

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	:	Chapter 11 Case
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	:	Case No. 09-50026 (REG)
Debtors.	:	(Jointly Administered)
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MOTORS LIQUIDATION COMPANY f/k/a GENERAL MOTORS CORPORATION,	:	Adversary Proceeding
Plaintiff,	:	Case No. 09-00504 (REG)
vs.	:	
JPMORGAN CHASE BANK, N.A., <i>et al.</i> ,	:	
Defendants.	:	

**Declaration of Eric B. Fisher in Support of  
Plaintiff's Motion for Summary Judgment**

ERIC B. FISHER, under penalty of perjury, deposes and says:

1. I am counsel to plaintiff in this action, and I am familiar with the facts set forth herein.
2. Attached hereto as Exhibit A is a true and correct copy of the term loan agreement dated as of November 29, 2006 among General Motors Corporation, Saturn Corporation, JPMorgan Chase Bank, N.A., as administrative agent, and the lenders party thereto.
3. Attached hereto as Exhibit B is a true and correct copy of the collateral agreement dated as of November 29, 2006 among General Motors Corporation, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent.

4. Attached hereto as Exhibit C is a true and correct copy of excerpts from the transcript of the deposition of Richard Duker dated February 9, 2010.

5. Attached hereto as Exhibit D is a true and correct copy of a UCC financing statement, filing # 64168084, filed with the Delaware Secretary of State on November 30, 2006.

6. Attached hereto as Exhibit E is a true and correct copy of the participation agreement among General Motors Corporation, JPMorgan Chase Bank, N.A. f/k/a The Chase Manhattan Bank, as administrative agent, and other parties thereto dated as of October 31, 2001, as amended by the first amendment and agreement dated as of January 6, 2003.

7. Attached hereto as Exhibit F is a true and correct copy of excerpts from the transcript of the deposition of Mardi Merjian dated February 4, 2010.

8. Attached hereto as Exhibit G is a true and correct copy of an email dated June 19, 2009 from Ann Silva to Stephen Karotkin, Thomas Mayer and John Rapisardi, copying Richard Toder and Andrew Gottfried and attaching the final affidavit of Robert Gordon dated June 18, 2009 including the exhibits thereto.

9. Attached hereto as Exhibit H is a true and correct copy of excerpts from the transcript of the deposition of Ryan Green dated January 27, 2010.

10. Attached hereto as Exhibit I is a true and correct copy of excerpts from the transcript of the deposition of Robert Gordon dated January 28, 2010.

11. Attached hereto as Exhibit J is a true and correct copy of an email dated October 1, 2008 from Robert Gordon to Ryan Green.

12. Attached hereto as Exhibit K is a true and correct copy of an email dated October 6, 2008 from Ryan Green to Stacey Braybrook, attaching a draft closing checklist.

13. Attached hereto as Exhibit L is a true and correct copy of excerpts from the transcript of the deposition of Michael Perlowski dated January 27, 2010.

14. Attached hereto as Exhibit M is a true and correct copy of excerpts from the transcript of the deposition of Stewart Gonshorek dated January 28, 2010.

15. Attached hereto as Exhibit N is a copy of an email dated October 15, 2008 from Ryan Green to Arun Sundaram and Timothy Conder attaching a draft closing checklist.
16. Attached hereto as Exhibit O is a true and correct copy of an email dated October 15, 2008 from Arun Sundaram to Richard Duker copying Timothy Conder, Jeffrey Holy and Ryan Green and attaching a draft closing checklist.
17. Attached hereto as Exhibit P is a true and correct copy of an email dated October 15, 2008 from Ryan Green to Mardi Merjian and Glenn Kenton, attaching a draft closing checklist.
18. Attached hereto as Exhibit Q is a true and correct copy of an email dated October 15, 2008 from Mardi Merjian to Richard Duker, attaching a draft closing checklist.
19. Attached hereto as Exhibit R is a true and correct copy of an email dated October 15, 2008 from Ryan Green to Mardi Merjian and Michael Ledyard, copying Arun Sundaram, Timothy Conder, Robert Gordon, Stewart Gonshorek and Michael McCarthy and attaching a draft closing checklist and drafts of the closing documents.
20. Attached hereto as Exhibit S is a true and correct copy of an email dated October 15, 2008 from Mardi Merjian to Richard Duker, attaching a draft closing checklist and drafts of the closing documents.
21. Attached hereto as Exhibit T is a true and correct copy of an email dated October 17, 2008 from Mardi Merjian to Ryan Green, copying Arun Sundaram, Timothy Conder, Robert Gordon, Stewart Gonshorek, Michael McCarthy and Michael Ledyard.
22. Attached hereto as Exhibit U is a true and correct copy of an email dated October 24, 2008 from Ryan Green to Mardi Merjian, William Wineman and Michael Ledyard, copying Stewart Gonshorek and attaching draft escrow instructions.
23. Attached hereto as Exhibit V is a true and correct copy of an email dated October 27, 2008 from Ryan Green to Mardi Merjian and an email dated October 27, 2008 from Mardi Merjian to Ryan Green.

24. Attached hereto as Exhibit W is a true and correct copy of the final, fully-executed escrow instructions dated October 29, 2008 (without exhibits thereto).

25. Attached hereto as Exhibit X is a true and correct copy of the UCC financing statement amendment, filing # 20083661491, filed with the Delaware Secretary of State on October 30, 2008.

26. Attached hereto as Exhibit Y is a true and correct copy of the email dated February 13, 2009 from Robert Scheibe to Julie Engell, Ram Burshtine, Adil Mistry, Maurita Sutedja, Roberto Bel, Martin Darvick, Richard Ginsburg and Justin Forlenza, copying Ann Kurinskas, David Walker, Donald Bonson, Geoffrey Kirles, Gregory Maxon, Kevin Kelley, Richard Duker, Maria Blackwell, Richard Toder, Andrew Gottfried, Christopher Owens and Emmeline Liu, and attaching an executed first amendment arrangement fee letter.

27. Attached hereto as Exhibit Z is a true and correct copy of (i) an email dated May 6, 2009 from Richard Duker to TCP Corporates, (ii) an email dated May 6, 2009 from TCP Corporates to Lien Perfection Bangalore, IB Collateral Services and Richard Duker, (iii) an email dated May 7, 2009 from Elizabeth Rarich to IB DOX Collateral Report, copying Richard Duker, (iv) an email dated May 8, 2009 from Shwetha Ramesh to Elizabeth Rarich and Richard Duker, copying Solomon Raj, Priyadarshini Pattabiraman, Suhel Inamdar and Sylvia Godinho, (v) an email dated May 8, 2009 from Richard Duker to IB DOX Collateral Report and Elizabeth Rarich, copying Solomon Raj, Priyadarshini Pattabiraman, Suhel Inamdar and Sylvia Godinho, and (vi) an email dated May 10, 2009 from Solomon Raj to Shwetha Ramesh and Veena Korru, copying Richard Duker.

28. Attached hereto as Exhibit AA is a true and correct copy of an email dated June 17, 2009 from Ann Silva to Fern Bomchill copying Richard Toder and Andrew Gottfried and attaching a proposed affidavit.

29. Attached hereto as Exhibit BB is a true and correct copy of an email dated June 18, 2009 from Fern Bomchill to Richard Toder attaching a revised affidavit.



30. Attached hereto as Exhibit CC is a true and correct copy of an email dated June 29, 2009 from Richard Toder to Fern Bomchill, copying Andrew Gottfried.

31. Attached hereto as Exhibit DD is a true and correct copy of the *Final Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain Post-Petition Financing Pursuant Thereto, (B) Granting Related Liens and Super-Priority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-Petition Secured Parties* dated June 25, 2009.

32. Attached hereto as Exhibit EE is a true and correct copy of the executed letter dated June 30, 2009 from JPMorgan Chase Bank, N.A. to General Motors Corporation.

33. Attached hereto as Exhibit FF is a true and correct copy of Plaintiff's complaint filed in the above-captioned adversary proceeding captioned *Official Committee of Unsecured Creditors of Motors Liquidation Company f/k/a General Motors Corporation vs. JPMorgan Chase Bank, N.A., individually and as Administrative Agent for various lenders party to the Term Loan Agreement described herein, et al.* (Adversary Proceeding Case No. 09-00504).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
July 1, 2010

/s/ Eric B. Fisher  
ERIC B. FISHER

# **EXHIBIT A**

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TERM LOAN AGREEMENT

among

GENERAL MOTORS CORPORATION,  
as the Borrower

SATURN CORPORATION,  
as a Guarantor

THE SEVERAL LENDERS  
from Time to Time Party Hereto,

CREDIT SUISSE SECURITIES (USA) LLC,  
as Syndication Agent,

BARCLAYS BANK PLC,  
CITIGROUP GLOBAL MARKETS INC.,  
DEUTSCHE BANK SECURITIES INC.,  
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,  
and  
MORGAN STANLEY SENIOR FUNDING, INC.,  
as Co-Documentation Agents,

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

Dated as of November 29, 2006

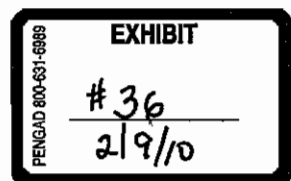
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J.P. MORGAN SECURITIES INC.  
and  
CREDIT SUISSE SECURITIES (USA) LLC  
as Joint Lead Arrangers and Joint Bookrunners

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[CS&M No. 6701-619]

[[NYCORP:2649238v24]]



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**EXHIBITS**

<b>A</b>	<b>Form of Assignment and Acceptance</b>
<b>B</b>	<b>Form of Note</b>
<b>C</b>	<b>Form of Collateral Agreement</b>
<b>D</b>	<b>Form of Tax Compliance Certificate</b>
<b>E-1</b>	<b>Form of Opinion of Weil, Gotshal &amp; Manges LLP</b>
<b>E-2</b>	<b>Form of Opinion of Martin I. Darvick, Esq.</b>
<b>F-1</b>	<b>Form of Collateral Value Certificate</b>
<b>F-2</b>	<b>Form of Summary Collateral Value Certificate</b>

TERM LOAN AGREEMENT, dated as of November 29, 2006, among GENERAL MOTORS CORPORATION, a Delaware corporation (the "Borrower"); SATURN CORPORATION, a Delaware corporation, as a Guarantor; the LENDERS party hereto (the "Lenders"); CREDIT SUISSE SECURITIES (USA) LLC, as Syndication Agent (the "Syndication Agent"); BARCLAYS BANK PLC, CITIGROUP GLOBAL MARKETS INC., DEUTSCHE BANK SECURITIES INC., MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, and MORGAN STANLEY SENIOR FUNDING, INC., as Co-Documentation Agents (the "Co-Documentation Agents"); and JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, the "Agent").

The Borrower has requested the Lenders to extend credit in the form of Loans (such term and each other capitalized term used and not otherwise defined herein having the meaning assigned to it in Article I) to the Borrower on the Funding Date in Dollars in an aggregate principal amount of \$1,500,000,000. The proceeds of the Loans are to be used for general corporate purposes of the Borrower and its Subsidiaries.

The Lenders are willing to extend such credit on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

## ARTICLE I

### Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"ABR": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. If for any reason the Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate for any reason, the ABR shall be determined without regard to clause (b) of the first sentence of this definition until the circumstances giving rise to such inability no longer exist. Any change in the ABR due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"ABR Loans": Loans bearing interest at a rate determined by reference to the ABR.

"Affiliate": with respect to any Person, any other Person directly or indirectly controlling or that is controlled by or is under common control with such Person, each officer, director, general partner or joint-venturer of such Person, and each Person that is the beneficial owner of 10% or more of any class of voting stock of such Person. For the purposes of this



definition, “control” means the possession of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Agent”: as defined in the preamble to this Agreement.

“Agreement”: this Term Loan Agreement, as amended, supplemented or otherwise modified from time to time.

“Applicable Lending Office”: for any Lender, such Lender’s office, branch or Affiliate designated for Eurodollar Loans or ABR Loans, as applicable, as notified to the Agent and the Borrower or as otherwise specified in the Assignment and Acceptance applicable to such Lender, any of which offices may, subject to Section 2.15, be changed by such Lender upon 10 days’ prior written notice to the Agent and the Borrower.

“Applicable Margin”: with respect to any ABR Loan, 1.375% per annum, and, with respect to any Eurodollar Loan, 2.375% per annum.

“Applicable Percentage”: as to any Lender at any time, the percentage which such Lender’s Commitment then constitutes of the aggregate Commitments or, at any time after the Funding Date, the percentage that the principal amount of such Lender’s Loans then outstanding constitutes of the aggregate principal amount of the Loans of all Lenders then outstanding.

“Arrangers”: J.P. Morgan Securities Inc. and Credit Suisse Securities (USA) LLC.

“Assignee”: as defined in Section 10.06.

“Assignment and Acceptance”: as defined in Section 10.06.

“Attributable Indebtedness”: at the time of determination as to any lease, the present value (discounted at the actual rate, if stated, or, if no rate is stated, the implicit rate of interest of such lease transaction as determined by a Financial Officer of the Borrower), calculated using the interval of scheduled rental payments under such lease, of the obligation of the lessee for net rental payments during the remaining term of such lease (excluding any subsequent renewal or other extension options held by the lessee). The term “net rental payments” means, with respect to any lease for any period, the sum of the rental and other payments required to be paid in such period by the lessee thereunder, but not including, however, any amounts required to be paid by such lessee (whether or not designated as rental or additional rental) on account of maintenance and repairs, insurance, taxes, assessments, water rates, indemnities or similar charges required to be paid by such lessee thereunder or any amounts required to be paid by such lessee thereunder contingent upon the amount of sales, earnings or profits or of maintenance and repairs, insurance, taxes, assessments, water rates, indemnities or similar charges; provided that in the case of any lease which is terminable by the lessee upon the payment of a penalty in an amount which is less than the total discounted net rental payments required to be paid from the later of the first date upon which such lease may be so terminated and the date of the determination of net rental payments, “net rental payments” shall include the

then current amount of such penalty from the later of such two dates and shall exclude the rental payments relating to the remaining period of the lease commencing with the later of such two dates.

**“Borrower”**: as defined in the preamble to this Agreement.

**“Business Day”**: any day that (i) is not a Saturday or Sunday and (ii) is (A) when used in connection with any ABR Loan, any day on which banks are open for business in New York and (B) when used in connection with any Eurodollar Loan, any day on which dealings in Dollars can occur in the London interbank market and on which banks are open for business in New York.

**“Capital Lease Obligations”**: as to any Person, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

**“Code”**: the Internal Revenue Code of 1986, as amended from time to time.

**“Co-Documentation Agents”**: as defined in the preamble to this Agreement.

**“Collateral”**: all property of the Loan Parties, now owned or hereafter acquired, upon which a Lien is created in favor of the Agent for the benefit of the Secured Parties by any Security Document.

**“Collateral Agreement”**: the Collateral Agreement, substantially in the form of Exhibit C, to be executed and delivered by the Loan Parties and the Agent, as such agreement may be amended, restated, supplemented or otherwise modified from time to time.

**“Collateral Value”**: as of any date of determination, the aggregate net book value of the Collateral located in the United States of America as of the end of the most recent fiscal quarter of the Borrower, excluding (i) any Collateral Disposed of since the last day of such fiscal quarter, (ii) any Collateral subject to third-party Liens securing Indebtedness (or securing other monetary obligations, if all such third-party Liens securing other monetary obligations, in the aggregate, would materially reduce the value of the Collateral taken as a whole), (iii) all Collateral owned by any Guarantor if any of the events described in paragraph (c) of Article VII shall have occurred and be continuing as of such date with respect to such Guarantor (with references in such paragraph (e) to the Borrower being deemed for purposes of this clause (iii) to be references to such Guarantor), and (iv) any Collateral installed or located on or at any facility or other real property not owned by a Loan Party or subject to any Lien securing Indebtedness (other than Obligations) or any sale and lease-back arrangement, unless (x) the Agent shall have received a landlord waiver, bailee letter or other access agreement reasonably satisfactory to it, executed by each applicable owner of or holder of such Lien on such facility or other real property (or a representative authorized to act on its behalf) on customary terms or (y) the Agent shall have agreed with the Borrower in writing that such a waiver, letter or agreement is not required with respect to such Collateral. Notwithstanding the foregoing, for purposes of

determining Collateral Value, Collateral shall not be excluded pursuant to subclause (iv)(x) of the preceding sentence prior to February 1, 2007 (or, as to the Collateral installed or located on or at any particular facilities or other real properties, such later date or dates as the Agent shall agree) so long as the Borrower shall be endeavoring in good faith to obtain the required landlord waivers, bailee letters or other access agreements.

**“Collateral Value Certificate”**: a certificate in substantially the form of, and containing the information called for by, Exhibit F-1, signed by a Financial Officer of the Borrower and setting forth the Collateral Value as of the last day of the fiscal period covered by the financial statements to which such certificate relates.

**“Commitment”**: as to any Lender, the commitment of such Lender to make a Loan hereunder on the Funding Date, expressed as an amount representing the maximum principal amount of the Loan to be made by such Lender hereunder, as such commitment may be reduced or increased from time to time in accordance with the provisions of this Agreement. The initial amount of each Lender’s Commitment is set forth on Schedule 2.01, or in the Assignment and Acceptance pursuant to which such Lender shall have assumed its Commitment, as applicable.

**“Conduit Lender”**: any special purpose funding vehicle that (i) is organized under the laws of the United States or any state thereof and (ii) is engaged in making, purchasing or otherwise investing in commercial loans in the ordinary course of its business.

**“Contractual Obligation”**: as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

**“Default”**: any of the events specified in Article VII, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

**“Designated Refinancing”**: (a) any prepayment of all or a substantial portion of the Loans with the proceeds of a replacement loan or credit facility of the Borrower or any of its Subsidiaries or (b) any amendment to this Agreement that reduces the Applicable Margin, in the case of each of clause (a) or (b), made or effective on or prior to the first anniversary of the Funding Date.

**“Disposition”**: with respect to any property, any sale, lease, sale and lease-back, assignment, conveyance, transfer or other disposition thereof. The terms **“Dispose”** and **“Disposed of”** shall have correlative meanings.

**“Dollars”** and **“\$”**: dollars in lawful currency of the United States of America.

**“Environmental Activity”**: any past, present or future activity, event or circumstance in respect of a Hazardous Substance, including its presence, storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling, disposal or transportation, or its spill,

discharge, leak, release, leaching, dispersal or migration into the environment, including the movement through or in the air, soil, surface water or groundwater.

**“Environmental Laws”**: all applicable laws regulating, relating to or imposing liability or standards of conduct concerning protection or quality of the environment, human health, employee health and safety or Hazardous Substances.

**“Equipment”**: as defined in the Collateral Agreement.

**“ERISA”**: the Employee Retirement Income Security Act of 1974, as amended from time to time.

**“Eurodollar Loan Group”**: a Loan Group comprised of Eurodollar Loans.

**“Eurodollar Loan”**: any Loan bearing interest at a rate determined by reference to the Eurodollar Rate.

**“Eurodollar Rate”**: with respect to an Interest Period pertaining to any Eurodollar Loan, the rate of interest determined on the basis of the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on Page 3750 of the Telerate Screen as of 11:00 a.m., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page of the Telerate Screen (or otherwise on the Telerate Service), the **“Eurodollar Rate”** shall instead be the interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the rate at which deposits in Dollars approximately equal to \$10,000,000, and for a maturity comparable to such Interest Period, are offered by the principal London office of the Reference Lender (or, if the Reference Lender does not at the time maintain a London office, the principal London office of any Affiliate of the Reference Lender) for immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

**“Eurodollar Reserve Rate”**: with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula (rounded upward to the nearest 1/100th of 1%):

$$\text{Eurodollar Reserve Rate} = \frac{(\text{Eurodollar Rate})}{(1.00 - \text{Eurodollar Reserve Requirements})}$$

**“Eurodollar Reserve Requirements”**: for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including, without limitation, basic, supplemental, marginal and emergency reserves under any regulations of the Board of Governors of the Federal Reserve System or other Governmental Authority having jurisdiction with respect thereto) dealing with reserve requirements prescribed for eurodollar funding (currently referred to as “Eurocurrency liabilities” in Regulation D of such Board) maintained by a member bank of such System.

**“Event of Default”**: any of the events specified in Article VII; provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

**“Existing Credit Agreement”**: the Amended and Restated Credit Agreement dated as of July 20, 2006, among the Borrower, General Motors of Canada Limited, Saturn Corporation, the lenders party thereto and Citicorp USA, Inc. as administrative agent, as amended, restated, supplemented, replaced or otherwise modified from time to time.

**“Federal Funds Effective Rate”**: for any day, the weighted average of the rates (rounded upward, if necessary, to the next 1/100 of 1%) on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average (rounded upward, if necessary, to the next 1/100 of 1%) of the quotations for such day of such rates on such transactions received by the Agent from three Federal funds brokers of recognized standing selected by it.

**“Fee Letter”**: the fee letter among the Borrower, the Arrangers and the Agent, dated the date of this Agreement.

**“Financial Officer”**: with respect to any Person, the chief financial officer, principal accounting officer, a financial vice president, treasurer, assistant treasurer or controller of such Person.

**“Fixture”**: as defined in the Collateral Agreement.

**“Fixture Filing Financing Statement”**: as defined in the Collateral Agreement.

**“Funding Date”**: a date on or before December 15, 2006, selected by the Borrower in accordance with Section 2.02 as the date on which the Loans will be made hereunder.

**“GAAP”**: generally accepted accounting principles in the United States of America as in effect from time to time and as applied by the Borrower in the preparation of its public financial statements.

**“GMAC”**: GMAC LLC (or any successor thereto) and its Subsidiaries.

**“Governmental Authority”**: any nation or government, any state, province, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of government including the European Central Bank.

