

THIS BROKER AGREEMENT (this "Agreement") is entered into by and between LCA Bank Corporation or our affiliate, Lease Corporation of America, ("LCA"), and

\_\_\_\_\_, ("Broker").

**IN CONSIDERATION OF THE REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS CONTAINED IN THIS AGREEMENT, THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. Scope:** this Agreement applies to all leases (called leases and/or transactions herein) submitted by Broker to LCA, whether for assignment, sale, referral or otherwise, until such time as this Agreement is terminated (subject to the continuing obligations hereunder related to transactions already entered into as of such termination date) or expressly superseded by another written agreement.

**2. Disclosure of Information:** Broker shall, in connection with each transaction submitted, fully inform LCA as to all material information known to Broker concerning the transaction, including, but not limited to, information regarding the proposed lessee and the proposed lessee's credit worthiness, any vendor, and the equipment to be leased. This duty extends to any changes occurring or discovered after the transaction has been submitted to LCA.

**3. Documentation:** All transactions shall be documented to LCA's complete satisfaction in form acceptable to LCA, in LCA's sole discretion.

**4. Broker Representations and Warranties:** Broker hereby represents and warrants to LCA, with respect to each transaction submitted or to be submitted to LCA that:

**a.** All executed documents related to transactions submitted to LCA will have been duly authorized, executed and delivered by all parties whose names appear thereon, will be in full force and effect (subject to the same limitations as set forth in paragraph (p) hereof) and will be valid and binding upon and enforceable against those respective parties in accordance with its terms, excepting only the effect of bankruptcy or insolvency laws, and as to each proposed lease, no event has occurred and is continuing which constitutes a default thereunder by any party thereto or that would constitute a default but for the requirement that notice be given or lapse of time or both.

**b.** Each copy of the documents submitted to LCA by Broker will be, at the time so submitted or delivered and/or at the time assigned hereunder, a true and complete copy of all documents constituting each lease transaction as in effect on each such date.

**c.** The payment of all sums specified in the lease shall be due and payable on the date or at the time set forth in the lease and shall not be contingent upon the fulfillment or occurrence of any conditions or warranties, either express or implied, except as may be set forth in the lease and broker has made no claim or representation that is not expressly set forth in the lease.

**d.** The equipment described in any lease subject to this Agreement has been acquired by legal means and is not subject to any liens, charges, or encumbrances unless previously disclosed by Broker in writing to LCA. LCA's title to such equipment is indefeasible and not voidable.

**e.** All representations or warranties made by Broker to LCA or lessee are true, correct and not misleading, false or fraudulent in any respect.

**f.** No part of the money required to commence any lease subject to this Agreement has been loaned, rebated or advanced by Broker and Broker has entered into no reciprocal Agreements with

any lessee or officer, director, employee or guarantor of lessee. Also, the consideration paid to Broker or the equipment vendor by LCA will not be for any product, service or other thing of value not disclosed on the lease agreement, the invoice or other document provided to LCA;

**g.** A lease request shall not be split between various funding sources without full written disclosure in advance to LCA. Broker warrants that any application submitted is for the full amount lessee is applying to Broker for, regardless of equipment type or financing type. If it is not for the full amount, Broker has, in writing, disclosed to LCA the dollar amounts, equipment descriptions and funding sources being contacted for the other requests.

**h.** Broker or the underlying equipment vendor is the originator of each and any transaction submitted to LCA. The lease has not been "rebrokered", as that term is generally understood in the industry, unless this fact has been disclosed to LCA in writing prior to LCA's acceptance of the transaction. Without limiting the generality of the foregoing, the term "rebrokered" includes transactions in which any monies have been or will be paid by Broker (or Broker's predecessor in the transaction, if any) to any party other than Broker's employees. Likewise no other party, other than LCA hereunder, will have paid a commission or fee to Broker related to such transaction including, without limitation, the lessee unless LCA has been given prior written notice.

**i.** The lease or the transaction has not been sold, assigned, pledged, or transferred to any person or entity other than LCA;

**j.** Broker has performed all of its obligations, if any, to the lessee with respect to the transaction, and there are no actual, pending or threatened suits, demands, counterclaims, or set-offs asserted or capable of being asserted against Broker by the lessee or other obligor with respect to the transaction;

**k.** Broker has not granted to any lessee any allowance, adjustment, settlement or amendment of the leases;

**l.** Broker has furnished LCA with all credit information known to or possessed by Broker concerning the lessee and its owners under each lease, including, without limitation, all written credit information in Broker's possession provided by credit bureaus and other third parties; and no such information (including adverse or negative information and ratings) has been altered, deleted, or omitted from the information submitted to LCA;

**m.** Each lease resulted from (or upon acceptance by LCA will result in) a bona fide lease of the equipment described therein for business or commercial purposes and not for personal, family or household purposes;

**n.** The lease and guarantee (if any) are free of defenses, claims, counterclaims and set-offs of any kind whatsoever;

**o.** All of the leased equipment was new at the time of delivery to the lessee unless disclosed otherwise on the lease agreement or in writing to LCA;

**p.** The final interest rate charged (as reflected on the lease or later determined by a court of competent jurisdiction) does not violate any civil or criminal laws relating to the legally chargeable maximum interest rate, more commonly called "usury laws" and, if the lease transaction is documented on a lease other than LCA's form lease, it complies with all applicable federal, state and local laws and regulations, including but not limited to Article 2A of the Uniform Commercial Code.

