Customer Number]

**RE: NOTICE TO FORMER «STATE» NORVERGENCE CUSTOMERS WHO HAVE  
EQUIPMENT RENTAL AGREEMENTS WITH IFC CREDIT CORPORATION,  
AND TO ANY GUARANTORS**

Dear [Insert Customer Name] and/or [Insert Guarantor Name]  
«GuarantorName»

You are receiving this notice because the records of IFC CREDIT CORPORATION ("IFC") reflect that [Insert Customer Name] entered into an Equipment Rental Agreement (referred to herein as the "Rental Agreement") with NorVergence, Inc. ("NorVergence"), and that the Rental Agreement is now held by IFC. Pursuant to an agreement with the Attorney General of the State of [Insert State Name] (the "Attorney General"), IFC is pleased to offer you the opportunity to participate in a Settlement Program by which you may resolve any outstanding balance on the Rental Agreement at a substantial discount, and settle any and all disputes between you and IFC arising from or relating to the Rental Agreement or IFC's efforts to collect under or enforce the Rental Agreement.

**Here is a summary of how the Settlement Program would work if you accept it:**

- You would pay IFC, if you pay before November 15, 2008, any amounts that became due under the Rental Agreement through July 15, 2004, plus 16% of the amounts coming due under the Rental Agreement after July 15, 2004, plus taxes paid or incurred by IFC;
- You would pay IFC, if you pay after November 15, 2008 but before November 29, 2008, any amounts that became due under the Rental Agreement through July 15, 2004, plus 18% of the amounts coming due under the Rental Agreement after July 15, 2004, plus taxes paid or incurred by IFC;
- Any amounts you paid to IFC after July 15, 2004 would be applied to reduce the amount you would pay IFC under the Settlement Program (or refunded to you, to the extent you have already paid more than that amount); and
- You and IFC would exchange mutual releases.

The Settlement Program is described in more detail in the rest of this letter and the form of Settlement and Mutual Release that is enclosed. You should review those documents carefully. In case of any disagreement between the summary above and the more detailed description, the more detailed description will govern.

MEMBER

**ELA**

EQUIPMENT  
LEASING  
ASSOCIATION  
of AMERICA

A-1

8700 Waukegan Road, Suite 100, Morton Grove, Illinois 60053 • (847) 324-1512 • Fax: (847) 324-1513

MEMBER

**UNEL**



CREDIT CORPORATION

### The Settlement Program Offered By IFC

If you elect to participate in this Settlement Program, IFC will: (a) forgive eighty-four percent (84%) or eighty-two percent (82%) of the remaining contract balance payable under your Rental Agreement after July 15, 2004; (b) forgive any late fees, penalties or risk fees assessed on your account after July 15, 2004; (c) fully credit you for any payments that you have made to IFC which were due and paid after July 15, 2004; (d) in the event your payments made after July 15, 2004 exceed the Settlement Balance described below, refund to you the amount in excess of the Settlement Balance; and (e) withdraw, or cause to be corrected, in writing, any and all adverse credit information filed with any credit bureau as a result of not receiving payment on your Rental Agreement after July 15, 2004.

In exchange for the benefits provided above, you must be current on your payments under the Rental Agreement through July 15, 2004, or you must bring your payments current through July 15, 2004. You must also agree to release IFC from any claims concerning the Rental Agreement, as described more fully below. You must also agree to pay IFC the "Settlement Balance," which is the amount necessary to bring your Rental Agreement current through July 15, 2004 (including applicable taxes paid or incurred on or before July 15, 2004), plus an amount equal to (a) sixteen percent (16%) of the outstanding balance due under your Rental Agreement after July 15, 2004 plus sales taxes paid or incurred by IFC (such balance to exclude any late fees, penalties, and insurance premiums assessed for the period after July 15, 2004) if paid and postmarked on or before November 15, 2008; or (b) eighteen percent (18%) of the outstanding balance due under your Rental Agreement after July 15, 2004 plus sales taxes paid or incurred by IFC (such balance to exclude any late fees, penalties, and insurance premiums assessed for the period after July 15, 2004) if paid and postmarked on or before November 29, 2008 but after November 15, 2008, minus any payments made to IFC under your Rental Agreement which were due and paid after July 15, 2004. After settlement, you may be responsible for potential tax liabilities including but not limited to property and usage taxes with respect to the Matrix box and other telephone equipment subject to your Rental Agreement. In regards to these taxes, you may have an affirmative obligation to report these tax liabilities to either your local tax assessor or state department of revenue depending on your state's laws.

If you have any questions about these payment options, please contact Ahmad Najera at IFC at 847-324-1739 or [anajera@ifccredit.com](mailto:anajera@ifccredit.com).

If your account is current through July 15, 2004 and you are entitled to a refund from IFC, IFC will send the refund to you within sixty (60) days of receipt of the signed Release.