**“Guarantee Obligations”**: as to any Person (the **“guaranteeing Person”**), if the primary purpose or intent thereof is to provide assurance that the Indebtedness of another Person will be paid or discharged, any obligation of the guaranteeing Person that guarantees or in effect guarantees, or which is given to induce the creation of a separate obligation by another Person

(including any bank under any letter of credit) that guarantees or in effect guarantees, any Indebtedness (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including any obligation of the guaranteeing Person, whether or not contingent, (i) to advance or supply funds for the purchase or payment of any such primary obligation, (ii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iii) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing Person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing Person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing Person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantor": Saturn Corporation and each other direct or indirect wholly-owned domestic Subsidiary of the Borrower that at the option of the Borrower becomes a party to this Agreement, the Collateral Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

"Hazardous Substance": (a) all chemicals, materials, contaminants, wastes and substances defined as or included in the definition of "contaminants", "wastes", "hazardous wastes", "hazardous materials", "hazardous substances", "extremely hazardous wastes", "extremely hazardous substances", "restricted hazardous waste", "toxic substances", "toxic pollutants", or "pollutants" or words of similar import under any applicable Environmental Laws and (b) all other chemicals, materials and substances, exposure to which is prohibited, limited or regulated by any Governmental Authority pursuant to any applicable Environmental Laws.

"Indebtedness": (a) for purposes of Sections 6.02(a) and 6.03 and paragraph (d) of Article VII, of any Person at any date, the amount outstanding on such date under notes, bonds, debentures or other similar evidences of indebtedness for money borrowed (including, without limitation, indebtedness for borrowed money evidenced by a loan account) and (b) for all other purposes, of any Person at any date, without duplication, (i) all indebtedness of such Person for borrowed money, (ii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (iii) all Capital Lease Obligations of such Person, (iv) all obligations of such Person, contingent or otherwise, as an account party or applicant under or in respect of acceptances, letters of credit and similar arrangements, (v) all obligations of such Person in respect of securitizations of receivables, (vi) all net obligations of such Person under swap agreements, (vii) all purchase money indebtedness of such Person and (viii) all Guarantee Obligations of such Person in respect of any of the foregoing.

**“Indenture”**: the Indenture dated as of December 7, 1995 between the Borrower and Citibank, N.A., as Trustee, all supplemental indentures related thereto and any resolutions that have added any covenants to, or modified the covenants contained in, the Indenture.

**“Interest Payment Date”**: (a) as to any ABR Loan, the third Business Day after the last day of each March, June, September and December to occur while such Loan is outstanding and the date such Loan is paid in full, (b) as to any Eurodollar Loan, the last day of each Interest Period applicable thereto and (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day which is three months after the first day of such Interest Period; provided that, in addition to the foregoing, each of (i) the date upon which the Loans have been paid in full and (ii) the Maturity Date shall be deemed to be an “Interest Payment Date” with respect to any interest which is then accrued hereunder.

**“Interest Period”**: with respect to any Eurodollar Loan:

(a) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and

(b) thereafter, each period commencing on the last day of the next preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six months thereafter, as selected by the Borrower by irrevocable notice to the Agent not less than three Business Days prior to the last day of the then current Interest Period with respect thereto;

provided that all of the foregoing provisions relating to Interest Periods are subject to the following:

(i) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, in the case of an Interest Period pertaining to a Eurodollar Loan, the result of such extension would be to carry such Interest Period into another calendar month in which event such Interest Period shall end on the immediately preceding Business Day; and

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month.

Notwithstanding anything to the contrary contained in this Agreement, no Interest Period shall be selected by the Borrower which ends on a date after the Maturity Date.

**“Lender”**: as defined in the preamble to this Agreement; collectively, the **“Lenders”**; provided that unless the context otherwise requires, each reference herein to the Lenders shall be deemed to include any Conduit Lender.

**“Lien”**: any mortgage, pledge, lien, security interest, charge, statutory deemed trust, conditional sale or other title retention agreement or other similar encumbrance.

**“Loan”**: a loan made by a Lender to the Borrower pursuant to this Agreement.

**“Loan Documents”**: this Agreement, the Security Documents, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

**“Loan Group”**: a group of Loans of a single Type as to which a single Interest Period is in effect.

**“Loan Parties”**: each of the Borrower and each Guarantor.

**“Majority Lenders”**: (a) at any time prior to the Funding Date, Lenders holding more than 50% of the Commitments and (b) at any time following the Funding Date, Lenders holding more than 50% of the outstanding Loans at such time.

**“Manufacturing Subsidiary”**: any Subsidiary of the Borrower (i) substantially all the property of which is located within the continental United States of America, (ii) which owns a Principal Domestic Manufacturing Property and (iii) in which the Borrower’s investment, direct or indirect and whether in the form of equity, debt, advances or otherwise, is in excess of \$2,500,000,000 as shown on the books of the Borrower as of the end of the fiscal year immediately preceding the date of determination; provided that **“Manufacturing Subsidiary”** shall not include GMAC or any other Subsidiary which is principally engaged in leasing or in financing installment receivables or otherwise providing financial or insurance services to the Borrower or others or which is principally engaged in financing the Borrower’s operations outside the continental United States of America.

**“Material Adverse Effect”**: a material adverse effect on (a) the financial condition of the Borrower and its Subsidiaries taken as a whole or (b) the validity or enforceability of this Agreement and any of the other Loan Documents or the rights or remedies of the Agent and the Lenders under the Loan Documents.

**“Material Facility”**: as of any date, any U.S. Manufacturing Facility (as defined in the Collateral Agreement) upon which Collateral having a net book value (as determined as of the end of the most recent fiscal period of the Borrower for which a Collateral Value Certificate or Summary Collateral Value Certificate has been delivered hereunder or, prior to the delivery of the first Collateral Value Certificate or Summary Collateral Value Certificate, as of June 30, 2006) of at least \$100,000,000 in the aggregate shall be installed or located.

**“Maturity Date”**: the seventh anniversary of the Funding Date (or, if such seventh anniversary does not fall on a Business Day, the next succeeding Business Day).

**“Non-US Lender”**: as defined in Section 2.15.

**“Note”**: a promissory note, executed and delivered by the Borrower with respect to the Loans, substantially in the form of Exhibit B.

**“Obligations”**: all obligations of any Loan Party in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency,



reorganization or like proceeding, relating to any Loan Party, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Loan Party to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with this Agreement, any other Loan Document or any other document made, delivered or given in connection herewith or therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

**"Participant"**: as defined in Section 10.06.

**"Permitted Transfer"**: with respect to any Collateral, any sale or other transfer of such Collateral that is not prohibited by this Agreement (and would not result in a default under Section 6.04 of this Agreement) and that is made (a) to a Person other than the Borrower or an Affiliate of the Borrower or (b) to an Affiliate of the Borrower that is not a Loan Party (i) in the ordinary course of business or (ii) for a business purpose of the Borrower (as determined in good faith by the Borrower) and not primarily for the purpose of (A) reducing the security for the Obligations or (B) making such Collateral available to other creditors.

**"Person"**: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

**"Prime Rate"**: the rate of interest per annum equal to the prime rate publicly announced by the majority (or, if there is not a majority, the plurality) of the eleven largest commercial banks chartered under United States Federal or State banking laws as their prime rates (or similar base rates) in effect at their principal offices. The determination of such eleven largest commercial banks shall be based upon deposits as of the prior year-end, as reported in the American Banker or such other source as may be mutually agreed upon by the Agent and the Borrower.

**"Principal Domestic Manufacturing Property"**: any manufacturing plant or facility owned by the Borrower or any Manufacturing Subsidiary of the Borrower which is located within the continental United States of America and, in the opinion of the Borrower's Board of Directors, is of material importance to the total business conducted by the Borrower and its consolidated affiliates as an entity.

**"Quarterly Collateral Reporting Period"**: a period commencing on any date on which the Collateral Value is less than 300% of the Total Exposure and continuing until the Borrower shall have delivered to the Agent Collateral Value Certificates for two successive fiscal quarters of the Borrower ending after such date showing that the Collateral Value is equal to or greater than 300% of the Total Exposure as of the end of each such fiscal quarter.

**"Reference Lender"**: the Agent.

**"Register"**: as defined in Section 10.06.

**"Requirement of Law"**: as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case

applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

**“Secured Parties”**: the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

**“Security Documents”**: the Collateral Agreement and all other security documents delivered to the Agent granting or purporting to grant a Lien on any property of any Person to secure the Obligations, including financing statements or financing change statements under the applicable Uniform Commercial Code.

**“Significant Subsidiary”**: at any time, any Subsidiary of the Borrower which has at least 10% of the consolidated assets of the Borrower and its Subsidiaries at such time as reflected in the most recent annual audited consolidated financial statements of the Borrower.

**“Subsidiary”**: as to any Person (the “parent”), any other Person of which at least a majority of the outstanding stock or other equity interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or comparable governing body of such Person (irrespective of whether or not at the time stock or other equity interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time owned by the parent, or by one or more Subsidiaries, or by the parent and one or more Subsidiaries. Unless otherwise qualified, all references to a “Subsidiary” or to “Subsidiaries” in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower. For the purposes of this Agreement (other than Sections 3.01, 5.01 and 5.02) and the other Loan Documents, GMAC shall not be deemed to be a Subsidiary or an Affiliate of the Borrower, and any references herein or therein to the subsidiaries or affiliates of the Borrower shall be to the Borrower’s Subsidiaries or Affiliates, as applicable, other than GMAC.

**“Summary Collateral Value Certificate”**: a certificate substantially the form of Exhibit F-2 signed by a Financial Officer of the Borrower and certifying that, as of the last day of the fiscal quarter of the Borrower covered by the financial statements to which such certificate relates, (a) the Borrower is in compliance with Section 6.04 and (b) the Collateral Value is equal to or greater than 300% of the Total Exposure as of such date.

**“Syndication Agent”**: as defined in the preamble to this Agreement.

**“Total Exposure”**: as of any date of determination, the aggregate unpaid principal amount of the Loans.

**“Transferee”**: as defined in Section 10.06.

**“Type”**: as to any Loan, its nature as an ABR Loan or a Eurodollar Loan.

SECTION 1.02. **Other Definitional Provisions.** (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto.

(b) As used herein, and any certificate or other document made or delivered pursuant hereto, accounting terms relating to the Borrower and its Subsidiaries not defined in Section 1.01 and accounting terms partly defined in Section 1.01, to the extent not defined, shall have the respective meanings given to them under GAAP.

(c) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article, Section, Schedule and Exhibit references are to the Articles, Sections, Schedules and Exhibits of this Agreement, unless otherwise specified.

(d) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

## ARTICLE II

### Amount and Terms of Commitments

SECTION 2.01. Commitments. (a) Subject to the terms and conditions set forth herein, each Lender agrees to make a Loan or Loans to the Borrower on the Funding Date in an aggregate principal amount not greater than its Commitment. Loans made on the Funding Date may be converted and continued as provided in Section 2.05, but no new Loans will be made after the Funding Date. Amounts repaid or prepaid in respect of Loans may not be reborrowed. All Loans shall be made and repaid or prepaid in Dollars.

(b) The Loans, together with all accrued and unpaid interest thereon, shall mature and be due and payable in full on the Maturity Date.

(c) Subject to Sections 2.11 and 2.13, the Loans may from time to time be (i) Eurodollar Loans, (ii) ABR Loans or (iii) any combination thereof, as determined by the Borrower and notified to the Agent in accordance with Sections 2.02 and 2.05. Each Lender may make or maintain its Loans for the account of the Borrower by or through such Lender's Applicable Lending Office.

SECTION 2.02. Procedure for Borrowing Loans. The Borrower shall give the Agent an irrevocable notice (which notice must be received by the Agent prior to 1:00 p.m., New York City time, (i) three Business Days (or such shorter period as may be agreed to by the Agent) prior to the Funding Date, if all or any part of the requested Loans are to be Eurodollar Loans, or (ii) one Business Day prior to the Funding Date, otherwise, specifying (A) the amount to be borrowed, (B) the requested Funding Date, which shall be a Business Day, (C) whether the requested Loans are to be Eurodollar Loans, ABR Loans or a combination thereof and (D) if the requested Loans are to be entirely or partly comprised of Eurodollar Loans, the respective amounts of each such Type of Loan and the respective lengths of the initial Interest Periods therefor. Each Loan Group shall be in an amount equal to \$50,000,000 or a whole multiple of \$5,000,000 in excess thereof. Upon receipt of any such notice from the Borrower, the Agent shall promptly notify each Lender thereof. Each Lender will make its Applicable Percentage of each Loan Group available to the Agent for the account of the Borrower at the office of the

Agent specified in Section 10.02 prior to 12:00 noon, New York City time, on the Funding Date in funds immediately available to the Agent. Such Loans will then immediately be made available to the Borrower by the Agent crediting the account of the Borrower on the books of such office with the aggregate of the amounts made available to the Agent by the Lenders and in like funds as received by the Agent.

SECTION 2.03. Termination of Commitments. The Commitments shall terminate upon the making of the Loans on the Funding Date; provided, that if the Loans shall not have been made by December 15, 2006, the Commitments shall terminate at 5:00 p.m., New York City time, on such date.

SECTION 2.04. Prepayments. (a) The Borrower may, at any time and from time to time, prepay Loans, in whole or in part, without premium or penalty (except as set forth in paragraph (c) of this Section and subject to the provisions of Section 2.16), upon at least one Business Day's irrevocable notice to the Agent (which notice must be received by the Agent prior to 12:00 Noon, New York City time, on the date upon which such notice is due), specifying (i) the date and amount of prepayment and (ii) the Loan Group or Loan Groups being prepaid. Upon receipt of any such notice, the Agent shall promptly notify each Lender. If any such notice is given, the amount specified in such notice shall be due and payable on the date specified therein, together with any amounts payable pursuant to paragraph (c) of this Section and Section 2.16, if applicable. Partial prepayments of any Loan Group shall be in an aggregate principal amount of \$10,000,000 or a multiple of \$5,000,000 in excess thereof.

(b) If, on any date of determination, the Borrower shall not be in compliance with the covenant set forth in Section 6.04, the Borrower shall promptly, and in any event within five Business Days of such date, prepay Loans in an amount necessary to cause the Borrower to be in compliance with such covenant.

(c) Any prepayment of Loans made in connection with any Designated Refinancing shall be subject to a 1% prepayment premium on the principal amount of the Loans so prepaid.

SECTION 2.05. Conversion and Continuation Options. (a) The Borrower may elect from time to time to convert any Eurodollar Loans to ABR Loans, by giving the Agent at least one Business Day's prior irrevocable notice of such election; provided that any such conversion of Eurodollar Loans may only be made on the last day of an Interest Period with respect thereto. The Borrower may elect from time to time to convert ABR Loans to Eurodollar Loans by giving the Agent at least three Business Days' prior irrevocable notice of such election. Any such notice of conversion to Eurodollar Loans shall specify the length of the initial Interest Period or Interest Periods therefor. Upon receipt of any such notice the Agent shall promptly notify each Lender. Notwithstanding the foregoing, (i) no ABR Loan may be converted into a Eurodollar Loan when any Event of Default has occurred and is continuing and the Agent has or the Majority Lenders have determined that such conversion is not appropriate and (ii) no ABR Loan may be converted into a Eurodollar Loan after the date that is one month prior to the Maturity Date.

(b) Any Eurodollar Loan may be continued as such upon the expiration of the then current Interest Period with respect thereto by the Borrower giving notice to the Agent, in accordance with the applicable provisions of the term "Interest Period" set forth in Section 1.01, specifying the length of the next Interest Period to be applicable to such Loan; provided that no Eurodollar Loan may be continued as such (i) when any Event of Default has occurred and is continuing and the Agent has or the Majority Lenders have determined that such continuation is not appropriate or (ii) after the date that is one month prior to the Maturity Date; provided, further, that (A) if such continuation is not permitted pursuant to the preceding proviso, such Eurodollar Loan shall be automatically converted to an ABR Loan on the last day of the then expiring Interest Period and (B) if the Borrower shall fail to give any notice required by this paragraph, such Eurodollar Loan shall, subject to clause (A), automatically continue as a Eurodollar Loan having a new Interest Period of the same duration as the Interest Period then expired.

SECTION 2.06. Minimum Amounts of Eurodollar Loan Groups. All conversions and continuations of Loans hereunder and all selections of Interest Periods hereunder shall be in such amounts and be made pursuant to such elections so that, after giving effect thereto, the aggregate principal amount of each Eurodollar Loan Group shall be equal to \$50,000,000 or a whole multiple of \$5,000,000 in excess thereof. In no event shall there be more than 10 Eurodollar Loan Groups outstanding at any time.

SECTION 2.07. Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay to the Agent for the account of each Lender the then unpaid principal amount of each Loan of such Lender as provided in Section 2.08.

(b) The Borrower hereby further agrees to pay interest in immediately available funds at the office of the Agent on the unpaid principal amount of the Loans owing by the Borrower from time to time from the date hereof until payment in full thereof at the rates per annum, and on the dates, set forth in Section 2.09.

(c) Each Lender shall maintain an account or accounts evidencing the Indebtedness of the Borrower to the Applicable Lending Office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(d) The Agent shall maintain the Register pursuant to Section 10.06, and a subaccount for each Lender, in which Register and subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, the Type of each Loan and the Interest Period applicable thereto (if such Loan shall be a Eurodollar Loan), (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Agent hereunder from the Borrower and each Lender's share thereof.

(e) The entries made in the Register and accounts maintained pursuant to this Section shall, to the extent permitted by applicable law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided, however, that the

failure of any Lender or the Agent to maintain such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to the Borrower in accordance with the terms of this Agreement.

SECTION 2.08. Amortization of Loans. (a) Subject to adjustment pursuant to paragraph (b) of this Section, on the third Business Day following the last day of each March, June, September and December, commencing on the third Business Day following March 31, 2007, and continuing to the Maturity Date, the Borrower shall repay Loans in a principal amount equal to 0.25% of the aggregate principal amount of the Loans made on the Funding Date.

(b) Any prepayment of Loans pursuant to Section 2.04 shall be applied to reduce the subsequent scheduled repayments of the Loans to be made pursuant to this Section in the direct order of their maturity, or as otherwise directed by the Borrower.

(c) Prior to any repayment of Loans, the Borrower shall select the Loan Group or Loan Groups to be repaid and shall notify the Agent of such selection not later than 12:00 noon, New York City time, one Business Day before the scheduled date of such repayment. Each repayment of a Loan Group shall be applied ratably to the Loans included in the repaid Loan Group. Repayments of Loans shall be accompanied by accrued interest on the principal amount of Loans repaid.

SECTION 2.09. Interest Rates for Loans. (a) Each ABR Loan shall bear interest at a rate per annum equal to the ABR plus the Applicable Margin.

(b) Each Eurodollar Loan shall bear interest at a rate per annum equal to the Eurodollar Rate for the Interest Period in effect for such Loan plus the Applicable Margin.

(c) Interest on the Loans shall be payable in arrears on each Interest Payment Date and on the date of any required repayment under Section 2.08 with respect to the amounts so repaid; provided that interest accruing pursuant to paragraph (d) of this Section shall be payable from time to time on demand.

(d) If all or a portion of (i) the principal amount of any Loan, (ii) any interest payable thereon or (iii) any other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate per annum which is (x) in the case of overdue principal, the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section plus 2% or (y) in the case of overdue interest or other amounts, the rate described in paragraph (a) of this Section plus 2%, in each case from the date of such non-payment until such amount is paid in full (after as well as before judgment).

SECTION 2.10. Computation of Interest. (a) Interest on all Loans shall be computed on the basis of the actual number of days elapsed over a year of 360 days or, in the case of ABR Loans on any date when the ABR is determined by reference to the Prime Rate, a year of 365 or 366 days as appropriate (in each case including the first day but excluding the last day). Each determination of an interest rate by the Agent pursuant to any provision of this

Agreement shall be conclusive and binding on the Borrower and the Lenders in the absence of manifest error. The Agent shall, at any time and from time to time upon the request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Agent in determining any interest rate applicable to any Loan pursuant to this Agreement.

(b) Any change in the interest rate on a Loan resulting from a change in the ABR or the Eurodollar Reserve Requirements shall become effective as of the opening of business on the day on which such change in the ABR is announced or such change in the Eurodollar Reserve Requirements becomes effective, as the case may be. The Agent shall as soon as practicable notify the Borrower and the Lenders of the effective date and the amount of each such change in interest rate.

SECTION 2.11. Inability to Determine Interest Rate. If the Eurodollar Rate cannot be determined by the Agent in the manner specified in the definition of "Eurodollar Rate" contained in Section 1.01, the Agent shall give telecopy or telephonic notice thereof to the Borrower and the Lenders as soon as practicable thereafter. Until such time as the Eurodollar Rate can be determined by the Agent in the manner specified in the definition of "Eurodollar Rate" contained in Section 1.01, no further Eurodollar Loans shall be continued as such at the end of the then current Interest Period (other than any Eurodollar Loans previously requested and with respect to which the Eurodollar Rate was previously determined), nor shall the Borrower have the right to convert ABR Loans to Eurodollar Loans, and any affected Loans shall be converted on the last day of the then current Interest Period to ABR Loans in accordance with Section 2.05.

SECTION 2.12. Pro Rata Treatment and Payments. (a) The borrowing of Loans of each Loan Group hereunder on the Funding Date, and each conversion or continuation of Loans of any Loan Group, shall be made pro rata among the Lenders.

(b) Each payment (including each prepayment) on account of principal of and interest on the Loans of any Loan Group shall be made pro rata as among the Lenders according to the respective outstanding principal amounts of their Loans comprising such Loan Group and (ii) any proceeds of the Collateral shall be distributed in accordance with paragraph (c) of this Section.

(c) Any proceeds of the Collateral during the continuance of an Event of Default shall be applied in the following order:

(i) first, to pay incurred and unpaid fees and expenses of the Agent under the Loan Documents;

(ii) second, to the Agent, for application by it towards payment of interest then due and owing and remaining unpaid in respect of the Obligations, pro rata among the Secured Parties according to the amount of interest then due and owing and remaining unpaid to such Secured Parties;

(iii) third, to the Agent, for application by it towards payment of all other amounts then due and owing and remaining unpaid in respect of the Obligations, pro rata among the Secured Parties according to the amounts of the

Obligations then due and owing and remaining unpaid to such Secured Parties;  
and

(iv) fourth, any balance remaining after the Obligations shall have been paid in full shall be paid over to the Borrower or to whomsoever may be lawfully entitled to receive the same;

provided that, if sufficient funds are not available to fund all payments to be made in respect of any Obligations described in any of clause (i), (ii) or (iii) above, the available funds being applied with respect to any such Obligations shall be allocated to the payment of such Obligations ratably, based on the proportion of the Agent's and each other Secured Party's interest in such aggregate outstanding Obligations.