**q.** The lessee has not made an assignment for the benefit of creditors, has not ceased to do business as a going concern, nor has filed or has had filed against it a petition under the Bankruptcy Code or for the appointment of a receiver.

r. For each credit applicant, whether principal obligor (i.e. lessee) or guarantor, Broker has received their written authorization for LCA to investigate their credit and Broker will comply with all requirements of the ECOA and similar laws, including the provision of notices to such parties, and will further have any such document evidencing such authorization or the provision of such notice on file to provide to LCA upon reasonable written request.

The representations and warranties stated herein are deemed to be true and correct as of the time the transaction is submitted to LCA and at the time of the sale and assignment (or, in the case of referred Leases, at the time of payment to Broker), These representations and warranties and any related remedies shall survive and be enforceable following such sale (or referral) and shall also survive and be enforceable following the termination of this Agreement. Broker covenants and agrees that Broker will promptly notify LCA in the event that Broker discovers, at any time, that any of such representations are (or may be) false, misleading or inaccurate.

**5. Authority of Broker:** Broker is, and shall act as, an independent contractor, and as such, shall not have authority to incur any obligations or to make any statements or representations on behalf of LCA, or to bind or commit LCA in any manner, or to make, alter or execute any document or agreement on behalf of LCA. Broker shall not use LCA's name or any of LCA's trademarks as part of its firm, trade or corporate name. Broker shall not accept service of any legal process in any action, which may be brought against LCA.

**6. Acts of Representatives:** It is understood by Broker that all of its duties and responsibilities arising out of this Agreement extend as well to anyone acting on Broker's behalf including, without limitation, broker's representatives and agents. Broker specifically understands that in the event that it delegates any of its functions, such as, but not limited to, obtaining documentation or making other arrangements with regard to a transaction to others, including vendors or other brokers, Broker is still fully responsible for any and all such actions as if Broker had taken such actions itself.

**7. Indemnity/Repurchase:** Broker shall indemnify and hold LCA harmless from and against any and all expense, injury and damage, including reasonable attorney fees, which LCA may incur, pay or suffer as a result of the failure or breach of any warranty, covenant or agreement of Broker or its representatives (as to the later, see paragraph 6 hereof). In lieu of the indemnification hereunder, LCA may, at it's sole option, elect to sell the affected transaction(s) to Broker for an amount equal to LCA's out of pocket origination expenses related to such transaction(s) including, without limitation, the related equipment cost and broker commissions, plus interest until repaid calculated at a rate equal to the rate originally used in calculating the lease payments under such transaction(s). Upon written demand, Broker shall pay LCA such repurchase price within five (5) business days of such request.

**8. Compensation of Broker:** In return for Broker's efforts in connection with any transaction submitted by Broker and accepted by LCA, LCA shall, if the transaction is at LCA's standard rates for transactions of similar size and risk, pay Broker LCA's standard brokerage fee thereon in accordance with LCA's then current commission schedule. LCA may change this commission schedule in it's sole reasonable discretion. For any amounts due LCA from Broker, Broker hereby grants LCA the right to offset against any amounts due Broker from LCA.

**9. Expenses of Broker:** LCA shall not be liable for any expenses incurred by Broker in connection with any transaction submitted by Broker. Any and all such expenses shall be Broker's sole responsibility.

**10. Regulation B and ECOA:** Broker agrees to comply with, and take full responsibility for all required notices under the Federal Regulation "B" of the Equal Credit Opportunity Act.

**11. Effective Time:** This Agreement shall be effective at the time of its execution by LCA and shall continue in effect until terminated by either party upon thirty (30) days written notice. The rights and obligations of the parties hereunder with respect to transactions originated or approved prior to termination of this agreement shall survive such termination.

**12. Choice of Law, Venue and Attorney Fees:** This agreement and the related agreements hereunder shall be deemed fully executed and performed in the state of Michigan, and each of the parties hereto: 1) agree to be subject to the personal jurisdiction of the state of Michigan, including any state or federal court sitting therein, and all court rules thereof for any and all claims arising from this agreement or from a transaction or agreement contemplated hereby; 2) shall accept venue in any federal or state court in the state of Michigan; and 3) expressly waive any right to a trial by jury so that trial shall be by and only to the court. If enforcement action is taken by LCA to enforce any term of this Agreement, the prevailing party in such action shall be entitled to a reasonable attorney fee, including attorney fees incurred at trial, on appeal and review, or incurred without actions, suits or proceedings, together with all costs and expenses incurred in pursuit thereof.

**13. Severability:** If any part of this Agreement shall be contrary to any law which either party might seek to apply or enforce or should otherwise be defective, the other provisions hereof shall not be affected thereby but shall continue in full force and effect, to which end they are hereby declared severable.

**14. Miscellaneous:** The sections and/or subsections to this Agreement, including the headings and numbering of paragraphs, set forth herein are for the convenience of the parties only and are not an integral part of this Agreement. As used herein, the singular includes the plural and the masculine includes the feminine and neuter and vice versa. This Agreement may not be modified nor amended except in writing signed by the Broker and LCA.

**LCA**

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

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

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

**BROKER**

\_\_\_\_\_  
(Print Broker Name Above)

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

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_