To participate in this Settlement Program, **you must complete, sign and have notarized, and return by U.S. Mail to IFC CREDIT CORPORATION, Attn: Legal Department, P.O. Box 1297, Morton Grove, Illinois 60053, two copies of the enclosed document entitled "Settlement and Mutual Release" along with payment of the appropriate Settlement Balance postmarked on or before either November 15, 2008 or November 29, 2008.** In the Settlement and Mutual Release, you must elect and pay the Settlement Balance according to one of the two payment options described above. Upon your payment of the Settlement Balance and return of the executed "Settlement and Mutual Release," you will receive written notification from IFC that the Rental Agreement has been terminated.





CREDIT CORPORATION

By accepting this proposal, you (a) elect and agree to pay the Settlement Balance; and (b) fully release IFC from, and agree not to sue IFC for, any and all claims that you have or may have had against IFC based upon «Lease\_Name\_Proper»'s Rental Agreement, including, without limitation, any such claims you may have as a member or representative of various proposed class action lawsuits that have been brought against IFC on behalf of asserted classes of NorVergence customers (as well as any such proposed class action lawsuits that may be brought in the future) and any such claims arising out of any efforts to collect under or enforce the Rental Agreement. If you are currently involved in any litigation with IFC over «Lease\_Name\_Proper»'s Rental Agreement and you wish to participate in the Settlement Program, you and IFC will mutually dismiss that action with prejudice and without costs or attorneys' fees.

IFC, in turn, will fully release you from, and agree not to sue you for or to dismiss you from, any and all claims that it has or may have had against you based upon «Lease\_Name\_Proper»'s Rental Agreement. Both you and IFC will retain all rights under law to enforce the Settlement and Mutual Release.

IFC has agreed to propose this Settlement Program for the purpose of avoiding the expense and inconvenience of litigation and it is not an admission on the part of IFC that it engaged in any form of unlawful conduct or business practices. Indeed, IFC expressly denies that it engaged in any such unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the rental of NorVergence telecommunications equipment.

**If You Decide Not To Participate In The Settlement Program:**

You are not obligated to participate in the Settlement Program agreed to by IFC and the Attorney General, and you may wish to consult with an attorney of your choosing before you decide whether to participate in the Settlement Program. If you elect not to participate in the program, then this Settlement Program will have no impact on any of the terms of your Rental Agreement with IFC, and you and IFC will each be free to pursue rights and remedies under the law. Even if you do not participate in the Settlement Program, IFC has agreed that it will not institute any new legal proceedings against you in any court outside the State of «State», unless you assert that «State» is not the correct forum. Nothing, however, shall prevent IFC from asserting a cross-claim or counterclaim in any legal proceedings, to which you are a party, commenced against IFC in any court outside the State of «State». Some of the Attorneys General have obtained default judgments against NorVergence, a company now in bankruptcy. NorVergence did not appear in or defend the cases brought against it by the suing Attorneys General. IFC was not named as a party in those cases. Accordingly, the applicability of such default judgments, if any, on the enforceability of the Rental Agreements assigned to, or otherwise held by, IFC would have to be determined by an appropriate court should you decide not to participate in the settlement program. The same would be true, with respect to IFC, for any additional default judgments that may be sought and obtained by any of the Attorneys General against NorVergence.





CREDIT CORPORATION

**If You Decide To Enroll In The Settlement Program:**

Currently, the amount necessary to bring your Rental Agreement current through July 15, 2004 is \$ \_\_\_\_\_. The remaining balance on your Rental Agreement after you have brought your Rental Agreement account current up through July 15, 2004 is \$ \_\_\_\_\_, plus sales tax paid or incurred by IFC and if you agree to participate in the Settlement Program, IFC will forgive eighty-four percent (84%) or eighty-two percent (82%) of that balance, which results in a savings to you of \$ \_\_\_\_\_ or \$ \_\_\_\_\_.

More specifically, IFC has the following information about your Rental Agreement and what the Settlement Program would require you to pay:

	<u>A. If Paid On or Before 11/15/08</u>	<u>B. If Paid On or Before 11/29/08</u>
<b>Unpaid Balance Due as of July 15, 2004</b>	\$ _____	\$ _____
<b><u>Add:</u> 16% of Remaining Balance Due after July 15, 2004, plus sales taxes paid or incurred by IFC:</b>	\$ _____	
<b><u>Add:</u> 18% of Remaining Balance Due after July 15, 2004, plus sales taxes paid or incurred by IFC:</b>		\$ _____
<b><u>Minus:</u> Amount Due and Paid after July 15, 2004 (includes any payments for monthly rental (which includes interest), late fees, penalties),:</b>	\$ _____	\$ _____
<b><u>Total:</u> Amount to be Paid to IFC (Settlement Balance):</b>	\$ _____	\$ _____
<b>or Amount to be Refunded by IFC:</b>		\$ _____

Please call Ahmad Najera at 847-324-1739 if you have any questions regarding this Settlement Program or your Rental Agreement account.