(d) All payments (including prepayments) to be made by the Borrower hereunder, whether on account of principal, interest, fees or otherwise, shall be made without set-off or counterclaim and shall be made prior to 1:00 p.m., New York City time, on the due date thereof to the Agent, for the account of the Lenders, at the Agent's office specified in Section 10.02. Payments of principal and interest on any Loan and all other amounts payable hereunder shall be made in Dollars; and all payments hereunder shall be made in immediately available funds. The Agent shall distribute such payments to the Lenders promptly upon receipt in like funds as received. If any payment hereunder (other than payments on the Eurodollar Loans) becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension. If any payment on a Eurodollar Loan becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day.

(e) Unless the Agent shall have been notified in writing by any Lender prior to the Funding Date that such Lender will not make the amount that would constitute its relevant Applicable Percentage of the Loans requested to be made on the Funding Date available to the Agent, the Agent may assume that such Lender is making such amount available to the Agent, and the Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such amount is not made available to the Agent by the required time on the Funding Date, such Lender shall pay to the Agent, on demand, such amount with interest thereon at a rate equal to the daily average Federal Funds Effective Rate for the period until such Lender makes such amount immediately available to the Agent. A certificate of the Agent submitted to any Lender with respect to any amounts owing under this Section shall be conclusive in the absence of manifest error. If such Lender's relevant Applicable Percentage of such requested Loans is not made available to the Agent by such Lender within three Business Days of the Funding Date, the Agent shall be entitled to recover such amount with interest thereon at the rate described above, on demand, from the Borrower.

(f) The Agent agrees to provide the Borrower with a written invoice of the amount of (x) any interest payable on any Interest Payment Date and (y) any expense payable by the Borrower under this Agreement or any other Loan Document. Such invoice shall be



provided (i) three Business Days in advance of any Interest Payment Date in the case of Loans bearing interest based on the Eurodollar Rate, (ii) on the Interest Payment Date in the case of Loans based on the ABR and (iii) three Business Days in advance of any date any expense is due. Failure to deliver any such invoice shall not affect the Borrower's payment obligations hereunder; provided that, with respect to any interest payable on any Interest Payment Date or any expense payable by the Borrower on any date as provided in any Loan Document, in the event that (A) any invoice is later determined to have understated the amount of interest or expense, as applicable, due on such date or (B) the Borrower makes a good faith payment of the interest or expense, as applicable, due on such date prior to receipt of an invoice as provided above, and, in each case, the amount paid is later determined to have been less than the amount of interest or expense, as the case may be, actually due on such date pursuant to this Agreement or any other Loan Document, the failure by the Borrower to have paid the full amount of interest or expense, as the case may be, on such date shall not constitute a Default or an Event of Default unless the Borrower fails to pay the amount of such shortfall within five Business Days after written notice from the Agent of the amount thereof.

SECTION 2.13. Illegality. (a) Notwithstanding any other provision herein, if the adoption of or any change in any Requirement of Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Eurodollar Loans as contemplated by this Agreement, such Lender shall give notice thereof to the Agent and the Borrower describing the relevant provisions of such Requirement of Law (and, if the Borrower shall so request, provide the Borrower with a memorandum or opinion of counsel of recognized standing (as selected by such Lender) as to such illegality), following which (a) the commitment of such Lender hereunder to make Eurodollar Loans, continue such Eurodollar Loans as such and convert ABR Loans to Eurodollar Loans shall forthwith be canceled and (b) such Lender's outstanding Eurodollar Loans shall be converted automatically on the respective last days of the then current Interest Periods with respect to such Loans (or within such earlier period as shall be required by law) to ABR Loans.

(b) If any such conversion or prepayment of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.16.

SECTION 2.14. Increased Costs. (a) If (i) there shall be any increase in the cost to any Lender of agreeing to make or making, funding or maintaining any Loans or (ii) any reduction in any amount receivable in respect thereof, and such increased cost or reduced amount receivable is due to either (x) the introduction of or any change in or in the interpretation of any law or regulation after the date hereof or (y) the compliance with any guideline or request made after the date hereof from any central bank or other Governmental Authority (whether or not having the force of law), then (subject to the provisions of Section 2.17) the Borrower shall from time to time, upon demand by such Lender, pay such Lender additional amounts sufficient to compensate such Lender for such increased cost or reduced amount receivable; provided that no such additional amounts shall be payable by the Borrower with respect to, and this paragraph (a) shall not apply to, any increased cost or reduced amount due to the imposition or change in the rate of any tax, which shall be governed exclusively by Section 2.15.

(b) If any Lender shall have reasonably determined that (i) the applicability of any law, rule, regulation or guideline adopted after the date hereof pursuant to or arising out of the July 1988 paper of the Basle Committee on Banking Regulations and Supervisory Practices entitled "International Convergence of Capital Measurement and Capital Standards", (ii) the adoption after the date hereof of any other law, rule, regulation or guideline regarding capital adequacy affecting such Lender, (iii) any change arising after the date hereof in the foregoing or in the interpretation or administration of any of the foregoing by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or (iv) compliance by such Lender (or any lending office of such Lender), or any holding company for such Lender which is subject to any of the capital requirements described above, with any request or directive of general application issued after the date hereof regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of any such holding company as a direct consequence of such Lender's obligations hereunder to a level below that which such Lender or any such holding company could have achieved but for such adoption, change or compliance (taking into consideration such Lender's policies and the policies of such holding company with respect to capital adequacy) by an amount deemed by such Lender to be material, then (subject to the provisions of Section 2.17) from time to time the Borrower shall pay to such Lender (at such Lender's request) such additional amounts as will compensate such Lender or any such holding company for any such reduction suffered, net of the savings (if any) which may be reasonably projected to be associated with such increased capital requirement; provided that no such additional amounts shall be payable by the Borrower with respect to, and this Section shall not apply to, any increased cost or reduced amount due to the imposition or change in the rate of any tax, which shall be governed exclusively by Section 2.15. Any certificate as to such amounts which is delivered pursuant to Section 2.17(a) shall, in addition to any items required by Section 2.17(a), include the calculation of the savings (if any) which may be reasonably projected to be associated with such increased capital requirement; provided that in no event shall any Lender be obligated to pay or refund any amounts to the Borrower on account of such savings.

(c) In the event that any Governmental Authority shall impose any Eurodollar Reserve Requirements which increase the cost to any Lender of making or maintaining Eurodollar Loans, then (subject to the provisions of Section 2.17) the Borrower shall thereafter pay in respect of the Eurodollar Loans of such Lender a rate of interest based upon the Eurodollar Reserve Rate (rather than upon the Eurodollar Rate). From and after the delivery to the Borrower of the certificate required by Section 2.17(a), all references contained in this Agreement to the Eurodollar Rate shall be deemed to be references to the Eurodollar Reserve Rate with respect to each such affected Lender.

**SECTION 2.15. Taxes.** (a) All payments made by each Loan Party under this Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any present or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding, in the case of each Lender, each Affiliate of a Lender and the Agent (each a "Tax Indemnified Party"):

(i) income taxes (other than withholding taxes) and franchise taxes, branch profits taxes and any other tax based upon net income imposed on such Tax Indemnified Party as a result of a present or former connection between such Tax Indemnified Party and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from such Tax Indemnified Party having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document); and

(ii) any withholding taxes imposed by the United States on payments made by any Loan Party to any Tax Indemnified Party under laws (including for all purposes of this Section, any statute, treaty or regulation), in effect on the Funding Date (or, in the case of (A) an Assignee, the date of the Assignment and Acceptance, (B) a successor Agent, the date of the appointment of such Agent or (C) a Lender that changes its Applicable Lending Office, the date of such change) (all such taxes, levies, imposts, duties, charges, fees, deductions and withholdings, other than those excluded under clause (i) or this clause (ii), being referred to as "Non-Excluded Taxes"); provided, however, that this clause (ii) shall not apply in the case of any Tax Indemnified Party that is an Assignee, successor to the Agent or Lender that has changed its Applicable Lending Office to the extent that the Person making such assignment, successor appointment or change in Applicable Lending Office would have been entitled to receive indemnity payments or additional amounts under this Section in the absence of such assignment, successor appointment or change in Applicable Lending Office; provided, further, however, that this clause (ii) shall not apply to the extent that any Non-Excluded Tax is imposed on a Tax Indemnified Party in connection with an interest in any Loan or other obligation that such Tax Indemnified Party acquired pursuant to Section 2.17(c) or 2.18.

If any Non-Excluded Taxes are required to be withheld from any amounts payable to, or for the account of, any Tax Indemnified Party hereunder, then such Loan Party shall make all such deductions and pay the full amount so deducted to the relevant Governmental Authority in accordance with applicable law and the amounts so payable to, or for the account of, the Tax Indemnified Party shall be increased to the extent necessary to yield to the Tax Indemnified Party (after payment of all Non-Excluded Taxes) a net amount equal to the amount it would have received had no such deduction or withholding been made. Notwithstanding the foregoing, the Loan Parties shall not be required to increase any such amounts payable to any Tax Indemnified Party if such Tax Indemnified Party fails to comply with the requirements of paragraph (b) of this Section. Whenever any Non-Excluded Taxes are payable by any Loan Party, as promptly as possible thereafter such Loan Party shall send to the Agent for its own account or for the account of the relevant Tax Indemnified Party, as the case may be, a certified copy of an original official receipt, if any, received by such Loan Party showing payment thereof. If any Loan Party fails to pay any Non-Excluded Taxes when due to the appropriate Governmental Authority or fails to remit to the Agent or the relevant Tax Indemnified Party the required receipts or other required documentary evidence, such Loan Party shall indemnify the Agent and the Tax Indemnified Parties for any taxes, interest or penalties that may become payable by the Agent or any Tax Indemnified Party solely as a result of any such failure. The agreements in this Section shall

survive the termination of this Agreement and the payment of all other amounts payable hereunder.

(b) Each Lender that is not incorporated under the laws of the United States of America or any state thereof (a "Non-US Lender") shall:

(i) (A) on or before the date such Non-US Lender becomes a Lender under this Agreement, deliver to the Borrower and the Agent two duly completed originals of United States Internal Revenue Service Form W-8BEN or Form W-8ECI, or successor applicable forms, as the case may be, certifying that such Lender is entitled to a complete exemption from deduction or withholding of United States Federal income taxes with respect to payments under this Agreement and the other Loan Documents; and

(B) thereafter, (I) deliver to the Borrower and the Agent two duly completed originals of any such form on or before the date that any such form previously provided expires or becomes obsolete, (II) after the occurrence of any event requiring a change in the most recent form previously delivered to the Borrower or the Agent, deliver to the Borrower and the Agent two duly completed originals of any such form reflecting such change (if and to the extent such Non-US Lender is then legally able to provide any such form), and (III) obtain such extensions of time for filing and completing any such form as may reasonably be requested by the Borrower or the Agent (if and to the extent such Non-US Lender is then legally able to do so); and

(ii) in the case of any such Non-US Lender that is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code and cannot comply with the requirements of paragraph (b)(i) above, on or before the date such Non-US Lender becomes a Lender under this Agreement, such Non-US Lender shall:

(A) represent to the Borrower (for the benefit of the Borrower and the Agent) that it is not a bank within the meaning of Section 871(h) or Section 881(c)(3)(A) of the Code;

(B) furnish to the Borrower on or before the date of any payment by the Borrower made hereunder, with a copy to the Agent, (I) a certificate substantially in the form of Exhibit D and (II) two accurate and complete original signed copies of Internal Revenue Service Form W-8BEN, or a successor applicable form, certifying to such Lender's legal entitlement at the date of such certificate to a complete exemption from US withholding tax under the provisions of Section 871(h) or 881(c) of the Code with respect to payments to be made under this Agreement and any Notes;

(C) furnish to the Borrower, with a copy to the Agent, (I) two duly completed originals of such form W-8BEN or successor

applicable form before the date that any such form previously provided expires or becomes obsolete and (II) after the occurrence of any event requiring a change in the most recent form previously delivered to the Borrower or the Agent, two duly completed originals of such form reflecting such change (if and to the extent such Non-US Lender is then legally able to provide any such form);

(D) obtain such extensions of time for filing and completing any such form W-8BEN or successor applicable form as may reasonably be requested by the Borrower or the Agent (if and to the extent such Non-US Lender is then legally able to do so); and

(E) provide the Borrower and the Agent upon reasonable request by the Borrower or the Agent, if and to the extent such Non-US Lender is then legally entitled to do so, such other forms as may be reasonably required in order to establish the legal entitlement of such Lender to a complete exemption from withholding with respect to payments under this Agreement and any Notes.

Notwithstanding the foregoing provisions of this paragraph (b), if a change in any applicable treaty, law or regulation, or any change in the interpretation, administration or application relating thereto, has occurred prior to the date on which any delivery to the Borrower or Agent would otherwise be required by this paragraph (b), and such change (i) with respect to any prospective Lender or with respect to any Lender already a party hereto, renders all such deliveries inapplicable or (ii) with respect to any Lender already a party hereto, would prevent such Lender from duly completing and delivering any such form with respect to it, such prospective Lender or Lender shall not deliver any such forms and shall advise the Borrower and the Agent of such occurrence. Each Assignee, Participant or Conduit Lender hereunder pursuant to Section 10.06 shall, upon the effectiveness of the transfer pursuant to which it becomes an Assignee, Participant or Conduit Lender, be required to provide all of the forms, statements and documentation required pursuant to this Section; provided that in the case of a Participant such Participant shall furnish all such required forms, statements and documentation to the Lender from which the related participation shall have been purchased, and such Lender shall in turn furnish all such required forms (including Internal Revenue Service Form W-8IMY), statements and documentation to the Borrower and the Agent. Any Lender that is a "United States person" (within the meaning of Code section 7701(a)(30)) shall furnish the Borrower and the Agent with a Form W-9 or successor form thereto, certifying an exemption from backup withholding in respect of payments hereunder, if it is legally entitled to do so.

(c) If and to the extent that a Tax Indemnified Party, in its sole discretion (exercised in good faith), determines that it has received or been granted a credit against, a relief from, a refund or remission of, or a repayment of, any Non-Excluded Tax in respect of which it has received additional payments under paragraph (a) of this Section, then such Tax Indemnified Party shall return to the Borrower such additional payments (or the portion thereof) paid by the Borrower which are determined by such Tax Indemnified Party (in its sole discretion, exercised in good faith) to be attributable to the Non-Excluded Tax to which such credit, relief, refund, remission or repayment relates; provided that such Tax Indemnified Party shall not be obligated

to make any payment under this paragraph in respect of any such credit, relief, refund, remission or repayment until such Tax Indemnified Party, in its sole judgment (exercised in good faith) is satisfied that its tax affairs for the tax year in respect of which such credit, relief, remission or repayment was obtained have been finally settled.

(d) If any Lender fails to provide the Borrower or the Agent with the appropriate form, certificate or other document required by this Section (other than if such failure is due to a change in law, treaty or regulation or in the interpretation, administration, or application thereof, occurring after the date on which a form, certificate or other document originally was required to be provided), such Lender shall not be entitled to indemnification under clause (a) of this Section.

**SECTION 2.16. Indemnity.** Subject to the provisions of Section 2.17(a), the Borrower agrees to indemnify each Lender and to hold each Lender harmless from any actual loss or reasonable expense which such Lender sustains or incurs as a consequence of (a) a failure by the Borrower in making a borrowing of, conversion into or continuation of any Loan after the Borrower has given a notice requesting the same in accordance with the provisions of this Agreement, (b) a default by the Borrower in making any prepayment of a Loan after the Borrower has given a notice thereof in accordance with the provisions of this Agreement, (c) the making by the Borrower of a prepayment of any Eurodollar Loan on a day which is not the last day of an Interest Period with respect thereto or (d) the making by the Borrower of a prepayment of any Eurodollar Loan, or the conversion of any Eurodollar Loan to an ABR Loan, on the last day of the Interest Period with respect thereto, if the Borrower shall not have notified the Agent of its election to prepay, convert or continue such Loan at least three Business Days prior to such prepayment or conversion. In the case of an event described in any of preceding clause (a), (c) or (d) with regard to a Eurodollar Loan, such actual loss or reasonable expense shall be deemed to include an amount equal to the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Eurodollar Loan for the period from the date of the default to borrow, convert or continue to the last day of the Interest Period that would have been the Interest Period for such Eurodollar Loan (or, in the case of a prepayment, from the date of such prepayment to the last day of the then current (or, in the case of clause (d), the newly initiated) Interest Period for such Eurodollar Loan), in each case at the applicable rate of interest for such Eurodollar Loan provided for herein (excluding the Applicable Margin applicable thereto) over (ii) the amount of interest (as determined by such Lender) which would have accrued to such Lender by placing the principal amount of such Eurodollar Loan on deposit for a comparable period with leading banks in the interbank Eurodollar market. This covenant shall survive the termination of this Agreement and the payment of all other amounts payable hereunder.

**SECTION 2.17. Notice of Amounts Payable; Relocation of Lending Office; Mandatory Assignment.** (a) In the event that any Lender becomes aware that any amounts are or will be owed to it pursuant to Section 2.13, 2.14, 2.15(a) or 2.16, then it shall promptly notify the Borrower thereof and, as soon as possible thereafter, such Lender shall submit to the Borrower a certificate describing in reasonable detail the events or circumstances causing such amounts to be owed to such Lender, indicating the amount owing to it and the calculation thereof. The amounts set forth in such certificate shall be prima facie evidence of the obligations of the Borrower hereunder; provided, however, that the failure of the Borrower to pay any

amount owing to any Lender pursuant to Section 2.13, 2.14, 2.15(a) or 2.16 shall not be deemed to constitute a Default or an Event of Default hereunder to the extent that the Borrower is contesting in good faith its obligation to pay such amount by ongoing discussions diligently pursued with such Lender or by appropriate proceedings.

(b) If a Lender claims any additional amounts payable pursuant to Section 2.13, 2.14 or 2.15(a), it shall use its reasonable efforts (consistent with legal and regulatory restrictions) to avoid the need for paying such additional amounts, including changing the jurisdiction of its Applicable Lending Office, provided that the taking of any such action would not, in the reasonable judgment of such Lender, be disadvantageous to such Lender.

(c) In the event that any Lender delivers to the Borrower a certificate in accordance with paragraph (a) of this Section (other than a certificate as to amounts payable pursuant to Section 2.16), or the Borrower is required to pay any additional amounts or other payments in accordance with Section 2.13, 2.14 or 2.15(a), the Borrower may, at its own expense and in its sole discretion, (i) require such Lender to transfer or assign, in whole or in part, without recourse and in accordance with Section 10.06, all or part of its interests, rights and obligations under this Agreement to another Person (provided that the Borrower, with the full cooperation of such Lender, can identify a Person who is ready, willing and able to be an Assignee with respect to thereto) which shall assume such assigned obligations (which Assignee may be another Lender, if such Assignee Lender accepts such assignment) or (ii) during such time as no Default or Event of Default has occurred and is continuing, terminate the Commitment of such Lender and prepay all outstanding Loans of such Lender; provided that (x) the Borrower or the Assignee, as the case may be, shall have paid to such Lender being replaced or terminated in immediately available funds the principal of and interest accrued to the date of such payment on the Loans made by such Lender hereunder and (subject to Section 2.16) all other amounts owed to it hereunder and (y) such assignment or termination of the Commitment of such Lender and prepayment of Loans is not prohibited by any law, rule or regulation or order of any court or Governmental Authority.

**SECTION 2.18. Replacement of Lenders.** The Borrower shall be permitted to replace any Lender that (a) requests reimbursement for amounts owing pursuant to Section 2.13, 2.14 or 2.15(a), (b) defaults in its obligation to make Loans hereunder or (c) fails to consent to any amendment to this Agreement requested by the Borrower which requires the consent of all of the Lenders (or all of the Lenders affected thereby) and which is consented to by the Majority Lenders, in each case, subject to the following terms and conditions: (i) such replacement does not conflict with any Requirement of Law, (ii) the replacement Lender shall purchase, at par, all Loans and other amounts owing to the replaced Lender on or prior to the date of replacement, (iii) if the replacement is being made pursuant to clause (c) of this Section, the replacement Lender shall consent to the requested amendment, (iv) the Borrower shall be liable to the replaced Lender under Section 2.16 if any Eurodollar Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (v) the replacement Lender shall be reasonably satisfactory to the Agent, (vi) the replacement shall be made in accordance with the provisions of Section 10.06, (vii) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Sections 2.13, 2.14 or 2.15(a), as the case may be, to the replaced Lender and (viii) upon compliance with the provisions of Section 10.06 and the payment of the amounts referred to in

clause (ii) above, the replacement Lender shall become a Lender hereunder and the replaced Lender shall cease to be a Lender hereunder and shall be released from all its obligations as a Lender, except with respect to indemnification provisions applicable to such replaced Lender under this Agreement during the period in which such replaced Lender was a Lender hereunder, which shall survive as to such replaced Lender. Each Lender agrees that, if it becomes a replaced Lender, it shall comply with Section 10.06, including by executing and delivering to the Agent an Assignment and Acceptance to evidence such sale and purchase; provided, however, that the failure of any Lender to be replaced in accordance with this Section to execute an Assignment and Acceptance shall not render such sale and purchase (and corresponding assignment) invalid and such assignment shall be recorded in the Register.

### ARTICLE III

#### Representations and Warranties

To induce the Agent and the Lenders to enter into this Agreement and to make Loans on the Funding Date, each Loan Party hereby represents and warrants to the Agent and each Lender that:

SECTION 3.01. Financial Condition. The Borrower has heretofore furnished to each Lender a copy of its consolidated financial statements for its fiscal year ended December 31, 2005, and the Borrower has heretofore furnished to the Agent for distribution to each Lender a copy of its consolidated financial statements for its fiscal quarter and the nine-month period ended September 30, 2006, which were included in the Form 10-K or the Form 10-Q, as the case may be, of the Borrower filed with the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Such financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries as of such date in accordance with GAAP. Between September 30, 2006 and the Funding Date, there has been no development or event which has had a Material Adverse Effect.

SECTION 3.02. Corporate Existence. Such Loan Party (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has the corporate power and authority, and the legal right, to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently engaged and (c) is duly qualified as a foreign corporation and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, except to the extent that all failures to be duly qualified and in good standing could not, in the aggregate, have a Material Adverse Effect.

SECTION 3.03. Corporate Power; Authorization; Enforceable Obligations. Such Loan Party has the corporate power and authority, and the legal right, to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to borrow hereunder, and has taken all necessary corporate action to authorize the borrowings on the terms and conditions of this Agreement and to authorize the execution, delivery and performance of the Loan Documents. No consent or authorization of any Governmental Authority or any other



Person is required in connection with the borrowings hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents, except filing required to perfect the Liens created thereunder. Each Loan Document has been duly executed and delivered on behalf of each Loan Party party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party party thereto enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

**SECTION 3.04. No Legal or Contractual Bar.** The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not violate any Requirement of Law or Contractual Obligation of such Loan Party and will not result in, or require, the creation or imposition of any Lien on any of its properties or revenues pursuant to any such Requirement of Law or Contractual Obligation (other than the Liens created by the Security Documents), except to the extent that all such violations and creation or imposition of Liens could not, in the aggregate, have a Material Adverse Effect. The available exceptions under the covenants restricting secured Indebtedness in the Indenture and the Existing Credit Agreement permit the Obligations to be secured by the Collateral as contemplated hereby without the Borrower being required to ratably secure the Indebtedness under the Indenture or the Existing Credit Agreement. Immediately following the borrowing of the Loans hereunder, the Borrower will be able to incur on the Funding Date at least \$1.00 of additional Indebtedness that is secured by Liens on Principal Domestic Manufacturing Properties without being required to ratably secure the Indebtedness under the Indenture or the Existing Credit Agreement.

**SECTION 3.05. No Material Litigation.** Except as set forth in the Form 10-K of the Borrower for its fiscal year ended December 31, 2005, or the Form 10-Q of the Borrower for the fiscal quarter ended September 30, 2006, or in any Form 10-K/A, Form 10-Q/A or Form 8-K of the Borrower filed with the Securities and Exchange Commission not later than the third Business Day prior to the date of this Agreement, no litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Borrower, threatened by or against the Borrower or any of its Subsidiaries or against any of its or their respective properties or revenues as of the Funding Date (a) with respect to this Agreement or any other Loan Document or any of the actions contemplated hereby or thereby, or (b) which involves a probable risk of an adverse decision which would materially restrict any Loan Party's ability to comply with its obligations under this Agreement or any other Loan Document.

**SECTION 3.06. Federal Regulations.** No part of the proceeds of any Loan will be used for "buying", "purchasing" or "carrying" any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System as now in effect or for any purpose which violates the provisions of the Regulations of such Board of Governors.

**SECTION 3.07. Investment Company Act.** Such Loan Party is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

SECTION 3.08. ERISA. The Borrower is in compliance with all material provisions of ERISA, except to the extent that all failures to be in compliance could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 3.09. No Material Misstatements. No report, financial statement or other written information furnished by or on behalf of any Loan Party to the Agent or any Lender as described in Section 3.01 or pursuant to Section 5.01(a) of this Agreement or pursuant to any other Loan Document contains or will contain any material misstatement of fact or omits or will omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were, are or will be made, not misleading, except to the extent that such facts (whether misstated or omitted) do not result in a Material Adverse Effect.

SECTION 3.10. Purpose of Loans. The proceeds of the Loans shall be used by the Borrower for its general corporate purposes.

SECTION 3.11. Pari Passu. The claims of the Agent and the Lenders against the Borrower under this Agreement rank at least *pari passu* with the claims of all its unsecured creditors, save those whose claims are preferred solely by any laws of general application having effect in relation to bankruptcy, insolvency, liquidation or other similar events.

SECTION 3.12. Security Documents. The Collateral Agreement is effective to create in favor of the Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof. When financing statements in appropriate form are filed in the offices specified on Schedule 3.12, the Collateral Agreement will constitute a fully perfected Lien on and security interest in all right, title and interest of the Loan Parties in the Collateral described therein to the extent perfection can be obtained by filing Uniform Commercial Code financing statements, prior to the rights of any other Person, except for (a) rights secured by Liens expressly permitted by Section 6.02 and (b) in the case of any Collateral that is a Fixture that is installed or located at any real property that is not a Material Facility, rights of any holder (other than a Loan Party) of a recorded interest in such real property.

SECTION 3.13. Title to Assets. Each Loan Party has good and marketable title to, or valid leasehold interests in, all of its personal property and assets, except to the extent that failure to have good and marketable title to, or valid leasehold interests in, such property or assets could not reasonably be expected to have a Material Adverse Effect.

SECTION 3.14. Environmental Matters. (a) Each Loan Party and each real property on or at which any Collateral is installed or located and the operations thereon comply in all respects with all applicable Environmental Laws and each Loan Party does not have any liability (whether contingent or otherwise) in connection with any Environmental Activity, except in each case to the extent it would not reasonably be expected to have a Material Adverse Effect.

(b) Each Loan Party (i) has not received any written notice of any claim against or affecting it or any real property on or at which any Collateral is installed or located or the operations thereon relating to Environmental Laws, (ii) has not received any written notice of

and is not aware of any judicial or administrative proceeding pending or, to its knowledge, threatened against or affecting it or any real property on or at which any Collateral is installed or located or the operations thereon alleging any material violation of any Environmental Laws and (iii) to the best of its knowledge, is not the subject of any investigation, evaluation, audit or review by any Governmental Authority to determine whether any violation of any Environmental Laws has occurred or is occurring or whether any remediation action is needed in connection with an Environmental Activity, except, in the case of clauses (i), (ii) and (iii), to the extent such claim, proceeding, investigation, evaluation, audit or review would not reasonably be expected to have a Material Adverse Effect.

(c) Each Loan Party does not store any Hazardous Substance on any real property on or at which any Collateral is installed or located nor has it disposed of any Hazardous Substance on any real property on or at which any Collateral is installed or located, in each case, except (i) in compliance with all applicable Environmental Laws or (ii) where such storage or disposal would not reasonably be expected to have a Material Adverse Effect.

## ARTICLE IV

### Conditions Precedent

SECTION 4.01. Conditions to Loans. The obligation of each Lender to make the Loans requested to be made by it is subject to the satisfaction on the Funding Date of the following conditions precedent:

(a) Credit Agreement; Collateral Agreement. The Agent shall have received (i) this Agreement, executed and delivered (including by way of a telecopier or electronic image scan) by a duly authorized officer of each Loan Party and each Lender and (ii) the Collateral Agreement, executed and delivered (including by way of a telecopier or electronic image scan) by each Loan Party.

(b) Lien Searches. The Agent shall have received the results of recent lien searches (limited by such parameters relating to filing dates and amounts as the Agent and the Borrower may agree upon) in the appropriate filing or recording offices in each Loan Party's jurisdiction of organization and in the jurisdictions in which facilities containing Equipment and Fixtures accounting for at least 85% of the Collateral Value set forth in the certificate referred to in clause (f) below are located, and such searches shall reveal no Liens on any of the Collateral except for Liens permitted by Section 6.02 or those that are discharged on or prior to the Funding Date pursuant to documentation reasonably satisfactory to the Agent.

(c) Secretary's Certificates of Loan Parties. The Agent shall have received a certificate of the Secretary or Assistant Secretary of each of the Loan Parties, in form and substance satisfactory to the Agent, which certificate shall (i) certify as to the incumbency and signature of the officers of such Loan Party executing any Loan Document (with the President, any Vice President or any Financial Officer of such Loan Party attesting to the incumbency and signature of the Secretary or Assistant Secretary

providing such certificate), (ii) have attached to it a true, complete and correct copy of each of the certificate of incorporation and by-laws or equivalent constitutional documents of such Loan Party, (iii) have attached to it a true and correct copy of appropriate resolutions of such Loan Party, which resolutions shall authorize the execution, delivery and performance of this Agreement and the other Loan Documents and the incurrence of the Obligations of such Loan Party by such Loan Party and (iv) certify that, as of the date of such certificate (which shall not be earlier than the date hereof), none of such certificate of incorporation or by-laws (or equivalent constitutional documents) or resolutions shall have been amended, supplemented, modified, revoked or rescinded.

(d) Fees. The Arrangers and the Agent shall have received all fees required to be paid in accordance with the Fee Letter.

(e) Legal Opinions. The Agent shall have received, (i) the executed legal opinion of Weil, Gotshal & Manges LLP, counsel to each of the Loan Parties, substantially in the form of Exhibit E-1 and (ii) the executed legal opinion of Martin I. Darvick, Esq. substantially in the form of Exhibit E-2. Each Loan Party hereby instructs such counsel to deliver its opinion for the benefit of the Agent and each of the Lenders.

(f) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement, but excluding Fixture Filing Financing Statements, which will be filed as provided in Section 5.05(c)) required by the Security Documents or under law or reasonably requested by the Agent to be filed, registered or recorded in order to create in favor of the Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, shall have been delivered to the Agent and shall be in proper form for filing, registration or recordation.

(g) Insurance. The Agent shall have received evidence of satisfactory insurance coverage or self-insurance for the Collateral and an insurance certificate reflecting the Agent as an additional loss payee thereunder.

(h) Notice of Borrowing. The Agent shall have received a notice of borrowing executed by the Borrower in compliance with Section 2.02.

(i) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to the Loan Documents shall be true and correct in all material respects on and as of the Funding Date as if made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date.

(j) No Default. No Default or Event of Default shall have occurred and be continuing on the Funding Date and after giving effect to the extensions of credit requested to be made on such date.

(k) Officer's Certificate. The Agent shall have received a certificate from a Financial Officer of the Borrower dated the Funding Date confirming compliance with the conditions set forth in paragraphs (i) and (j) of this Section.

(l) Collateral Value. The Agent shall have received a certificate of a Financial Officer of the Borrower dated the Funding Date certifying that the Collateral Value is approximately \$6,500,000,000 (subject to adjustments that may be required due to lien search results on real properties on which Collateral is installed or located for which no lien searches shall have been received as of the Funding Date), based on the net book values of the assets constituting Collateral as of June 30, 2006.

## ARTICLE V

### Affirmative Covenants

Each Loan Party as to itself hereby agrees that, so long as any amount is owing to any Lender or the Agent hereunder, the Borrower shall:

SECTION 5.01. Financial Statements. Furnish to the Agent for prompt delivery to each Lender:

(a) as soon as available, but in any event within 110 days after the end of the Borrower's fiscal year, a copy of the consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such year and the related consolidated statements of income and retained earnings and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, and reported on by Deloitte & Touche LLP or other independent public accountants of nationally recognized standing (without a "going concern" or like qualification or exception and without any qualification as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied; and

(b) as soon as available, but in any event not later than 60 days after the end of each of the first three quarterly periods of each fiscal year of the Borrower, the unaudited consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such quarter and the related unaudited consolidated statements of income and retained earnings and of cash flows of the Borrower and its consolidated Subsidiaries for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year, in each case prepared in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as disclosed therein).

Notwithstanding the foregoing, the Borrower shall not be required to furnish or deliver to the Agent any financial statements or reports that the Borrower has filed with the Securities and Exchange Commission or any successor or analogous Governmental Authority, and any such

financial statements or reports so filed shall be deemed to have been furnished or delivered to the Agent in accordance with the terms of this Section if such financial statements or reports are filed within the time periods for delivery required by this Section.

**SECTION 5.02. Certificates; Other Information.** (a) Furnish to the Agent, for delivery to each Lender, concurrently with the delivery of the financial statements referred to in Section 5.01, a certificate of a Financial Officer of the Borrower stating that, to the best of such Financial Officer's knowledge, (i) such financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries for the period referred to therein (subject, in the case of interim statements, to normal year-end audit adjustments) and (ii) during such period each Loan Party has performed in all material respects all of its covenants and other agreements contained in this Agreement and the other Loan Documents to be performed by it, and that no Default or Event of Default has occurred and is continuing, except as specified in such certificate.

(b) Furnish to the Agent, for delivery to each Lender, within 15 Business Days after the date on which the Borrower is required to file Form 10-K with the Securities Exchange Commission (after giving effect to any grace periods or extensions available under applicable Securities and Exchange Commission regulations, but in any event within 110 days after the end of the Borrower's fiscal year), a Collateral Value Certificate as of the last day of the fiscal year covered by the financial statements so delivered.

(c) During the continuance of any Quarterly Collateral Reporting Period, furnish to the Agent, for delivery to each Lender, within 15 Business Days after the date on which the Borrower is required to file Form 10-Q with the Securities Exchange Commission (after giving effect to any grace periods or extensions available under applicable Securities and Exchange Commission regulations, but in any event within 110 days after the end of the Borrower's applicable fiscal quarter), a Collateral Value Certificate as of the last day of the fiscal quarter covered by the financial statements so delivered.

(d) At any time when a Quarterly Collateral Reporting Period is not in effect, furnish to the Agent, for delivery to each Lender, within 15 Business Days after the date on which the Borrower is required to file Form 10-Q with the Securities Exchange Commission (after giving effect to any grace periods or extensions available under applicable Securities and Exchange Commission regulations, but in any event within 110 days after the end of the Borrower's applicable fiscal quarter), a Summary Collateral Value Certificate as of the last day of the fiscal quarter covered by the financial statements so delivered.

**SECTION 5.03. Notices.** Promptly give notice to the Agent for delivery to each Lender of the occurrence of any Default or Event of Default, accompanied by a statement of a Financial Officer setting forth details of the occurrence referred to therein and stating what action the Borrower proposes to take with respect thereto.

**SECTION 5.04. Conduct of Business and Maintenance of Existence.** Continue to engage in its principal line of business as now conducted by it and preserve, renew and keep in full force and effect its corporate existence and take all reasonable action to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of its principal line of

business, except as otherwise permitted pursuant to Section 6.01 or to the extent that failure to do so would not have a Material Adverse Effect.

SECTION 5.05. Additional Collateral, Fixture Filings, etc. (a) Except as set forth in clause (b) below, with respect to any property of the types included in the description of the Collateral under any Security Document executed by such Loan Party which is acquired after the Funding Date by such Loan Party, or which is owned by a Loan Party that becomes a Loan Party after the Funding Date, promptly (i) execute and deliver to the Agent such amendments to the applicable Security Document or such other documents as the Agent reasonably deems necessary to grant to the Agent, for the benefit of the Secured Parties, a security interest in such property and (ii) take all actions necessary to grant to the Agent, for the benefit of the Secured Parties, a perfected security interest in such property with the priority specified in such Security Document (subject to the Liens permitted by Section 6.02), including the filing of Uniform Commercial Code and other financing statements in such jurisdictions as may be required by the Security Documents or by applicable law or as may be reasonably requested by the Agent (other than any Fixture Filing Financing Statement with regard to any real property that is not a Material Facility).

(b) Notwithstanding anything to the contrary in this Section, there shall be excluded from the property referred to in clause (a) to be pledged as Collateral such assets as to which the Agent shall reasonably determine that the cost of obtaining a security interest therein is excessive in relation to the value of the security to be afforded thereby.

(c) With respect to any Material Facility upon which a Fixture Filing Financing Statement shall not have been previously delivered to the Agent in proper form for filing, deliver to the Agent such a Fixture Filing Financing Statement in proper form for filing with regard to such Material Facility, (i) with respect to Material Facilities in existence on the Funding Date, no later than December 31, 2006 or such later date as may be agreed to by the Agent and (ii) with respect to Material Facilities that are acquired or determined to be Material Facilities after the Funding Date, or augmented or changed in such a fashion so that a previously delivered Fixture Filing Financing Statement with respect thereto shall no longer be in proper form, promptly (but in any event, within 45 days or such later date as may be agreed to by the Agent) after the date of such acquisition, determination, augmentation or change.

SECTION 5.06. Environmental Matters. (a) Promptly notify the Agent of any environmental matter, occurrence or other event relating to any real property on or at which any Collateral is installed or located arising after the Funding Date of which it is aware, or any breach or violation of an Environmental Law applicable to any real property on or at which any Collateral is installed or located, which would reasonably be expected to have a Material Adverse Effect, and take all necessary action required by any applicable Environmental Law to rectify such environmental matter, occurrence or event or cure the breach or violation of such Environmental Law, in each case, if failure to take such action would reasonably be expected to have a Material Adverse Effect.

(b) Promptly provide the Agent with a copy of: (i) any written notice it receives that a violation of any Environmental Law has been committed with respect to any real property on or at which any Collateral is installed or located or there is the reasonable likelihood of

liability arising from the condition of any real property on or at which any Collateral is installed or located, (ii) any written notice it receives that a demand, claim, or administrative or judicial complaint has been filed against such Loan Party alleging a violation of any Environmental Law or liability related to the condition of any real property on or at which any Collateral is installed or located or requiring such Loan Party to take any action in connection with any Environmental Activity in respect of any real property on or at which any Collateral is installed or located, (iii) any written notice it receives from a third party or Governmental Authority alleging that such Loan Party is or may be liable or responsible for matters associated with any Environmental Activity in respect of any real property on or at which any Collateral is installed or located, including all matters associated with a response to or a cleanup of the presence or discharge of a Hazardous Substance in, at, through or into the environment, and (iv) any environmental site assessment or audit report required to be submitted by such Loan Party to any Governmental Authority, in the case of each of clauses (i) through (iv), to the extent that the matters described in any such notice, assessment or report could reasonably be expected to have a Material Adverse Effect.

## ARTICLE VI

### Negative Covenants

Each Loan Party hereby agrees that so long as any amount is owing to any Lender or the Agent hereunder:

SECTION 6.01. Merger, Consolidation, etc. Such Loan Party agrees not to merge or consolidate with any other Person or sell or convey all or substantially all of its assets to any Person unless, in the case of mergers and consolidations, (a) such Loan Party shall be the continuing corporation, (b) immediately before and immediately after giving effect to such merger or consolidation, no Default or Event of Default shall have occurred and be continuing and (c) in the case of a merger, consolidation or conveyance involving any Guarantor, the guarantee provided in Article IX shall be in full force and effect immediately after giving effect to such merger or consolidation, except in the case of a merger of such Guarantor into the Borrower, to the extent such merger is otherwise permitted hereunder.

SECTION 6.02. Limitations on Liens. (a) The Borrower shall not permit any Manufacturing Subsidiary to issue or assume any Indebtedness secured by a Lien upon any Principal Domestic Manufacturing Property of the Borrower or any Manufacturing Subsidiary or upon any shares of stock or obligations of any Manufacturing Subsidiary (whether such Principal Domestic Manufacturing Property, shares of stock or obligations are now owned or hereafter acquired) without in any such case effectively providing concurrently with the issuance or assumption of any such Indebtedness that all principal, interest and other obligations owing hereunder (together with, if the Borrower shall so determine, any other obligations of the Borrower or such Manufacturing Subsidiary ranking equally with the amounts owing hereunder and then existing or thereafter created) shall be secured equally and ratably with such Indebtedness, unless the aggregate amount of Indebtedness issued or assumed and so secured by Liens, together with all other secured Indebtedness of the Borrower and its Manufacturing



Subsidiaries which (if originally issued or assumed at such time) would otherwise be subject to the foregoing restrictions, but not including Indebtedness permitted to be secured under clauses (i) through (vi) of the immediately following paragraph, does not at the time exceed 20% of the stockholders' equity of the Borrower and its consolidated subsidiaries, as determined in accordance with GAAP and shown on the audited consolidated balance sheet contained in the latest published annual report to the stockholders of the Borrower.

The above restrictions shall not apply to Indebtedness secured by:

(i) Liens on property, shares of stock or Indebtedness of any corporation existing at the time such corporation becomes a Manufacturing Subsidiary;

(ii) Liens on property existing at the time of acquisition of such property by the Borrower or a Manufacturing Subsidiary, or Liens to secure the payment of all or any part of the purchase price of such property upon the acquisition of such property by the Borrower or a Manufacturing Subsidiary or to secure any Indebtedness incurred prior to, at the time of, or within 180 days after, the later of the date of acquisition of such property and the date such property is placed in service, for the purpose of financing all or any part of the purchase price thereof, or Liens to secure any Indebtedness incurred for the purpose of financing the cost to the Borrower or a Manufacturing Subsidiary of improvements to such acquired property;

(iii) Liens securing Indebtedness of a Manufacturing Subsidiary owing to the Borrower or any of its subsidiaries;

(iv) Liens on property of a corporation existing at the time such corporation is merged or consolidated with the Borrower or a Manufacturing Subsidiary or at the time of a sale, lease or other disposition of the properties of a corporation as an entirety or substantially as an entirety to the Borrower or a Manufacturing Subsidiary;

(v) Liens on property of the Borrower or a Manufacturing Subsidiary in favor of the United States of America or any state thereof, or any department, agency or instrumentality or political subdivision of the United States of America or any state thereof, or in favor of any other country, or any political subdivision thereof, to secure partial, progress, advance or other payments pursuant to any contract or statute or to secure any obligations incurred for the purpose of financing all or any part of the purchase price or the cost of construction of the property subject to such Liens; or

(vi) any extension, renewal or replacement (or successive extensions, renewals or replacements) in whole or in part of any Lien securing Indebtedness permitted to be secured by the first sentence of this Section 6.02(a) or any Lien referred to in the foregoing clauses (i) to (v); provided, however, that the principal amount of Indebtedness secured thereby shall not exceed by more

than 115% the principal amount of Indebtedness so secured at the time of such extension, renewal or replacement and that such extension, renewal or replacement shall be limited to all or a part of the property which secured the Lien so extended, renewed or replaced (plus improvements on such property).