Sincerely,  
IFC CREDIT CORPORATION

By Ahmad Najera, Senior Case Coordinator





CREDIT CORPORATION

EXHIBIT B  
IFC CREDIT CORPORATION  
SETTLEMENT AGREEMENT AND MUTUAL RELEASE  
  
SETTLEMENT AGREEMENT AND MUTUAL RELEASE

between

[Customer and/or Guarantor]  
and  
IFC CREDIT CORPORATION

The undersigned, on behalf of the entity named above (the "Customer") and if applicable as personal guarantor (the "Guarantor"), elect to take advantage of the Settlement Program agreed to by the ATTORNEY GENERAL OF THE STATE OF «State» and IFC CREDIT CORPORATION ("IFC") to pay off Customer's Rental Agreement with IFC (the "Rental Agreement") at a substantial discount and to settle any and all disputes between (i) Customer and Guarantor and (ii) IFC arising from the Rental Agreement or IFC's efforts to collect under or enforce the Rental Agreement. With this Settlement and Mutual Release (the "Settlement Agreement") The undersigned: (1) accept the terms of the Settlement Program offered by IFC and (2) enter into a mutual release of claims with IFC and related parties.

The undersigned understand that IFC and the Attorney General of the State of «State» have agreed to the terms of this Settlement Program for the purpose of avoiding the expense and inconvenience of litigation and it is not an admission on the part of IFC that it engaged in any form of unlawful conduct or business practices, and that IFC expressly denies that it engaged in any such unlawful conduct or business practices and expressly denies that it is liable to any person or entity in connection with the Rental Agreement.

1. Terms Of The Settlement Program

The undersigned understand that, upon timely receipt of an executed copy of this Settlement Agreement and the Settlement Balance, as defined below, IFC will:

- (a) forgive
  - (i) eighty-four percent (84%) of the remaining contract balance after taxes due under the Rental Agreement as of July 15, 2004 if paid on or before November 15, 2008, or
  - (ii) eighty-two percent (82%) of the remaining contract balance after taxes due under the Rental Agreement as of July 15, 2004 if paid on or before November 29, 2008 but after November 15, 2008;
- (b) forgive any late fees, penalties, or risk fees assessed on that account on or after July 15, 2004;
- (c) fully credit any payments Lessee and/or Guarantor has made to IFC which were due and paid after July 15, 2004;
- (d) in the event your payments made after July 15, 2004 exceed the Settlement Balance described below, refund to you the amount in excess of the Settlement Balance; and



CREDIT CORPORATION

- (e) withdraw any and all adverse credit reports IFC filed, if any, as to the Lessee and/or Guarantor as a result of not receiving payment on the Rental Agreement on or after July 15, 2004.

The undersigned also understand that IFC's records reflect the following information about Customer's Rental Agreement account:

Table with 3 columns: Description, A. If Paid On or Before 11/15/08, B. If Paid On or Before 11/29/08. Rows include Unpaid Balance Due as of July 15, 2004; Add: 16% of Remaining Balance Due after July 15, 2004, plus sales taxes paid or incurred by IFC; Add: 18% of Remaining Balance Due after July 15, 2004, plus sales taxes paid or incurred by IFC; Minus: Amount Due and Paid after July 15, 2004 (includes any payments for monthly rental (which includes interest), late fees, penalties); Total: Amount to be Paid to IFC (Settlement Balance); or Amount to be Refunded by IFC.

Customer and/or Guarantor agree to pay the Settlement Balance by the method checked below: Please check Option A or B.

- A. Pay the Settlement Balance in a lump sum by U.S. Mail postmarked on or before November 15, 2008 in the amount of \$
OR
B. Pay the Settlement Balance in a lump sum by U.S. Mail postmarked on or before November 29, 2008 but after November 15, 2008 in the amount of \$

Checks are to be made payable to: IFC CREDIT CORPORATION
Attn: Legal Department
P.O. Box 1297
Morton Grove, Illinois 60053

\*Please include on the check the customer number referenced on the first page of the Settlement Letter.





CREDIT CORPORATION

The undersigned understand that if Customer and Guarantor fail to pay the Settlement Balance as promised, IFC may seek to enforce the Settlement and Mutual Release in full and make use of any of the remedies available to it under the law. The undersigned agree that if IFC prevails in any litigation seeking to enforce this Settlement and Mutual Release, IFC shall be entitled to collect its reasonable attorneys' fees, together with interest on the unpaid Settlement Balance from the date of default until the date of payment at the rate of twelve per cent (12%) per annum, or, if lower, the maximum rate permitted under the laws of the State of «State». The undersigned understand that IFC will not institute any new legal proceedings against Customer and/or Guarantor in any Court outside the State of «State» unless the undersigned object to the jurisdiction of the courts of «State». The undersigned understand, however, that if Customer and/or Guarantor are parties to any legal proceeding against IFC in any court outside the State of «State», IFC may assert a cross claim or counterclaim in any such proceeding.