(b) Notwithstanding the foregoing, each Loan Party agrees not to, directly or indirectly, create, incur, assume or suffer to exist any Lien upon any of the Collateral or upon any facility or other real property on or at which any Collateral is installed or located, except:

(i) Liens for taxes, assessments, governmental charges and utility charges, in each case that are not yet due or that are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of such Loan Party, as the case may be, in conformity with GAAP;

(ii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days or that are being contested in good faith by appropriate proceedings;

(iii) permits, licenses, easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of either Loan Party or any of their respective Subsidiaries;

(iv) encumbrances arising under leases or subleases of real property that do not, in the aggregate, materially detract from the value of such real property or interfere with the ordinary conduct of business conducted or proposed to be conducted with respect to such real property;

(v) deposits made in the ordinary course of business in connection with worker's compensation, unemployment insurance or other types of social security benefits or to secure the performance of bids, tenders, sales or contracts (other than for the repayment of borrowed money) or surety, appeal, customs or performance bonds;

(vi) Liens arising from precautionary Uniform Commercial Code financing statement filings (or similar filings) regarding leases entered into by any Loan Party or any of their respective Subsidiaries in the ordinary course of business;

(vii) Liens on property existing at the time of acquisition of such property by any Loan Party, or Liens to secure the payment of all or any part of the purchase price of such property upon the acquisition of such property by a Loan Party or to secure any Indebtedness incurred prior to, at the time of, or within 180 days after, the later of the date of acquisition of such property and the

date such property is placed in service, for the purpose of financing all or any part of the purchase price thereof, or Liens on such acquired property to secure any Indebtedness incurred for the purpose of financing the cost to a Loan Party of improvements to such acquired property;

(viii) Liens in existence on the date hereof listed on Schedule 6.02(b); provided that no such Lien is spread to cover any additional property after the date hereof and that the amount of indebtedness secured thereby is not increased;

(ix) any Lien securing the renewal, extension, refinancing or refunding of any indebtedness secured by any Lien permitted by clause (vii) or (viii) above or this clause (ix) without any change in the assets subject to such Lien;

(x) any Lien arising out of claims under a judgment rendered or claim filed so long as (A) such judgments or claims do not constitute a Default or Event of Default under this Agreement and (B) such judgments or claims are being contested in good faith and in respect of which there shall have been adequate reserves with respect thereto maintained on the books of such Loan Party in conformity with GAAP;

(xi) any Lien consisting of rights reserved to or vested in any Governmental Authority by any statutory provision;

(xii) Liens created pursuant to the Security Documents;

(xiii) Liens in favor of lessors pursuant to sale and leaseback transactions to the extent the Disposition of the assets subject to any such sale and leaseback transaction is permitted under Section 6.03 and 10.12;

(xiv) Liens in favor of lessors to secure Capital Lease Obligations limited to the property subject to such Capital Lease Obligations; and

(xv) Liens not otherwise permitted by the foregoing clauses of this Section 6.02(b) securing obligations or other liabilities (other than Indebtedness) of any Loan Party; provided that the aggregate outstanding amount of all such obligations and liabilities shall not exceed \$150,000,000 at any time.

**SECTION 6.03. Limitation on Sale and Lease-Back.** The Borrower will not, nor will it permit any Manufacturing Subsidiary to, enter into any arrangement with any Person providing for the leasing by the Borrower or any Manufacturing Subsidiary of any Principal Domestic Manufacturing Property owned by the Borrower or any Manufacturing Subsidiary on the date hereof (except for temporary leases for a term of not more than five years and except for leases between the Borrower and a Manufacturing Subsidiary or between Manufacturing Subsidiaries), which property has been or is to be sold or transferred by the Borrower or such Manufacturing Subsidiary to such Person, unless either:

(a) the Borrower or such Manufacturing Subsidiary would be entitled, pursuant to the provisions of Section 6.02(a), to issue, assume, extend, renew or replace Indebtedness secured by a Lien upon such property equal in amount to the Attributable Indebtedness in respect of such arrangement without equally and ratably securing the amount owing hereunder pursuant to Section 6.02(a); provided, however, that from and after the date on which such arrangement becomes effective the Attributable Indebtedness in respect of such arrangement shall be deemed for all purposes under Section 6.02(a) and this Section to be Indebtedness subject to the provisions of Section 6.02(a) (which provisions include the exceptions set forth in clauses (i) through (vi) thereof); or

(b) the Borrower shall apply an amount in cash equal to the Attributable Indebtedness in respect of such arrangement to the retirement (other than any mandatory retirement or by way of payment at maturity), within 180 days of the effective date of any such arrangement, of Indebtedness of the Borrower or any Manufacturing Subsidiary (other than Indebtedness owned by the Borrower or any Manufacturing Subsidiary) which by its terms matures at or is extendible or renewable at the option of the obligor to a date more than twelve months after the date of the creation of such Indebtedness.

SECTION 6.04. Collateral Value. The Loan Parties shall not permit the ratio of the Collateral Value to the Total Exposure at any time, including after giving effect to any Dispositions of Collateral, to be less than 2.50 to 1.00.

## ARTICLE VII

### Events of Default

If any of the following events shall occur and be continuing (each, an "Event of Default"):

(a) the Borrower shall (i) fail to pay any principal of any Loan when due in accordance with the terms hereof or (ii) fail to pay any interest on any Loan or any other amount which is payable hereunder or under any other Loan Document and (in the case of this clause (ii) only) such failure shall continue unremedied for more than five Business Days after written notice thereof has been given to the Borrower by the Agent or the Majority Lenders; or

(b) any representation or warranty made or deemed made by any Loan Party in Article III or in any other Loan Document or any certified statement furnished pursuant to Section 5.02(b), 5.02(c) or 5.02(d) shall prove to have been incorrect on or as of the date made or deemed made or certified, if the facts or circumstances incorrectly represented or certified result in or constitute a Material Adverse Effect; or

(c) any Loan Party shall default in the observance or performance of any other agreement contained in this Agreement or any Security Document (other than as provided in paragraphs (a) or (b) of this Article) and (i) in the case of any default in the observance or performance of the covenants in Section 6.04 of this Agreement, such default shall

continue unremedied for a period of five Business Days, and (ii) in the case of any default in the observance or performance of any other agreement contained in this Agreement or any other Loan Document, such default shall continue unremedied for a period of 30 days after written notice thereof shall have been given to such Loan Party by the Agent or the Majority Lenders; or

(d) any Loan Party shall default in any payment of \$50,000,000 (or the foreign currency equivalent thereof) or more of principal of or interest on any Indebtedness or on account of any guarantee in respect of Indebtedness, beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness or guarantee was created; or

(e) (i) the Borrower or any of its Significant Subsidiaries shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Borrower or any of its Significant Subsidiaries shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Borrower or any of its Significant Subsidiaries any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 90 days; or (iii) there shall be commenced against the Borrower or any of its Significant Subsidiaries any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 90 days from the entry thereof; or

(f) one or more judgments or decrees shall (i) be entered against any Loan Party, (ii) not have been vacated, discharged, satisfied, stayed or bonded pending appeal within 60 days from the entry thereof and (iii) involve a liability (not paid or fully covered by insurance) of either \$100,000,000 (or the foreign currency equivalent thereof) or more, in the case of any single judgment or decree, or \$200,000,000 (or the foreign currency equivalent thereof) or more in the aggregate; or

(g) any of the Security Documents shall cease, for any reason, to be in full force and effect with respect to Collateral with a book value in excess of \$25,000,000 in the aggregate, or any Loan Party or any Affiliate of any Loan Party shall so assert, or any Lien created by any of the Security Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby; or

(h) the guarantee contained in Article IX hereof shall cease, for any reason, to be in full force and effect (other than as a result of a transaction permitted by Section 6.01) or any Loan Party or any Subsidiary of any Loan Party shall so assert;

then, (A) if such event is an Event of Default specified in clause (i) or (ii) of paragraph (e) above, all Commitments hereunder shall automatically and immediately terminate and the Loans (with accrued interest thereon) and all other amounts owing under this Agreement and the other Loan Documents shall immediately become due and payable without presentment, protest, demand or other notice of any kind, each of which is expressly waived by the Loan Parties; and (B) if such event is any Event of Default which is not described in clause (A) above, with the consent of the Majority Lenders, the Agent may, or upon the request of the Majority Lenders, the Agent shall, by notice to the Borrower declare the Loans with accrued interest thereon and all other amounts owing under this Agreement to be due and payable forthwith, whereupon the same shall immediately become due and payable. Except as expressly provided in the preceding clause (B) and in paragraphs (a) and (c) of this Article, presentment, protest, demand and all other notices of any kind are hereby expressly waived by the Loan Parties.

## ARTICLE VIII

### The Agent

SECTION 8.01. Appointment. Each Lender hereby irrevocably designates and appoints the Agent as the agent of such Lender and each such Lender irrevocably authorizes the Agent, as the agent for such Lender, to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Agent by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement or in any other Loan Document, the Agent shall not have any duties or responsibilities, except those expressly set forth herein or therein, or any fiduciary relationship with any Lender or any Affiliate of such Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agent. Each party to this Agreement acknowledges that the Syndication Agent and the Co-Documentation Agents shall not have any duties, responsibilities, obligations or authority under this Agreement in such capacity.

SECTION 8.02. Delegation of Duties. The Agent may execute any of its duties under this Agreement and any other Loan Document by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

SECTION 8.03. Exculpatory Provisions. Neither the Agent nor any of its officers, directors, employees or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection with this Agreement or any other

Loan Document (except for its or such Person's own gross negligence or willful misconduct) or (ii) responsible in any manner to any of the Lenders or any Affiliates of such Lenders, for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party to perform its obligations hereunder. The Agent shall not be under any obligation to any Lender or any Affiliate of such Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party.

SECTION 8.04. Reliance by Agent. The Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, electronic image scan transmission, telex or teletype message, statement, order or other document or conversation believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including, without limitation, any counsel to the Borrower), independent accountants and other experts selected by the Agent. The Agent may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Agent. The Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Majority Lenders as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request of the Majority Lenders (or to the extent that this Agreement expressly requires a higher percentage of Lenders, such higher percentage) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the obligations owing by the Borrower hereunder.

SECTION 8.05. Notice of Default. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder (other than a Default or Event of Default under Article VII(a)) unless the Agent has received written notice from a Lender or the Borrower referring to this Agreement or any other Loan Document, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Agent receives such a notice, the Agent shall promptly notify the Borrower (if the Borrower shall not have delivered such notice to the Agent) and then give notice thereof to the Lenders; provided that, except in the case of any notice required to be provided under Article VII prior to the occurrence of an Event of Default, the failure to notify the Borrower shall not impair any of the rights of the Agent and the Lenders with respect to the events and circumstances specified in such notice. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Majority Lenders; provided that unless and until the Agent shall have received such directions, the Agent may (but shall not

be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

**SECTION 8.06. Non-Reliance on Agent and Other Lenders.** Each Lender expressly acknowledges that neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates has made any representations or warranties to it and that no act by the Agent hereinafter taken, including any review of the affairs of the Borrower, shall be deemed to constitute any representation or warranty by the Agent to any Lender. Each Lender represents to the Agent that it has, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement or any other Loan Document, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Borrower. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Agent hereunder, the Agent shall not have any duty or responsibility to provide any Lender or any Affiliate of such Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of the Borrower which may come into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

**SECTION 8.07. Indemnification.** The Lenders agree to indemnify the Agent in its capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective relevant Applicable Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their relevant Applicable Percentages immediately prior to such date of the later of termination or payment in full, but giving effect to any subsequent assignments), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever which may at any time (including at any time following satisfaction of the Obligations) be imposed on, incurred by or asserted against the Agent in any way relating to or arising out of this Agreement, any other Loan Document or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Agent under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder.

**SECTION 8.08. Agent in Its Individual Capacity.** The Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Borrower as though the Agent were not the Agent hereunder. With respect to Loans made or



renewed by it, the Agent shall have the same rights and powers under this Agreement as any Lender and may exercise the same as though it were not the Agent, and the terms "Lender" and "Lenders" shall include the Agent in its individual capacity.

SECTION 8.09. Successor Agent. The Agent may resign as Agent upon 30 days' notice to the Lenders and the Borrower and following the appointment of a successor Agent in accordance with the provisions of this Section. If the Agent shall resign as Agent under this Agreement, then the Majority Lenders shall appoint from among the Lenders willing to serve as Agent a successor agent for the Lenders, which successor agent shall be approved by the Borrower (which approval shall not be unreasonably withheld), whereupon such successor agent shall succeed to the rights, powers and duties of the Agent, and the term "Agent" shall mean such successor agent effective upon such appointment and approval, and the former Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of such former Agent or any of the parties to this Agreement or any holders of the obligations owing hereunder. After any retiring Agent's resignation as Agent, the provisions of this Article shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement and the other Loan Documents.

## ARTICLE IX

### The Guarantee

SECTION 9.01. Guarantee. In order to induce the Agent and the Lenders to execute and deliver this Agreement and to make and maintain the Loans:

(a) Each Guarantor hereby unconditionally and irrevocably guarantees to the Secured Parties, jointly with the other Guarantors and severally, as a primary obligation, the prompt and complete payment and performance by the Borrower when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations. Each Guarantor further agrees to pay any and all reasonable expenses (including all reasonable fees and disbursements of counsel) which may be paid or incurred by the Agent or by the Secured Parties in enforcing any of their rights under the guarantee contained in this Article. The guarantee contained in this Article shall remain in full force and effect until the Obligations have been indefeasibly paid in full.

(b) Each Guarantor agrees that whenever, at any time or from time to time, it shall make any payment to the Agent or any Secured Party on account of its liability under this Article, it will notify the Agent or such Secured Party, as the case may be, in writing that such payment is made under the guarantee contained in this Article. No payment or payments made by any Guarantor or any other Person or received or collected by the Agent or any Secured Party from such Guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application, at any time or from time to time, in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of such Guarantor under this Article and such Guarantor shall, notwithstanding any such payment or payments, remain

liable for the amount of the Obligations until the Obligations have been indefeasibly paid in full.

(c) Anything herein or in any other Loan Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Loan Documents shall in no event exceed the amount which can be guaranteed by such Guarantor under applicable Federal and state laws relating to the insolvency of debtors.

SECTION 9.02. No Subrogation. Notwithstanding any payment or payments made by any Guarantor hereunder, or any set-off or application of funds of any Guarantor by the Agent or any Secured Party, no Guarantor shall be entitled to be subrogated to any of the rights of the Agent or any Secured Party against the Borrower or against any collateral security or guarantee or right of offset held by the Agent or any Secured Party for the payment of the Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Borrower in respect of payments made by such Guarantor hereunder, until all amounts owing to the Agent and the Secured Parties on account of the Obligations are indefeasibly paid in full. If any amount shall be paid to any Guarantor on account of such subrogation rights in violation of the foregoing sentence, such amount shall be held by such Guarantor in trust for the Agent and the Secured Parties, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Agent in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Agent, if required), to be applied against the Obligations, whether matured or unmatured, in such order as the Agent may determine.

SECTION 9.03. Amendments, etc. with Respect to the Obligations. Each Guarantor shall remain obligated under this Article notwithstanding that, without any reservation of rights against such Guarantor, and without notice to or further assent by such Guarantor, any demand for payment of any of the Obligations made by the Agent or any Secured Party may be rescinded by the Agent or such Secured Party, and any of such Obligations continued, and any such Obligations, or the liability of any other party upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by the Agent or the Secured Parties, and this Agreement may be amended, modified, supplemented or terminated, in whole or in part, as the Agent or the Secured Parties may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by the Agent or the Secured Parties for the payment of any of the Obligations may be sold, exchanged, waived, surrendered or released. Subject to any applicable law, neither the Agent nor any Secured Party shall have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for any of the Obligations or for the guarantee contained in this Article or any property subject thereto.

SECTION 9.04. Guarantee Absolute and Unconditional. Each Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Obligations and notice of or proof of reliance by the Agent or any Secured Party upon the guarantee contained in this Article or acceptance of the guarantee contained in this Article; the Obligations, and any part thereof, shall conclusively be deemed to have been created, contracted or incurred in reliance upon the guarantee contained in this Article; and all dealings between the Borrower and any

Guarantor, on the one hand, and the Agent and the Secured Parties, on the other, shall likewise be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Article. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon the Borrower with respect to the Obligations, it being understood that such Guarantor shall not be required to make any payment under this Article until demand therefor shall have been made by the Agent in accordance with Section 10.02. The guarantee contained in this Article shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (a) the validity or enforceability of any other provision of this Agreement, any of the Obligations or any collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by the Agent or any Secured Party, (b) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by the Borrower against the Agent or any Secured Party, or (c) any other circumstance whatsoever (with or without notice to or knowledge of the Borrower or any Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of the Borrower for the Obligations, or of any Guarantor under this Article, in bankruptcy or in any other instance. When the Agent or any Secured Party is pursuing its rights and remedies under this Article against any Guarantor, the Agent or any Secured Party may, but shall be under no obligation to, pursue such rights and remedies as it may have against the Borrower or any other Person or against any collateral security or guarantee for the Obligations or any right of offset with respect thereto, and any failure by the Agent or any Secured Party to pursue such other rights or remedies or to collect any payments from the Borrower or any such other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of the Borrower or any such other Person or of any such collateral security, guarantee or right of offset, shall not relieve such Guarantor of any liability under this Article, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of the Agent and the Secured Parties against such Guarantor.

SECTION 9.05. Reinstatement. The guarantee contained in this Article shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Obligations is rescinded or must otherwise be restored or returned by the Agent or any Secured Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Loan Party or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, any Loan Party or any substantial part of its property, or otherwise, all as though such payments had not been made.

## ARTICLE X

### Miscellaneous

SECTION 10.01. Amendments and Waivers. Neither this Agreement nor any other Loan Document nor any terms hereof or thereof may be amended, supplemented or modified except pursuant to an agreement in writing entered into by the Borrower and the Majority Lenders or pursuant to an agreement or agreements in writing entered into by the Agent and the Loan Party or Loan Parties party thereto, in each case, with the consent of the Majority

Lenders. The Majority Lenders may, or, with the written consent of the Majority Lenders, the Agent may, from time to time, (a) enter into with the Loan Parties written amendments, supplements or modifications hereto for the purpose of adding any provisions to this Agreement or changing in any manner the rights of the Lenders or the Loan Parties hereunder or (b) waive, on such terms and conditions as the Majority Lenders or the Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or any other Loan Document or any Default or Event of Default and its consequences. Any such waiver and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Loan Parties, the Lenders, the Agent and all future holders of the obligations owing hereunder; provided, however, that no such waiver and no such amendment, supplement or modification shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon without the written consent of each Lender affected thereby, (iii) postpone the maturity of any Loan, or any scheduled date of payment of the principal amount of any Loan or any date for the payment of any interest payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.12 in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender affected thereby, (v) change any of the provisions of this Section or the percentage set forth in the definition of "Majority Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender affected thereby, (vi) release any Guarantor from its guarantee hereunder (except as permitted by this Agreement), or limit its liability in respect of such guarantee, without the written consent of each Lender, (vii) release all or substantially all of the Collateral from the Liens of the Security Documents without the written consent of each Lender, (viii) consent to the assignment or transfer by any Loan Party of any of its rights and obligations under this Agreement or any other Loan Document, without the written consent of each Lender, or (ix) amend, modify or waive any provision of Article VIII or any other provision of this Agreement governing the rights or obligations of the Agent without the written consent of the Agent. In the case of any waiver, the Loan Parties, the Lenders and the Agent shall be restored to their former position and rights hereunder, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. Notwithstanding anything to the contrary herein, the Agent may, with the consent of the Borrower, amend, modify or supplement any provision of this Agreement or any other Loan Document to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification, or supplement does not adversely affect the rights of any Lender.

SECTION 10.02. Notices. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or, in the case of overnight courier, facsimile or telecopy notice, when received, or four days after being deposited in the mail, postage prepaid addressed as follows in the case of the Borrower, any Guarantor and the Agent, and as set forth in the administrative questionnaire of any Lender, or to such other address as may be hereafter notified by the respective parties hereto and any future holders of the obligations owing hereunder:

The Borrower or any Guarantor:

General Motors Corporation  
767 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telecopy: (212) 418-3632

with a copy to:

Office of the Secretary  
General Motors Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000

and with a copy to:

Weil Gotshal & Manges, LLP  
767 Fifth Avenue  
New York, New York 10153-0119  
Attention: Soo-Jin Shim  
Telecopy: 212-310-8007

The Agent:

JPMorgan Chase Bank, N.A.  
Loan & Agency Services  
1111 Fannin Street – 10th Floor  
Houston, TX 77002  
Attention: Denise Ramon  
Telecopy: 713-750-2938;

provided that any notice, request or demand to or upon the Agent or the Lenders pursuant to Section 2.02, 2.04 or 2.05 shall not be effective until received.

**SECTION 10.03. No Waiver, Cumulative Remedies.** No failure to exercise and no delay in exercising, on the part of the Agent or any Lender, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

**SECTION 10.04. Survival of Representations and Warranties.** All representations and warranties made hereunder and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

**SECTION 10.05. Payment of Expenses and Taxes.** The Borrower agrees (a) to pay or reimburse the Agent for all its reasonable out-of-pocket costs and expenses reasonably incurred in connection with the development, preparation and execution of, and any amendment, supplement or modification to, this Agreement and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees and disbursements of counsel to the Agent (which fees and disbursements of counsel shall be paid on the date which is, (i) in the case of the entry into this Agreement, the later of (A) thirty days following the Funding Date and (B) ten Business Days after the delivery of any invoice related thereto and (ii) in all other cases, the date which is ten Business Days after the delivery of any invoice related thereto), (b) to pay or reimburse each Lender and the Agent for all its reasonable costs and expenses reasonably incurred in connection with the enforcement of any rights under this Agreement, including the reasonable fees and disbursements of counsel to the Agent and to the several Lenders (other than those incurred in connection with the compliance by the relevant Lender with the provisions of Section 2.17(a)), (c) to pay, indemnify, and hold each Lender and the Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay by the Borrower in paying, stamp, excise and other similar taxes (other than any Non-Excluded Taxes), if any, in each case, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of, this Agreement and (d) to pay, indemnify, and hold each Lender and the Agent harmless from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, reasonable expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement (all the foregoing in this clause (d), collectively, the “indemnified liabilities”); provided that the Borrower shall not have any obligation hereunder to the Agent or any Lender with respect to indemnified liabilities arising from the gross negligence or willful misconduct of the Agent or any such Lender. The agreements in this Section shall survive repayment of the Loans and all other Obligations.

**SECTION 10.06. Successors and Assigns; Participations and Assignments.** (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder except as provided in Section 6.01 or with the consent of each Lender and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (each, an “Assignee”) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower; provided that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund (as defined below) or, if an Event of Default

under Article VII(a) or (e) has occurred and is continuing, any other Person; and

(B) the Agent; provided that no consent of the Agent shall be required for an assignment to an Assignee that is a Lender immediately prior to giving effect to such assignment.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Agent) shall not be less than \$1,000,000, unless each of the Borrower and the Agent otherwise consent; provided that (I) no such consent of the Borrower shall be required if an Event of Default under Article VII(a) or (e) has occurred and is continuing and (II) such amounts shall be aggregated in respect of each Lender and its affiliates or Approved Funds, if any;

(B) the parties to each assignment shall execute and deliver to the Agent an Assignment and Acceptance substantially in the form of Exhibit A (an "Assignment and Acceptance"), together with a processing and recordation fee of \$3,500;

(C) the Assignee, if it shall not be a Lender, shall deliver to the Agent an administrative questionnaire; and

(D) in the case of an assignment by a Lender to a CLO (as defined below) administered or managed by such Lender or an Affiliate of such Lender, the assigning Lender shall retain the sole right to approve any amendment, modification or waiver of any provision of this Agreement; provided that the Assignment and Acceptance between such Lender and such CLO may provide that such Lender will not, without the consent of such CLO, agree to any amendment, modification or waiver that (I) requires the consent of each Lender directly affected thereby pursuant to the proviso to the second sentence of Section 10.01 and (II) directly affects such CLO.

For the purposes of this Section, the terms "Approved Fund" and "CLO" have the following meanings:

"Approved Fund" means (a) with respect to any Lender, a CLO administered or managed by such Lender or an Affiliate of such Lender and (b) with respect to any Lender that is a fund which invests in bank loans and similar extensions of credit, any other fund that invests in

bank loans and similar extensions of credit and is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

“CLO” means, as to any Lender, any entity (whether a corporation, partnership, trust or otherwise) that is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course and is administered or managed by such Lender or an Affiliate of such Lender.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) below, from and after the effective date specified in each Assignment and Acceptance, the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 10.05); provided that no Assignee shall then be entitled to receive any greater amount pursuant to Section 2.13, 2.14, 2.15 or 2.16 in respect of any event or circumstance existing at the time of the assignment pursuant to which it acquired its interest hereunder than the assigning Lender would have been entitled to receive thereunder in respect of the rights and obligations assigned by such assigning Lender to such Assignee had no such assignment occurred. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded, and the Borrower, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice. The Agent shall provide a copy of the Register to the Borrower on a monthly basis.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an Assignee, the Assignee's completed administrative questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b)



of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Agent shall accept such Assignment and Acceptance and record the information contained therein in the Register.

(c) (i) Any Lender may, without the consent of the Borrower or the Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (D) such Lender shall have given prior written notice to the Borrower of the identity of such Participant. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that (I) requires the consent of each Lender pursuant to the proviso to the second sentence of Section 10.01 and (II) directly affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.13, 2.14, 2.15, 2.16 and 10.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section.

(ii) A Participant shall not be entitled to receive any greater payment under Sections 2.13, 2.14, 2.15, 2.16 or 10.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. Any Participant that is a Non-US Lender shall not be entitled to the benefits of Section 2.15 unless such Participant complies with Section 2.15(b).

(d) Each Lender shall maintain at its office a copy of each participation agreement to which it is a party and a register for the recordation of the names and addresses of the Participants under such participation agreement and the Commitments of, the principal amount of, and any interest on, the Loans owing to and paid to each Participant pursuant to the terms hereof from time to time.

(e) Nothing herein shall prohibit any Lender from pledging or assigning all or any portion of its Loans to any Federal Reserve Bank in accordance with applicable law or to any holder of, or trustee for the benefit of the holders of, such Lender's securities; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In order to facilitate any such pledge or assignment, the Borrower hereby agrees that, upon request of any Lender at any time and from time to time, the Borrower shall provide to such Lender, at the Borrower's own expense, a promissory note, substantially in the form of Exhibit B, evidencing the Loans owing to such Lender.

(f) On or prior to the effective date of an assignment, the assigning Lender shall surrender any outstanding Notes held by it all or a portion of which are being assigned, and the Borrower shall, upon the request to the Agent made at the time of such assignment by the assigning Lender or the Assignee, as applicable, execute and deliver to the Agent (in exchange for the outstanding Notes of the assigning Lender) a new Note to the order of such Assignee in an amount equal to the amount of such Assignee's Loan owing to it. Any such new Notes shall be dated the Funding Date and shall otherwise be in the form of the Note replaced thereby. Any Notes surrendered by the assigning Lender shall be returned by the Agent to the Borrower marked "canceled".

(g) Notwithstanding the foregoing, any Conduit Lender may assign any or all of the Loans it may have funded hereunder to its designating Lender without the consent of the Borrower or the Agent and without regard to the limitations set forth in paragraph (b) of this Section (other than paragraph (b)(ii)(D)); provided, that no Conduit Lender shall be entitled to receive any greater amount pursuant to Sections 2.13, 2.14, 2.15, 2.16 or 10.05 than the designating Lender would have been entitled to receive in respect of the extensions of credit made by such Conduit Lender. In addition, any Conduit Lender may disclose, on a confidential basis, the existence and terms of the Loans it has funded to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancements to such Conduit Lender; provided that no such Person shall receive any confidential financial information with respect to the Borrower unless such Person has complied with paragraph (h) of this Section as if such Person were a Transferee. The Borrower, each Lender and the Agent hereby confirms that it will not institute against a Conduit Lender or join any other Person in instituting against a Conduit Lender any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding under any state bankruptcy or similar law, for one year and one day after the payment in full of the latest maturing commercial paper note issued by such Conduit Lender; provided, however, that each Lender designating any Conduit Lender hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense (including legal expenses) arising out of its designation of a Conduit Lender, including the inability to institute such a proceeding against such Conduit Lender during such period of forbearance.

(h) The Borrower authorizes each Lender to disclose to any prospective Participant, any Participant or any prospective Assignee (each, a "Transferee") any and all financial information in such Lender's possession concerning the Borrower and its Affiliates which has been delivered to such Lender by or on behalf of the Borrower pursuant to this Agreement or which has been delivered to all Lenders by or on behalf of the Borrower in connection with their respective credit evaluations of the Borrower and its Affiliates prior to becoming a party to this Agreement; provided that (i) such Transferee has executed and delivered to the Borrower a written confidentiality agreement substantially in the form of that contained in the Confidential Information Memorandum, dated November 2006 and (ii) in the case of any information other than that contained in the Confidential Information Memorandum, dated November 2006, the Borrower has been informed of the identity of such Transferee and has consented (such consent not to be unreasonably withheld) to the disclosure of such information thereto. Nothing contained in this paragraph (h) shall be deemed to prohibit the delivery to any Transferee of any financial information which is otherwise publicly available.

(i) Notwithstanding anything herein to the contrary, any Person subject to confidentiality obligations hereunder or under any other related document (and any employee, representative or other agent of such Person) may disclose to any and all Persons, without limitation of any kind, such Person's US Federal income tax treatment and the US Federal income tax structure of the transactions contemplated by this Agreement relating to such Person and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure. However, no such Person shall disclose any information relating to such tax treatment or tax structure to the extent nondisclosure is reasonably necessary in order to comply with applicable securities laws.

SECTION 10.07. Adjustments. If any Lender (a "benefited Lender") shall at any time receive any payment of all or part of its Loans or interest thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off or otherwise), such that it has received aggregate payments or collateral on account of its extensions of credit in a greater proportion than any such payment to or collateral received by any other Lender, if any, in respect of such other Lender's extensions of credit which are then due and payable, or interest thereon, such benefited Lender shall purchase for cash from the other Lenders a participating interest in such portion of each such other Lender's extensions of credit, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably with each of the Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest, unless the Lender from which such payment is recovered is required to pay interest thereon, in which case each Lender returning funds to such Lender shall pay its pro rata share of such interest.

SECTION 10.08. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or electronic image scan), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Agent.

SECTION 10.09. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**SECTION 10.10. GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

SECTION 10.11. Jurisdiction; Consent to Service of Process. (a) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or Federal court of the United States of

America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against any Loan Party or its properties in the courts of any jurisdiction.

(b) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or Federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each Loan Party irrevocably consents to service of process in the manner provided for notices in Section 10.02. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 10.12. Releases of Collateral. Upon any Permitted Transfer of any Collateral (other than a Permitted Transfer to a Subsidiary that is to become a Guarantor as provided in Section 10.15), or upon the effectiveness of any written consent to the release of the security interest granted under any Loan Document in any Collateral pursuant to Section 10.01 of this Agreement, the security interest in such Collateral shall be automatically released. In connection with any termination or release pursuant to this Section, the Agent shall execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release upon receipt by the Agent of a certificate of a Financial Officer of the Borrower (i) certifying that such release is in connection with a Permitted Transfer and (ii) either (A) setting forth the total net book value (as determined as of the end of the most recent fiscal quarter of the Borrower for which a Collateral Value Certificate or Summary Collateral Value Certificate has been delivered hereunder) of all Dispositions of Collateral with an aggregate net book value of greater than \$100,000,000 individually (whether in a single transaction or a series of related transactions) since such date or (B) certifying that the aggregate net book value (as determined as of the end of the most recent fiscal quarter of the Borrower for which a Collateral Value Certificate or Summary Collateral Value Certificate has been delivered hereunder) of all Dispositions of Collateral since such date is equal to or less than \$500,000,000. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Agent.

SECTION 10.13. USA Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and

other information that will allow such Lender to identify the Borrower in accordance with the Act.

SECTION 10.14. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM.

SECTION 10.15. Additional Guarantors. Upon execution and delivery by the Agent and any direct or indirect wholly-owned domestic Subsidiary of the Borrower of a joinder agreement in form and substance reasonably acceptable to the Agent for the purpose of causing such Subsidiary to become a Guarantor hereunder and a Grantor under and as defined in the Collateral Agreement, such Subsidiary shall become a Guarantor hereunder with the same force and effect as if originally named as a Guarantor herein. The execution and delivery of any such instrument shall not require the consent of any other Loan Party or any Lender hereunder. The rights and obligations of each Loan Party hereunder shall remain in full force and effect notwithstanding the addition of any new Guarantor as a party to this Agreement.

*Remainder of page left blank intentionally; signature pages to follow*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

GENERAL MOTORS CORPORATION, as the  
Borrower,

by



Name: Walter E. Borst  
Title: Treasurer

SATURN CORPORATION, as a Guarantor,

by

Name:  
Title:

JPMORGAN CHASE BANK, N.A., as Agent and a  
Lender,

by

Name:  
Title:

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[NYCORP:2649258]

JPMCB-1-00000119

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

GENERAL MOTORS CORPORATION, as the  
Borrower,

by

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

Title:

SATURN CORPORATION, as a Guarantor,

by

\_\_\_\_\_  
Name: J. A. Loszjak

Title: General Manager & Vice President

JPMORGAN CHASE BANK, N.A., as Agent and a  
Lender,

by

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

Title:

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[(NYCORP:2649258)]

JPMCB-1-00000120

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

GENERAL MOTORS CORPORATION, as the  
Borrower,

by

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

SATURN CORPORATION, as a Guarantor,

by

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

JPMORGAN CHASE BANK, N.A., as Agent and a  
Lender,

by

  
\_\_\_\_\_  
Name: RICHARD W. DUKER  
Title: MANAGING DIRECTOR

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[[NYCORP.2649258]]

JPMCB-1-00000121



CREDIT SUISSE, CAYMAN ISLANDS BRANCH  
as a Lender,

by

Name:  
Title:

  
JOHN D. TORONTO  
DIRECTOR

  
FRANCA MOHAN  
ASSOCIATE

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[[NYCORP:2649258]]

JPMCB-1-00000122

NOV. 29. 2006 12:32PM

ABN AMRO BANK N. A.

NO. 1626 P. 1/1

NOV. 29. 2006 9:08AM

ABN AMRO

NO. 1610 P. 2

ABN AMRO Bank N.V.

as a Leader

by Paul Boal  
Paul Boal  
Linda Beuchman  
Vice President and Director

Julia Rollins  
Julia Rollins  
Vice President

[ORIGINATING PARTY TO ORIGINAL MOTOR TRUCK LEASE AGREEMENT]

000000000000

BARCLAYS BANK PLC

as a Lender,

by

David Barton


Name: David Barton

Title: Associate Director

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[[NYCORP:2649238]]

JPMCB-1-00000124

THE BANK OF NEW YORK  
as a Lender,  
by   
Name: KENN WIGGINS  
Title: VICE PRESIDENT

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[[NYCORP244236]]

\*\* TOTAL PAGE.02 \*\*

**National City Bank**

as a Lender,

by



Name: **Kenneth M. Blackwell**

Title: **Vice President**

[SIGNATURE PAGE TO GENERAL MOTORS TERM LOAN AGREEMENT]

[NYCORP:2649258]

JPMCB-1-00000126

## **EXHIBIT B**

COLLATERAL AGREEMENT

among

GENERAL MOTORS CORPORATION,

SATURN CORPORATION

and

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent

Dated as of November 29, 2006

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[CS&M No. 6701-619]

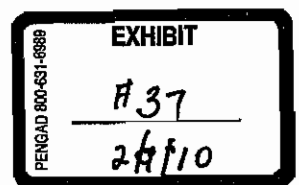


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COLLATERAL AGREEMENT, dated as of November 29, 2006, among General Motors Corporation (the "Borrower"); Saturn Corporation ("Saturn"); and JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, the "Agent").

WITNESSETH:

WHEREAS, pursuant to the Term Loan Agreement dated as of the date hereof among the Borrower, Saturn, the Lenders (as defined therein) and the Agent (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), the Lenders have severally agreed to make term loans to the Borrower upon the terms and subject to the conditions set forth therein;

WHEREAS, pursuant to Article IX of the Credit Agreement, the Subsidiary Grantors (as defined below) have guaranteed all the Obligations (as defined below);

WHEREAS, each Subsidiary Grantor is a Subsidiary (as defined in the Credit Agreement) of the Borrower and will derive substantial benefits from the extension of credit to the Borrower pursuant to the Credit Agreement;

WHEREAS, it is a condition precedent to the obligations of the Lenders to make their respective term loans to the Borrower under the Credit Agreement that the Grantors (as defined below) shall have executed and delivered this Agreement to the Agent for the ratable benefit of the Lenders;

NOW, THEREFORE, in consideration of the premises and to induce the Agent and the Lenders to enter into the Credit Agreement and to induce the Lenders to make their respective term loans to the Borrower thereunder, each Grantor hereby agrees as follows:

ARTICLE I

Defined Terms

SECTION 1.01. Definitions. (a) Unless otherwise defined herein, capitalized terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

(b) The following terms shall have the following meanings:

"Agreement": this Collateral Agreement, as the same may be amended, supplemented or otherwise modified from time to time.

"Collateral": as defined in Article II.

“Documents”: all “Documents” as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

“Equipment”: all “Equipment” as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

“Excluded Equipment and Fixtures”: all Equipment and Fixtures, now owned or at any time hereafter acquired by any Grantor, which are not located at U.S. Manufacturing Facilities; provided, that no Equipment or Fixtures now owned or at any time hereafter acquired by any Grantor (a) located at a U.S. Manufacturing Facility or (b) transferred to a Non-U.S. Manufacturing Property in violation of Section 4.06 shall constitute Excluded Equipment and Fixtures.

“Fixtures”: all “Fixtures” as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

“Fixture Filing”: a “Fixture filing” as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

“Fixture Filing Financing Statement”: a financing statement under the Uniform Commercial Code used in connection with a Fixture Filing.

“General Intangible”: a “General intangible” as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

“Grantors”: a collective reference to the Borrower and Saturn, and each other direct or indirect wholly-owned domestic Subsidiary of the Borrower that at the option of the Borrower becomes a party to this Agreement, the Credit Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

“Instrument”: an “Instrument” as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

“Non-U.S. Manufacturing Property”: any real property of a Grantor that is not part of a U.S. Manufacturing Facility.

“Obligations”: all obligations of any Grantor in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Grantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Grantor to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with the Credit Agreement, any other Loan Document or any other document made, delivered or given in connection therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

"Perfection Certificate": the certificate attached hereto as Exhibit A.

"Proceeds": all "Proceeds" as such term is defined in Section 9-102 of the UCC as in effect on the date of this Agreement.

"Secured Parties": the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

"Subsidiary Grantor": each Grantor that is a Subsidiary of the Borrower.

"UCC": the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

"U.S. Manufacturing Facility": (a) any plant or facility of a Grantor listed on Schedule 1, including all related or appurtenant land, buildings, Equipment and Fixtures, and (b) any plant or facility of a Grantor, including all related or appurtenant land, buildings, Equipment and Fixtures, acquired or leased by a Grantor after the date hereof which is located within the continental United States of America and at which manufacturing, production, assembly or processing activities are conducted.

**SECTION 1.02. Other Definitional Provisions.** (a) The words "hereof", "herein", "hereto" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Article or Section references are to the Articles and Sections of this Agreement, unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor's Collateral or the relevant part thereof.

## ARTICLE II

### Grant of Security Interest

Each Grantor hereby assigns and transfers to the Agent, its permitted successors and assigns, and hereby grants to the Agent, its permitted successors and assigns, for the benefit

of the Secured Parties, a security interest in, all of the following assets and property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the “Collateral”), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations:

- (a) all Equipment and all Fixtures, other than Excluded Equipment and Fixtures;
- (b) all Documents and General Intangibles attributable solely to Equipment or Fixtures, other than Excluded Equipment and Fixtures;
- (c) all books and records pertaining solely to Equipment or Fixtures (or Proceeds or products of Equipment or Fixtures), in each case, other than Excluded Equipment and Fixtures (or Proceeds or products thereof); and
- (d) to the extent not otherwise included in foregoing clauses, all Proceeds and products of any and all of the foregoing;

provided that, notwithstanding any of the other provisions set forth in this Article II, this Agreement shall not constitute a grant of a security interest in any asset or property to the extent that:

- (i) such grant of a security interest is prohibited by any Requirement of Law of a Governmental Authority or requires a consent not obtained of any Governmental Authority pursuant to such Requirement of Law;
- (ii) such asset or property is subject to a Lien permitted under clause (vii) of Section 6.01(b) of the Credit Agreement and the grant of a security interest in such asset or property is prohibited by, or constitutes a breach or default under or requires any consent not obtained under, any contract, agreement, instrument or document creating such Lien or evidencing or governing the Indebtedness secured by such Lien; or
- (iii) in the case of any assets consisting of rights under a contract, agreement, instrument or other document, such grant of a security interest is prohibited by, or constitutes a breach or default under or results in the termination of or requires any consent not obtained under, such contract, agreement, instrument or other document;

except, in each case, to the extent that such Requirement of Law or the term in such contract, agreement, instrument or document providing for such prohibition, breach or default or resulting in such termination or requiring such consent is ineffective under applicable law or is severable (in which case, to the extent severable, the security interest created by this Agreement shall attach immediately to any portion of such asset or property that does not result in any of the foregoing consequences, including, without limitation, any Proceeds of such asset or property); provided, further, that the security interest created by this Agreement shall attach immediately to such asset or property at such time as such attachment shall have been consented to by the applicable Person or shall no longer be prohibited or constitute such a breach or default or result

in such a termination. The security interest granted hereunder is granted as security only and shall not subject the Agent or any other Secured Party to any obligation or liability of any Grantor with respect to or arising out of the Collateral.

### ARTICLE III

#### Representations and Warranties

To induce the Agent and the Lenders to enter into the Credit Agreement and to perform their obligations thereunder, each Grantor hereby represents and warrants to the Agent and each Secured Party that:

SECTION 3.01. No Other Liens; Title. Except for the security interest granted to the Agent for the benefit of the Secured Parties pursuant to this Agreement and any other Liens permitted to exist on the Collateral by the Credit Agreement, the Collateral is owned by such Grantor free and clear of any Lien. Such Grantor (a) is the record and beneficial owner of the Collateral pledged by it pursuant to this Agreement and (b) has rights in and title to the Collateral owned by it, and has full power and authority to grant to the Agent the security interest granted hereunder.

SECTION 3.02. Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) will constitute valid perfected security interests in all of the Collateral in favor of the Agent, for the benefit of the Secured Parties, as collateral security for the Obligations, in the case of all Collateral in which a security interest may be perfected by filing a financing statement under the UCC, upon the filing of the UCC financing statements specified in the Perfection Certificate and (b) are prior to all other Liens on the Collateral, except for Liens which have priority over the Agent's Liens on the Collateral by operation of law or are otherwise permitted under the Credit Agreement, including, in the case of any Collateral that is a Fixture that is installed or located at any real property that is not covered by a Fixture Filing Financing Statement, rights of any holder (other than any Grantor) of a recorded interest in such real property.

SECTION 3.03. Perfection Certificate. The Perfection Certificate has been duly prepared and completed and the information set forth therein, including in the schedules thereto, is correct and complete in all material respects as of the date hereof.

### ARTICLE IV

#### Covenants

Each Grantor covenants and agrees with the Agent and the Secured Parties that, from and after the date of this Agreement until the Obligations shall have been indefeasibly paid

in full, unless the requisite Lenders (as required by Section 10.01 of the Credit Agreement) otherwise consent:

SECTION 4.01. Delivery of Instruments. If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any Instrument, such Instrument shall be immediately delivered to the Agent, duly indorsed in a manner satisfactory to the Agent, to be held as Collateral pursuant to this Agreement.

SECTION 4.02. Maintenance of Insurance. Such Grantor will maintain, with financially sound and reputable companies, insurance policies insuring the Equipment, consistent with past practice or otherwise as it considers appropriate.

SECTION 4.03. Maintenance of Perfected Security Interest; Further Documentation. (a) Such Grantor shall maintain the security interest created by this Agreement as a perfected security interest having at least the priority described in Section 3.02 and shall defend such security interest against the claims and demands of all Persons whomsoever, subject to the rights of such Grantor under the Loan Documents to dispose of the Collateral.

(b) At any time and from time to time, upon the written request of the Agent, and at the sole expense of such Grantor, such Grantor will, to the extent it is required to do so under the Credit Agreement, including under Section 5.05 thereof, and within the time period provided therein, duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Agent may reasonably request that are necessary for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (i) filing any financing or continuation statements (including Fixture Filing Financing Statements) under the UCC (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby and (ii) in the case of any other relevant Collateral, taking any actions necessary to enable the Agent to obtain "control" (within the meaning of the applicable UCC) with respect thereto.

SECTION 4.04. Changes in Name, etc. Such Grantor will not, except upon 10 days' prior written notice to the Agent, (i) change its jurisdiction of organization or the location of its chief executive office from that referred to in the Perfection Certificate or (ii) change its name. Following any such change, upon the Agent's written request such Grantor shall deliver to the Agent all additional financing statements or other documents reasonably requested by the Agent to maintain the validity, perfection and priority of the security interests provided for herein.

SECTION 4.05. Retention of Liability. Such Grantor shall remain liable to observe and perform all the conditions and obligations to be observed and performed by it under each contract, agreement or instrument relating to the Collateral, all in accordance with the terms and conditions thereof.