The undersigned understand that if the undersigned are a lessee who is entitled to a refund from IFC under the Settlement Program, the undersigned will be able to obtain that refund by executing this Settlement and Mutual Release. Within sixty (60) days of IFC's receipt of this Settlement and Mutual Release, IFC will send me my refund check.

2. Release Of Claims

The undersigned understand that, in exchange for the opportunity to pay off the Rental Agreement at a substantial discount, Customer and Guarantor each hereby releases and discharges IFC, and all of its subsidiaries, parents, affiliates, predecessors, successors and assigns, officers, directors, employees, shareholders and agents (collectively "IFC Released Parties") from, and covenants not to file or pursue any lawsuit or claim in any place against IFC Released Parties for, any and all claims (including claims as a member or representative of a proposed class action, whether pending now or filed later) that Customer and/or Guarantor has or may have had against any or all of them for any and all damages, restitution, equitable relief, attorneys' fees and/or penalties related to the Rental Agreement, including but not limited to claims arising out of efforts to collect under or enforce the Rental Agreement. Customer and Guarantor each further agrees that if either of them is currently involved in any litigation arising from the Rental Agreement or any effort to collect under or enforce the Rental Agreement, Customer, Guarantor and IFC will mutually dismiss that litigation with prejudice, each party to bear its own costs and fees.

In exchange for Customer and/or Guarantor's payment to IFC pursuant to this Settlement Agreement, IFC hereby releases and discharges Customer and Guarantor from, and covenants not to file or pursue any lawsuit or claim in any place against either Customer or Guarantor for, any and all claims that IFC has or may have had against either Customer or Guarantor and all of their subsidiaries, parents, affiliates, predecessors, successors, assigns, officers, directors, employees, shareholders, agents, and guarantors for any and all damages, equitable relief, attorneys' fees and penalties related to the Rental Agreement. IFC also transfers all of its right, title and interest to the equipment subject to the Rental Agreement, if any, to the Customer.

The undersigned hereby acknowledge and represent that the undersigned have read this Settlement Agreement; that the undersigned have had the opportunity to consult with a lawyer concerning it; that each of Customer and Guarantor is voluntarily entering into this Settlement Agreement; that neither IFC nor its agents or attorneys have made any representations or promises concerning the terms or effects of this Settlement Agreement other than those set forth in this document; and the undersigned understand



**CREDIT CORPORATION**

that this is a full and final release of all claims Customer and Guarantor have or may have against IFC concerning the Rental Agreement or IFC's efforts to collect under or enforce the Rental Agreement.

The undersigned further agree that this Settlement Agreement constitutes the entire agreement among the parties hereto, may not be changed orally and may not be modified or amended except pursuant to an agreement in writing signed by all of the parties hereto.

The signatory for the Customer and Guarantor below represent that he or she is duly authorized to enter into this Settlement Agreement and on behalf of the Customer or Guarantor.

This Settlement Agreement shall be deemed accepted upon your return to IFC of an executed copy of this Settlement Agreement and payment of the Settlement Balance.

**IN WITNESS WHEREOF**, and intending to be legally bound hereby, the undersigned has caused this Settlement Agreement and Mutual Release to be executed.

Dated: \_\_\_\_\_

[Insert Customer Name]  
Customer Number: «Cust\_Num»

Subscribed and sworn to  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 2008

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary

By: \_\_\_\_\_  
[Name], as Guarantor «Line\_1\_PG»  
«GuarantorName»«Line\_2\_PG»  
**IFC CREDIT CORPORATION**

Subscribed and sworn to  
before me this \_\_\_\_ day  
of \_\_\_\_\_, 2008

By: \_\_\_\_\_  
[Name], [Title]

\_\_\_\_\_  
Notary

**FILL OUT COMPLETELY AND SEND TWO SIGNED ORIGINALS ALONG WITH PAYMENT OF THE SETTLEMENT BALANCE YOU HAVE SELECTED TO PAY TO IFC at: IFC CREDIT CORPORATION  
Attn: Legal Department  
P.O. Box 1297  
Morton Grove, Illinois 60053**

**PLEASE KEEP A COPY FOR YOUR RECORDS. A FULLY EXECUTED DOCUMENT WILL BE SENT TO CUSTOMER AND ANY GUARANTOR UPON COMPLETION OF THE TERMS OUTLINED HEREIN**