SECTION 4.06. Certain Transfers of Equipment and Fixtures. The Grantors shall not transfer any Equipment or Fixture to a Non-U.S. Manufacturing Property, except (a) in the ordinary course of business or (b) for a business purpose of the Borrower and its Subsidiaries (as determined in good faith by the Borrower) and not primarily for the purpose of (i) reducing

the security for the Obligations or (ii) making such Equipment or Fixture available to other creditors.

## ARTICLE V

### Remedial Provisions

SECTION 5.01. Proceeds to be Turned Over to Agent. If an Event of Default shall be continuing, all Proceeds received by any Grantor consisting of cash, checks and other near-cash items shall be held by such Grantor in trust for the Agent and the Secured Parties, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to the Agent in the exact form received by such Grantor (duly indorsed by such Grantor to the Agent, if required). All Proceeds received by the Agent hereunder shall be held by the Agent in an account maintained under its sole dominion and control. All Proceeds while held by the Agent (or by such Grantor in trust for the Agent and the Secured Parties) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in Section 5.02.

SECTION 5.02. Application of Proceeds. At such intervals as may be agreed upon by the Borrower and the Agent, or, if an Event of Default shall be continuing, at any time at the Agent's election, the Agent may apply all or any part of Proceeds constituting Collateral in payment of the Obligations in accordance with Section 2.12(c) of the Credit Agreement.

SECTION 5.03. Other Remedies. If an Event of Default shall be continuing, the Agent, on behalf of the Secured Parties, may exercise any or all of the following rights and remedies, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations and all rights and remedies of a secured party under the UCC or any other applicable law:

(a) Without limiting the generality of the foregoing and in each case subject to any applicable law, the Agent, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances, with or without legal process, take possession of the Collateral and without liability for trespass enter any premises where the Collateral may be installed or located for the purpose of taking possession of or removing the Collateral, and forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Agent or any Secured Party or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk; provided that the relevant Grantor shall be provided with a written notice with respect to the taking of any such



action. Subject to any applicable law, the Agent or any Secured Party shall have the right upon any such public or private sale or sales to purchase the whole or any part of the Collateral so sold. Each such purchaser at any sale of Collateral shall hold the property sold absolutely, free from any claim or right on the part of any Grantor, and each Grantor hereby waives (to the extent permitted by law) all right of redemption, stay and appraisal which such Grantor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. Each Grantor further agrees, at the Agent's written request, to assemble the Collateral and make it available to the Agent at places which the Agent shall reasonably select, whether at such Grantor's premises or elsewhere. As an alternative to exercising the power of sale herein conferred upon it, the Agent may proceed by a suit or suits at law or in equity to foreclose this Agreement and to sell the Collateral or any portion thereof pursuant to a judgment or decree of a court or courts having competent jurisdiction or pursuant to a proceeding by a court-appointed receiver. Any sale pursuant to the provisions of this Section shall be deemed to conform to the commercially reasonable standards as provided in Section 9-610(b) of the UCC or its equivalent in other jurisdictions.

(b) The Agent shall apply the net proceeds of any action taken by it pursuant to this Section, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Agent and the Secured Parties hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Obligations in accordance with Section 2.12(c) of the Credit Agreement, and only after such application and after the payment by the Agent of any other amount required by any provision of law, including, without limitation, Section 9-615(a)(3) of the UCC, need the Agent account for the surplus, if any, to any Grantor.

(c) To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Agent or any Secured Party arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition.

SECTION 5.04. Deficiency. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the fees and disbursements of any attorneys employed by the Agent or any Secured Party to collect such deficiency.

## ARTICLE VI

### The Agent

SECTION 6.01. Agent's Appointment as Attorney-in-Fact, etc. (a) Effective upon the occurrence of an Event of Default, each Grantor hereby irrevocably constitutes and

appoints the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

- (i) in the name of such Grantor or its own name, or otherwise, take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due with respect to any Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by the Agent with respect to any Collateral;
- (ii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;
- (iii) execute, in connection with any sale provided for in Section 5.03, any indorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and
- (iv) (A) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Agent or as the Agent shall direct; (B) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (C) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (D) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (E) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (F) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Agent may deem appropriate; and (G) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Agent were the absolute owner thereof for all purposes, and do, at the Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Agent deems necessary to protect, preserve or realize upon the Collateral and the Agent's and the Secured Parties' security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

Anything in this Section to the contrary notwithstanding, the Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section unless an Event of Default shall have occurred and be continuing.

(b) During the occurrence of an Event of Default, if any Grantor fails to perform or comply with any of its agreements contained herein, the Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Agent incurred in connection with actions undertaken as provided in this Section, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due ABR Loans under the Credit Agreement, from the date of payment by the Agent to the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Agent on demand.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

SECTION 6.02. Duty of Agent. The Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, but subject to any applicable law, shall be to deal with it in the same manner as the Agent deals with similar property for its own account. Subject to any applicable law, neither the Agent, any Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. Subject to any applicable law, the powers conferred on the Agent and the Secured Parties hereunder are solely to protect the Agent's and the Secured Parties' interests in the Collateral and shall not impose any duty upon the Agent or any Secured Party to exercise any such powers. Subject to any applicable law, the Agent and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their respective officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

SECTION 6.03. Execution of Financing Statements. Pursuant to any applicable law, each Grantor authorizes the Agent to file or record financing statements (including Fixture Filing Financing Statements) and other filing or recording documents or instruments with respect to the Collateral without the signature of such Grantor in such form and in such offices as the Agent determines appropriate to perfect the security interests of the Agent under this Agreement. Notwithstanding anything to the contrary contained herein or in any other Loan Document, (a) with regard to any Fixture Filing Financing Statement related to any U.S. Manufacturing Facility that is not a Material Facility, the cost (if any) of generating the real property description used in such Fixture Filing Financing Statement shall be at the expense of the Secured Parties and (b) with respect to the perfection of the security interest created hereby in property of the types

included in the description of the Collateral which is acquired after the Funding Date, or which is owned by a Loan Party that becomes a Loan Party after the Funding Date, the Grantors shall not be liable for the expenses incurred in taking actions that are inconsistent with Section 5.05 of the Credit Agreement.

SECTION 6.04. Authority of Agent. Each of the Grantors and the Agent acknowledges that the rights and responsibilities of the Agent under this Agreement with respect to any action taken by the Agent or the exercise or nonexercise by the Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Agent and the Secured Parties, be governed by the Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Agent and the Grantors, the Agent shall be conclusively presumed to be acting as agent for the Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

## ARTICLE VII

### Miscellaneous

SECTION 7.01. Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in a writing signed by all parties hereto in accordance with Section 10.01 of the Credit Agreement.

SECTION 7.02. Notices. All notices, requests and demands to or upon the Agent or any Grantor hereunder shall be effected in the manner provided for in Section 10.02 of the Credit Agreement.

SECTION 7.03. No Waiver by Course of Conduct; Cumulative Remedies. Neither the Agent nor any Secured Party shall by any act (except by a written instrument pursuant to Section 7.01), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising, on the part of the Agent or any Secured Party, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Agent or any Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Agent or such Secured Party would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

SECTION 7.04. Enforcement Expenses; Indemnification. (a) Each Grantor agrees to pay or reimburse the Agent and each Secured Party for all its reasonable costs and expenses reasonably incurred in collecting against such Grantor and enforcing any rights under

this Agreement, including, without limitation, the reasonable fees and disbursements of counsel to the Agent and the Secured Parties.

(b) Subject in all respects to Section 2.15 of the Credit Agreement, each Grantor agrees to pay, and to save the Agent and the Secured Parties harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable by such Grantor or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) Each Grantor agrees to pay, and to save the Agent and the Secured Parties harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent the Borrower would be required to do so pursuant to Section 10.05 of the Credit Agreement.

(d) The agreements in this Section shall survive repayment of the Obligations and all other amounts payable under the Credit Agreement and the other Loan Documents.

**SECTION 7.05. Successors and Assigns.** This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of the Agent and the Secured Parties and their successors and assigns; provided that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Agent and, to the extent required by Section 10.01 of the Credit Agreement, the Lenders.

**SECTION 7.06. Counterparts.** This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy or electronic image scan), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

**SECTION 7.07. Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**SECTION 7.08. Section Headings.** The Article and Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

**SECTION 7.09. Integration.** This Agreement, the Fee Letter and the other Loan Documents to which any Grantor is party represent the complete agreements of the parties hereto and the Secured Parties with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Grantor, the Agent or any Secured Party relative to subject matter hereof and thereof not expressly set forth or referred to herein or therein.

SECTION 7.10. GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 7.11. Submission to Jurisdiction; Waivers. (a) Each Grantor hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that any party hereto may otherwise have to bring any action or proceeding relating to this Agreement in the courts of any jurisdiction.

(b) Each Grantor hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any New York State or Federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each Grantor hereby irrevocably and unconditionally agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such Grantor at its address referred to in Section 10.02 of the Credit Agreement or at such other address of which the Agent shall have been notified pursuant thereto. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

(d) Each Grantor waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

SECTION 7.12. Acknowledgements. Each Grantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

(b) neither the Agent nor any Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantors, on the one hand, and the Agent and Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Secured Parties or among the Grantors and the Secured Parties.

SECTION 7.13. Releases. (a) In addition to the provisions of Section 10.12 of the Credit Agreement, at such time as the outstanding Obligations shall have been indefeasibly paid in full, the Collateral shall be released from the Liens created hereby, and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Agent and each Grantor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Grantors. At the request and sole expense of any Grantor following any such termination, the Agent shall deliver to such Grantor any Collateral held by the Agent hereunder, and execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence such termination.

(b) Upon any Permitted Transfer of any Collateral, or upon the effectiveness of any written consent to the release of the security interest granted hereunder in any Collateral pursuant to Section 10.01 of the Credit Agreement, such security interest in such Collateral shall be automatically released. In connection with such release, the parties hereto shall comply with Section 10.12 of the Credit Agreement.

SECTION 7.14. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM.

SECTION 7.15. Additional Grantors. Upon the execution and delivery by the Agent and any direct or indirect wholly-owned domestic Subsidiary of the Borrower of a joinder agreement in form and substance reasonably acceptable to the Agent for the purpose of causing such Subsidiary to become a Grantor hereunder and a Guarantor under and as defined in the Credit Agreement, such Subsidiary shall become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of any such instrument shall not require the consent of any other party hereto. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

*[remainder of page intentionally blank; signature page is next page]*

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

GENERAL MOTORS CORPORATION, as a Grantor,

by

Teresa Hladik  
Name: Teresa B. Hladik  
Title: Assistant Treasurer

SATURN CORPORATION, as a Grantor,

by

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

JPMORGAN CHASE BANK, N.A., as Agent,

by

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

[SIGNATURE PAGE TO GENERAL MOTORS COLLATERAL AGREEMENT]

[[NYCORP:2656491]]

JPMCB-CSM-0000129



IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

GENERAL MOTORS CORPORATION, as a Grantor,

by

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

Title:

SATURN CORPORATION, as a Grantor,

by

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

Title:

J.A. Lajdzak  
General Manager and  
Vice President

JPMORGAN CHASE BANK, N.A., as Agent,

by

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

Title:

[SIGNATURE PAGE TO GENERAL MOTORS COLLATERAL AGREEMENT]

[[NYCORP.265649]]

JPMCB-CSM-0000130

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

GENERAL MOTORS CORPORATION, as a Grantor,

by

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

SATURN CORPORATION, as a Grantor,

by

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

JPMORGAN CHASE BANK, N.A., as Agent,

by

  
\_\_\_\_\_  
Name:  
Title: **RICHARD W. DUKER**  
**MANAGING DIRECTOR**

[SIGNATURE PAGE TO GENERAL MOTORS COLLATERAL AGREEMENT]

[[NYCORP:2656491]]

JPMCB-CSM-0000131



**Schedule 1**  
to  
**General Motors Collateral Agreement**

Num	Facility	City	State
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	KY
3	GM ASSEMBLY DETROIT HAMTRAMCK	DETROIT	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	KS
5	GM ASSEMBLY FLINT	FLINT	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	OH
11	GM ASSEMBLY MORAIN	DAYTON	OH
12	GM ASSEMBLY ORION	LAKE ORION	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	MO
17	GM MFD AMT (SAMCO)	NEW HUDSON	MI
18	GM MFD FLINT	FLINT	MI
19	GM MFD FLINT TOOL & DIE	FLINT	MI
20	GM MFD GRAND BLANC	GRAND BLANC	MI
21	GM MFD GRAND RAPIDS	WYOMING	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	MI
24	GM MFD LORDSTOWN	LORDSTOWN	OH
25	GM MFD MANSFIELD	MANSFIELD	OH
26	GM MFD MARION	MARION	IN
27	GM MFD PARMA	PARMA	OH
28	GM MFD PONTIAC	PONTIAC	MI
29	GM MFD SHREVEPORT	SHREVEPORT	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	MI
36	GM POWERTRAIN MASSENA	MASSENA	NY
37	GM POWERTRAIN PARMA	PARMA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	MI



**Exhibit A**  
**to**  
**General Motors Collateral Agreement**  
**Perfection Certificate**

[[NYCORP:2656491v10]]

JPMCB-CSM-0000135

## PERFECTION CERTIFICATE

Dated: November 29, 2006

Reference is made to the Collateral Agreement dated as of the date hereof (as amended, supplemented or otherwise modified from time to time, the "Agreement"), among GENERAL MOTORS CORPORATION (the "Borrower"), SATURN CORPORATION, as a Guarantor (the "Guarantor" and, together with the Borrower, the "Grantors") and JPMORGAN CHASE BANK, N.A., as Administrative Agent (in such capacity, the "Agent"). Capitalized terms used but not defined herein have the meanings assigned in the Agreement referred to therein.

The Borrower hereby certifies to the Agent and each other Secured Party as follows:

1. Names.

- (a) The exact legal name of each Grantor, as such name appears in its filed organizational documents, is as follows:

General Motors Corporation  
Saturn Corporation

- (b) Set forth below is each other legal name each Grantor has had in the past five years, together with the date of the relevant change:

None

- (c) Except as set forth below, no Grantor has changed its identity or corporate structure in any way within the past five years. Changes in identity or corporate structure would include mergers, consolidations and acquisitions, as well as any change in the form, nature or jurisdiction of organization.

There has been no change in identity or corporate structure of the Guarantor, but as of November 11, 2005, the Guarantor became a wholly-owned subsidiary of On Star Corporation, which is itself a wholly-owned subsidiary of the Borrower.

- (d) Set forth below is the Organizational Identification Number issued by the jurisdiction of formation of each Grantor:

General Motors Corporation: 0056825  
Saturn Corporation: 2055433

## 2. Current Locations.

- (a) The chief executive office of each Grantor is located at the address set forth opposite its name below:

<u>Grantor</u>	<u>Mailing Address</u>	<u>County</u>
General Motors Corporation	300 Renaissance Center Detroit, MI 48265-3000	Wayne
Saturn Corporation	300 Renaissance Center Detroit, MI 48265-3000	Wayne

- (b) The jurisdiction of formation of each Grantor is set forth opposite its name below:

<u>Grantor</u>	<u>Jurisdiction of Formation</u>
General Motors Corporation	Delaware
Saturn Corporation	Delaware

- (c) Attached hereto as Schedule 2(c) is a schedule setting forth, with respect to each U.S. Manufacturing Facility, (a) the address thereof (including the county), (b) the exact name of the Person that owns such property as such name appears in its certificate of incorporation or other organizational document, (c) if different from the name identified pursuant to clause (b), the exact name of the current record owner of such property reflected in the records of the filing office for such property identified pursuant to the following clause and (d) the filing office in which a Fixture Filing Financing Statement with respect to such property must be filed or recorded in order for the Agent to obtain a perfected security interest in the fixtures located thereon.

## 3. Lien Search Reports.

- (a) Lien search reports have been obtained with respect to each Grantor from the Secretary of State of Delaware and, with regard to Federal and state tax liens only, the Department of State of Michigan.
- (b) With respect to each U.S. Manufacturing Facility listed on Schedule 3 hereto, lien search reports have been obtained (or will be obtained by such later date as agreed to by the Agent) in the local real property filing office applicable to such U.S. Manufacturing Facility. Each such search report covers the entire parcel or parcels of real property upon which the U.S. Manufacturing Facility to which it relates is located.

4. UCC Filings. Financing statements in substantially the form of Schedule 4 hereto have been prepared for filing in the proper Uniform Commercial Code filing office in the jurisdiction in



which each Grantor is organized and, to the extent listed in Schedule 5 with regard to any Fixture Filing Financing Statement, in the proper local jurisdiction.

5. Schedule of Filings. Attached hereto as Schedule 5 is a schedule setting forth, with respect to the filings described in Section 4 above, each such filing and the filing office in which such filing is to be made.

*[remainder of page intentionally blank]*



**Schedule 2(c)  
to Perfection Certificate of General Motors**

**Certain Information Regarding U.S. Manufacturing Facilities**

GROUP	PLANT NAME	OWNER NAME	STREET ADDRESS	CITY	COUNTY/FILING OFFICE	STATE	ZIP CODE
ASSEMBLY	GM ASSEMBLY ARLINGTON	GENERAL MOTORS CORPORATION	2525 E ABRAM ST	ARLINGTON	TARRANT	TX	760101346
	GM ASSEMBLY BOWLING GREEN	GENERAL MOTORS CORPORATION	600 CORVETTE DR	BOWLING GREEN	WARREN	KY	421019109
	GM ASSEMBLY DETROIT HAMTRAMCK	GENERAL MOTORS CORPORATION	2500 E GENERAL MOTORS BLVD	DETROIT	WAYNE	MI	482112006
	GM ASSEMBLY FAIRFAX	GENERAL MOTORS CORPORATION	3201 FAIRFAX TRAFFICWAY	KANSAS CITY	WYANDOTTE	KS	661151307
	GM ASSEMBLY FLINT	GENERAL MOTORS CORPORATION	G-3100 VAN SLYKE RD	FLINT	GENESEE	MI	485510001
	GM ASSEMBLY FORT WAYNE	GENERAL MOTORS CORPORATION	12200 LAFAYETTE CENTER RD	FORT WAYNE	ALLEN	IN	46801
	GM ASSEMBLY JANESVILLE	GENERAL MOTORS CORPORATION	1000 INDUSTRIAL AVE	JANESVILLE	ROCK	WI	535462531
	GM ASSEMBLY LANSING DELTA TOWNSHIP	GENERAL MOTORS CORPORATION	8175 MILLET HIGHWAY	LANSING	EATON	MI	48917
	GM ASSEMBLY LANSING GRAND RIVER	GENERAL MOTORS CORPORATION	920 TOWNSEND AVE	LANSING	INGHAM	MI	489210001
	GM ASSEMBLY LORDSTOWN	GENERAL MOTORS CORPORATION	2300 HALLOCK YOUNG RD	LORDSTOWN	TRUMBULL	OH	444819238
	GM ASSEMBLY MORAINÉ	GENERAL MOTORS CORPORATION	2601 W STROOP RD	DAYTON	MONTGOMERY	OH	454391929
	GM ASSEMBLY ORION	GENERAL MOTORS CORPORATION	4555 GIDDINGS RD	LAKE ORION	OAKLAND	MI	48359
	GM ASSEMBLY PONTIAC EAST	GENERAL MOTORS CORPORATION	2100 S OPDYKE RD	PONTIAC	OAKLAND	MI	483413155
	GM ASSEMBLY SATURN WILMINGTON	SATURN CORPORATION	BOXWOOD AND DODSON ROADS	WILMINGTON	NEW CASTLE	DE	19899
	GM ASSEMBLY SHREVEPORT	GENERAL MOTORS CORPORATION	7600 GENERAL MOTORS BLVD	SHREVEPORT	CADDO	LA	711299426
GM ASSEMBLY WENTZVILLE	GENERAL MOTORS CORPORATION	1500 E ROUTE A	WENTZVILLE	SAINTE CHARLES	MO	63385	
MFD	GM MFD AMT (SAMCO)	GENERAL MOTORS CORPORATION	30165 SOUTH HILL RD	NEW HUDSON	OAKLAND	MI	481659706
	GM MFD FLINT	GENERAL MOTORS CORPORATION	G-2238 W BRISTOL RD	FLINT	GENESEE	MI	485075500
	GM MFD FLINT TOOL & DIE	GENERAL MOTORS CORPORATION	425 STEVENSON ST	FLINT	GENESEE	MI	485044925
	GM MFD GRAND BLANC	GENERAL MOTORS CORPORATION	10800 S SAGINAW ST	GRAND BLANC	GENESEE	MI	484398120
	GM MFD GRAND RAPIDS	GENERAL MOTORS CORPORATION	300 36TH STREET SW	WYOMING	KENT	MI	49548210

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	GM MFD INDIANAPOLIS	GENERAL MOTORS CORPORATION	340 S WHITE RIVER PKWY W DR	INDIANAPOLIS	MARION	IN	7 46222455 4
	GM MFD LANSING REGIONAL STAMPING	GENERAL MOTORS CORPORATION	8001 DAVIS HWY	LANSING	EATON	MI	48917954 6
	GM MFD LORDSTOWN	GENERAL MOTORS CORPORATION	2369 ELLSWORTH- BAILEY RD	LORDSTOWN	TRUMBULL	OH	44481923 5
	GM MFD MANSFIELD	GENERAL MOTORS CORPORATION	2525 W 4TH ST	MANSFIELD	RICHLAND	OH	44906120 8
	GM MFD MARION	GENERAL MOTORS CORPORATION	2400 W. SECOND ST.	MARION	GRANT	IN	46952324 9
	GM MFD PARMA	GENERAL MOTORS CORPORATION	5400 CHEVROLET BLVD	PARMA	CUYAHOGA	OH	44130145 1
	GM MFD PONTIAC	GENERAL MOTORS CORPORATION	220 EAST COLUMBIA	PONTIAC	OAKLAND	MI	48340285 7
	GM MFD SHREVEPORT	GENERAL MOTORS CORPORATION	7600 GENERAL MOTORS BLVD	SHREVEPORT	CADDO	LA	71129942 6
POWERTRAIN	GM POWERTRAIN ALLISON BALTIMORE	GENERAL MOTORS CORPORATION (record owner is GM Facilities Trust 1999-1)	10301 PHILADELPHIA RD	WHITE MARSH	BALTIMORE	MD	21162340 0
	GM POWERTRAIN BAY CITY	GENERAL MOTORS CORPORATION	1001 WOODSIDE AVE	BAY CITY	BAY	MI	48708547 0
	GM POWERTRAIN BEDFORD	GENERAL MOTORS CORPORATION	105 GM DR	BEDFORD	LAWRENCE	IN	47421
	GM POWERTRAIN DEFIANCE	GENERAL MOTORS CORPORATION	26427 STATE RD ROUTE 281E	DEFIANCE	DEFIANCE	OH	43512678 1
	GM POWERTRAIN FLINT ENGINE SOUTH	GENERAL MOTORS CORPORATION	2100 BRISTOL RD	FLINT	GENESEE	MI	48552000 1
	GM POWERTRAIN LIVONIA	GENERAL MOTORS CORPORATION	12200 MIDDLEBELT RD	LIVONIA	WAYNE	MI	48150231 5
	GM POWERTRAIN MASSENA	GENERAL MOTORS CORPORATION	ROUTE 37 E	MASSENA	SAINT LAWRENCE	NY	13662
	GM POWERTRAIN PARMA	GENERAL MOTORS CORPORATION	5520 CHEVROLET BLVD	PARMA	CUYAHOGA	OH	44130147 6
	GM POWERTRAIN ROMULUS ENGINE	GENERAL MOTORS CORPORATION	36880 ECORSE RD	ROMULUS	WAYNE	MI	48174131 5
	GM POWERTRAIN TOLEDO	GENERAL MOTORS CORPORATION	1455 ALEXIS RD	TOLEDO	LUCAS	OH	43612400 4
	GM POWERTRAIN TONAWANDA	GENERAL MOTORS CORPORATION (record owner is Erie County Industrial Development Agency)	2995 RIVER RD	BUFFALO	ERIE	NY	14207105 9
	GM POWERTRAIN WARREN TRANSMISSION	GENERAL MOTORS CORPORATION	23500 MOUND RD	WARREN	MACOMB	MI	48091
	GM POWERTRAIN WILLOW RUN	GENERAL MOTORS CORPORATION	ECORSE AND WIARD ROAD	YPSILANTI	WASHTENAW	MI	48198

[[NYCORP:2654654v5]]



**Schedule 3  
to Perfection Certificate of General Motors**

**List of U.S. Manufacturing Facilities Searched**

Num	Facility Name	City	County	State
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TARRANT	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	WARREN	KY
3	GM ASSEMBLY DETROIT HAMTRAMCK	DETROIT	WAYNE	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	WYANDOTTE	KS
5	GM ASSEMBLY FLINT	FLINT	GENESEE	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	ALLEN	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	ROCK	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	EATON	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	INGHAM	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	TRUMBULL	OH
11	GM ASSEMBLY MORAINE	DAYTON	MONTGOMERY	OH
12	GM ASSEMBLY ORION	LAKE ORION	OAKLAND	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	OAKLAND	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	NEW CASTLE	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	CADDO	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	SAINT CHARLES	MO
17	GM MFD AMT (SAMCO)	NEW HUDSON	OAKLAND	MI
18	GM MFD FLINT	FLINT	GENESEE	MI
19	GM MFD FLINT TOOL & DIE	FLINT	GENESEE	MI
20	GM MFD GRAND BLANC	GRAND BLANC	GENESEE	MI
21	GM MFD GRAND RAPIDS	WYOMING	KENT	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	MARION	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	EATON	MI
24	GM MFD LORDSTOWN	LORDSTOWN	TRUMBULL	OH
25	GM MFD MANSFIELD	MANSFIELD	RICHLAND	OH
26	GM MFD MARION	MARION	GRANT	IN
27	GM MFD PARMA	PARMA	CUYAHOGA	OH
28	GM MFD PONTIAC	PONTIAC	OAKLAND	MI
29	GM MFD SHREVEPORT	SHREVEPORT	CADDO	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	BALTIMORE	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	BAY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	LAWRENCE	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	GENESEE	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	WAYNE	MI
36	GM POWERTRAIN MASSENA	MASSENA	SAINT LAWRENCE	NY
37	GM POWERTRAIN PARMA	PARMA	CUYAHOGA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	WAYNE	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	LUCAS	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	ERIE	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MACOMB	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	WASHTENAW	MI



**Schedule 4**  
**to Perfection Certificate of General Motors**  
**Specimen UCC Financing Statements to be Filed**

[[NYCORP:2654654]]

JPMCB-CSM-0000145



**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]	
UCC Filings	800-828-0938
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
National Corporate Research 41 State Street Suite 600 Albany, NY 12207  melissa@nationalcorp.com	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

1b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX

1c. MAILING ADDRESS  
**300 RENAISSANCE CENTER**

CITY <b>DETROIT</b>	STATE <b>MI</b>	POSTAL CODE <b>48265-3000</b>	COUNTRY <b>USA</b>
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1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION <b>Corporation</b>	1f. JURISDICTION OF ORGANIZATION <b>Delaware</b>	1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
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2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX

2c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY

2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
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3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT**

OR

3b. INDIVIDUAL'S LAST NAME

FIRST NAME	MIDDLE NAME	SUFFIX

3c. MAILING ADDRESS  
**P.O. BOX 2558**

CITY <b>HOUSTON</b>	STATE <b>TX</b>	POSTAL CODE <b>77252</b>	COUNTRY <b>USA</b>
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4. This FINANCING STATEMENT covers the following collateral:  
**THE ASSETS DESCRIBED ON ANNEX I ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.**

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (if applicable) (ADDITIONAL FEE) (optional)	All Debtors	Debtor 1	Debtor 2		
8. OPTIONAL FILER REFERENCE DATA <b>6701-619 -- DE - Secretary of State</b>					<b>F#176913 A#274606</b>	

ANNEX I  
TO  
UCC-1 FINANCING STATEMENT

Debtor: General Motors Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000  
(the "Debtor")

Secured Party: JPMorgan Chase Bank, N.A., as Administrative Agent  
P.O. Box 2558  
Houston, TX 77252  
(the "Agent")

The financing statement to which this Annex I is attached covers all of the following property of the Debtor now owned or at any time hereafter acquired (collectively, the "Collateral"):

- (1) all Equipment and all Fixtures, other than Excluded Equipment and Fixtures;
- (2) all Documents and General Intangibles attributable solely to Equipment or Fixtures, other than Excluded Equipment and Fixtures;
- (3) all books and records pertaining solely to Equipment or Fixtures (or Proceeds or products of Equipment or Fixtures), in each case, other than Excluded Equipment and Fixtures (or Proceeds or products thereof); and
- (4) to the extent not otherwise included in the foregoing clauses, all Proceeds and products of any and all of the foregoing.

As used herein, the following terms shall have the following meanings:

"Collateral Agreement": the collateral agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Credit Agreement": the term loan agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Documents": all "Documents" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Equipment”**: all “Equipment” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Excluded Equipment and Fixtures”**: all Equipment and Fixtures, now owned or at any time hereafter acquired by the Debtor, which are not located at U.S. Manufacturing Facilities; provided, that no Equipment or Fixtures now owned or at any time hereafter acquired by the Debtor (a) located at a U.S. Manufacturing Facility or (b) transferred to a Non-U.S. Manufacturing Property other than (i) in the ordinary course of business or (ii) for a business purpose of the Debtor and its Subsidiaries (as determined in good faith by the Debtor) and not primarily for the purpose of (1) reducing the security for the Obligations or (2) making such Equipment and Fixtures available to other creditors, shall constitute Excluded Equipment and Fixtures.

**“Fixtures”**: all “Fixtures” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“General Intangible”**: a “General intangible” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Governmental Authority”**: any nation or government, any state, province, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of government including the European Central Bank.

**“Grantors”**: a collective reference to the Debtor and Saturn Corporation, and each other direct or indirect wholly-owned domestic Subsidiary of the Debtor that at the option of the Debtor becomes a party to the Collateral Agreement, the Credit Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

**“Lender”**: each Lender party to the Credit Agreement.

**“Lien”**: any mortgage, pledge, lien, security interest, charge, statutory deemed trust, conditional sale or other title retention agreement or other similar encumbrance.

**“Loan”**: a loan made by a Lender to the Debtor pursuant to the Credit Agreement.

**“Loan Documents”**: the Credit Agreement, the Security Documents, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

**“Non-U.S. Manufacturing Property”**: any real property of a Grantor that is not part of a U.S. Manufacturing Facility.

**“Note”**: a promissory note, executed and delivered by the Debtor with respect to the Loans, substantially in the form of Exhibit B to the Credit Agreement.

**“Obligations”**: all obligations of any Grantor in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest

accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Grantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Grantor to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with the Credit Agreement, any other Loan Document or any other document made, delivered or given in connection therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

“Person”: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Proceeds”: all “Proceeds” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

“Secured Parties”: the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

“Security Documents”: the Collateral Agreement and all other security documents delivered to the Agent granting or purporting to grant a Lien on any property of any Person to secure the Obligations, including financing statements or financing change statements under the applicable Uniform Commercial Code.

“Subsidiary”: as to any Person (the “parent”), any other Person of which at least a majority of the outstanding stock or other equity interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or comparable governing body of such Person (irrespective of whether or not at the time stock or other equity interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time owned by the parent, or by one or more Subsidiaries, or by the parent and one or more Subsidiaries.

“UCC”: the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Agent’s and the Secured Parties’ security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

“U.S. Manufacturing Facility”: (a) any plant or facility of a Grantor listed on Schedule I hereto, including all related or appurtenant land, buildings, Equipment and Fixtures, and (b) any plant or facility of a Grantor, including all related or appurtenant land, buildings, Equipment and Fixtures, acquired or leased by a Grantor after the date hereof which is located within the continental United States of America and at which manufacturing, production, assembly or processing activities are conducted.

**Schedule 1**  
**to Annex 1 to UCC-1 Financing Statement**

Num	Facility	City	State
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	KY
3	GM ASSEMBLY DETROIT HAMTRAMCK	DETROIT	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	KS
5	GM ASSEMBLY FLINT	FLINT	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	OH
11	GM ASSEMBLY MORAIN	DAYTON	OH
12	GM ASSEMBLY ORION	LAKE ORION	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	MO
17	GM MFD AMT (SAMCO)	NEW HUDSON	MI
18	GM MFD FLINT	FLINT	MI
19	GM MFD FLINT TOOL & DIE	FLINT	MI
20	GM MFD GRAND BLANC	GRAND BLANC	MI
21	GM MFD GRAND RAPIDS	WYOMING	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	MI
24	GM MFD LORDSTOWN	LORDSTOWN	OH
25	GM MFD MANSFIELD	MANSFIELD	OH
26	GM MFD MARION	MARION	IN
27	GM MFD PARMA	PARMA	OH
28	GM MFD PONTIAC	PONTIAC	MI
29	GM MFD SHREVEPORT	SHREVEPORT	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	MI
36	GM POWERTRAIN MASSENA	MASSENA	NY
37	GM POWERTRAIN PARMA	PARMA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	MI

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]	
UCC Filings	800-828-0938
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
National Corporate Research 41 State Street Suite 600 Albany, NY 12207 <a href="mailto:melissa@nationalcorp.com">melissa@nationalcorp.com</a>	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME <b>SATURN CORPORATION</b>					
OR	1b. INDIVIDUAL'S LAST NAME				
	FIRST NAME	MIDDLE NAME	SUFFIX		
1c. MAILING ADDRESS <b>300 RENAISSANCE CENTER</b>		CITY <b>DETROIT</b>	STATE <b>MI</b>	POSTAL CODE <b>48265-3000</b>	COUNTRY <b>USA</b>
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION <b>Corporation</b>	1f. JURISDICTION OF ORGANIZATION <b>Delaware</b>	1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S LAST NAME				
	FIRST NAME	MIDDLE NAME	SUFFIX		
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE	

**3. SECURED PARTY'S NAME** (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME <b>JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT</b>					
OR	3b. INDIVIDUAL'S LAST NAME				
	FIRST NAME	MIDDLE NAME	SUFFIX		
3c. MAILING ADDRESS <b>P.O. BOX 2558</b>		CITY <b>HOUSTON</b>	STATE <b>TX</b>	POSTAL CODE <b>77252</b>	COUNTRY <b>USA</b>

**4. This FINANCING STATEMENT covers the following collateral:**

**THE ASSETS DESCRIBED ON ANNEX I ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.**

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAIOLR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum	(if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional)	All Debtors	Debtor 1	Debtor 2	
8. OPTIONAL FILER REFERENCE DATA <b>6701-619 -- DE - Secretary of State</b>						F#176916 A#274609

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

JPMCB-CSM-0000151

ANNEX I  
TO  
UCC-1 FINANCING STATEMENT

Debtor: Saturn Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000  
(the "Debtor")

Secured Party: JPMorgan Chase Bank, N.A., as Administrative Agent  
P.O. Box 2558  
Houston, TX 77252  
(the "Agent")

The financing statement to which this Annex I is attached covers all of the following property of the Debtor now owned or at any time hereafter acquired (collectively, the "Collateral"):

- (1) all Equipment and all Fixtures, other than Excluded Equipment and Fixtures;
- (2) all Documents and General Intangibles attributable solely to Equipment or Fixtures, other than Excluded Equipment and Fixtures;
- (3) all books and records pertaining solely to Equipment or Fixtures (or Proceeds or products of Equipment or Fixtures), in each case, other than Excluded Equipment and Fixtures (or Proceeds or products thereof); and
- (4) to the extent not otherwise included in the foregoing clauses, all Proceeds and products of any and all of the foregoing.

As used herein, the following terms shall have the following meanings:

"Collateral Agreement": the collateral agreement, dated as of November 29, 2006, among General Motors Corporation, the Debtor and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Credit Agreement": the term loan agreement, dated as of November 29, 2006, among General Motors Corporation, the Debtor, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Documents": all "Documents" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Equipment”**: all “Equipment” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Excluded Equipment and Fixtures”**: all Equipment and Fixtures, now owned or at any time hereafter acquired by the Debtor, which are not located at U.S. Manufacturing Facilities; provided, that no Equipment or Fixtures now owned or at any time hereafter acquired by the Debtor (a) located at a U.S. Manufacturing Facility or (b) transferred to a Non-U.S. Manufacturing Property other than (i) in the ordinary course of business or (ii) for a business purpose of General Motors Corporation and its Subsidiaries (as determined in good faith by General Motors Corporation) and not primarily for the purpose of (1) reducing the security for the Obligations or (2) making such Equipment and Fixtures available to other creditors, shall constitute Excluded Equipment and Fixtures.

**“Fixtures”**: all “Fixtures” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“General Intangible”**: a “General intangible” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Governmental Authority”**: any nation or government, any state, province, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of government including the European Central Bank.

**“Grantors”**: a collective reference to General Motors Corporation and the Debtor, and each other direct or indirect wholly-owned domestic Subsidiary of General Motors Corporation that at the option of General Motors Corporation becomes a party to the Collateral Agreement, the Credit Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

**“Lender”**: each Lender party to the Credit Agreement.

**“Lien”**: any mortgage, pledge, lien, security interest, charge, statutory deemed trust, conditional sale or other title retention agreement or other similar encumbrance.

**“Loan”**: a loan made by a Lender to General Motors Corporation pursuant to the Credit Agreement.

**“Loan Documents”**: the Credit Agreement, the Security Documents, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

**“Non-U.S. Manufacturing Property”**: any real property of a Grantor that is not part of a U.S. Manufacturing Facility.

**“Note”**: a promissory note, executed and delivered by General Motors Corporation with respect to the Loans, substantially in the form of Exhibit B to the Credit Agreement.



**“Obligations”**: all obligations of any Grantor in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Grantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Grantor to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with the Credit Agreement, any other Loan Document or any other document made, delivered or given in connection therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

**“Person”**: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

**“Proceeds”**: all “Proceeds” as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**“Secured Parties”**: the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

**“Security Documents”**: the Collateral Agreement and all other security documents delivered to the Agent granting or purporting to grant a Lien on any property of any Person to secure the Obligations, including financing statements or financing change statements under the applicable Uniform Commercial Code.

**“Subsidiary”**: as to any Person (the “parent”), any other Person of which at least a majority of the outstanding stock or other equity interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or comparable governing body of such Person (irrespective of whether or not at the time stock or other equity interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time owned by the parent, or by one or more Subsidiaries, or by the parent and one or more Subsidiaries.

**“UCC”**: the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Agent’s and the Secured Parties’ security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

**“U.S. Manufacturing Facility”**: (a) any plant or facility of a Grantor listed on Schedule 1 hereto, including all related or appurtenant land, buildings, Equipment and Fixtures, and (b) any plant or facility of a Grantor, including all related or appurtenant land, buildings, Equipment and Fixtures, acquired or leased by a Grantor after the date hereof which is located

within the continental United States of America and at which manufacturing, production, assembly or processing activities are conducted.

**Schedule 1**  
**to Annex 1 to UCC-1 Financing Statement**

Num	Facility	City	State
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	KY
3	GM ASSEMBLY DETROIT HAMTRAMCK	DETROIT	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	KS
5	GM ASSEMBLY FLINT	FLINT	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	OH
11	GM ASSEMBLY MORAINE	DAYTON	OH
12	GM ASSEMBLY ORION	LAKE ORION	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	MO
17	GM MFD AMT (SAMCO)	NEW HUDSON	MI
18	GM MFD FLINT	FLINT	MI
19	GM MFD FLINT TOOL & DIE	FLINT	MI
20	GM MFD GRAND BLANC	GRAND BLANC	MI
21	GM MFD GRAND RAPIDS	WYOMING	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	MI
24	GM MFD LORDSTOWN	LORDSTOWN	OH
25	GM MFD MANSFIELD	MANSFIELD	OH
26	GM MFD MARION	MARION	IN
27	GM MFD PARMA	PARMA	OH
28	GM MFD PONTIAC	PONTIAC	MI
29	GM MFD SHREVEPORT	SHREVEPORT	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	MI
36	GM POWERTRAIN MASSENA	MASSENA	NY
37	GM POWERTRAIN PARMA	PARMA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	MI



**Schedule 5  
to Perfection Certificate of General Motors**

**List of UCC Financing Statements to File**

GRANTORS	FILING	LOCATION OF FILING OFFICE
General Motors Corporation	UCC-1	Delaware Secretary of State
Saturn Corporation	UCC-1	Delaware Secretary of State

[[NYCORP:2654654]]

JPMCB-CSM-0000158

# **EXHIBIT C**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:

MOTORS LIQUIDATION COMPANY,  
et al.,

Chapter 11  
No. 09-50026  
(REG)

Debtors.

-----x  
OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF MOTORS LIQUIDATION  
COMPANY f/k/a GENERAL MOTORS  
CORPORATION,

Jointly  
Administered

Plaintiff,

-against-

Adv. Pro. No.  
09-50026

JP MORGAN CHASE BANK, N.A.,  
individually and as Administrative  
Agent for various lenders party to  
the Term Loan Agreement described  
herein, et al.,

Defendants.

-----x  
February 9, 2010  
10:00 a.m.

Deposition of RICHARD W. DUKER taken by  
Plaintiff, pursuant to Subpoena, at the offices  
of Butzel Long, 380 Madison Avenue, New York,  
New York, before SUZANNE PASTOR, a Shorthand  
Reporter and Notary Public within and for the  
State of New York.

1 talking about new GM?

2 Q. Sure, let's focus first on the  
3 period before GM filed for bankruptcy on June 1,  
4 2009. During that period -- when did you become  
5 a managing director?

6 A. In 2002.

7 Q. And when did you begin having  
8 responsibility for the GM relationship?

9 A. 1999.

10 Q. What was your position back in  
11 1999?

12 A. Same responsibility but as a vice  
13 president at the time.

14 Q. From 1999 until 2002, during the  
15 period of time when you were a vice president  
16 with responsibility for the GM relationship --

17 A. GM credit relationship.

18 Q. GM credit relationship. Were there  
19 other individuals who worked with you  
20 specifically with respect to the GM credit  
21 relationship?

22 A. There would be junior resources  
23 involved in helping prepare credit packages and  
24 doing financial spreads and putting together  
25 reviews. Those people change over time.



1 expect that he was involved at the time.

2 Q. And there's another loan that's  
3 often referred to as the synthetic lease  
4 transaction. Is that a transaction you're  
5 familiar with?

6 A. Yes.

7 Q. Did Mr. Storms approve that credit  
8 relationship?

9 A. Yes. That was in 2001.

10 Q. I went sort of backwards through a  
11 little bit of your employment history. So would  
12 you please give me your employment history post  
13 college.

14 A. I graduated college in 1985 and I  
15 joined Chase Manhattan Bank right out of  
16 college. So this June will be 25 years with  
17 JPMorgan and predecessors.

18 Q. And what positions have you held at  
19 Chase Manhattan and its successors?

20 A. The first couple of years I was  
21 involved -- I guess the first two or three years  
22 I was involved in correspondent banking  
23 relationships. And I went through our credit  
24 training program, which was a year-long program.  
25 When I finished that, I guess that would be

1 around '89 or so, I joined our commodity finance  
2 group where I was responsible for relationships,  
3 both credit and ongoing relationships with  
4 companies that either traded or processed  
5 commodities. I did that for about 10 or 11  
6 years. And then in '99 I joined the current  
7 group I'm in.

8 Q. In the course of your work at  
9 JPMorgan, have you become familiar with how UCC  
10 filings operated?

11 A. Yes.

12 Q. Do you have an understanding of  
13 what a UCC financing statement is?

14 A. Yes.

15 Q. What is a financing statement, to  
16 your understanding?

17 A. It's a document that we file to  
18 protect our security interest and specific  
19 underlying collateral.

20 Q. Are you familiar with the term  
21 "termination statement"?

22 A. Yes.

23 Q. What's that?

24 A. That would be a document filed to  
25 unwind our security interest.

1 Agreement.

2 Q. And on page 131 of Plaintiff's  
3 Exhibit 37, is that your signature?

4 A. Yes.

5 Q. And turning to page 146 through  
6 150, is that a draft of a UCC financing  
7 statement to be filed in connection with the  
8 Term Loan?

9 MR. CALLAGY: Objection to the  
10 form.

11 A. It appears to be.

12 Q. You can set this aside as well.

13 MR. FISHER: I'll ask the court  
14 reporter to mark as Plaintiff's Exhibit 38 a  
15 document numbered MB 5358 through 5362.

16 (Exhibit 38 for identification,  
17 Bates stamped MB 5358 through 5362.)

18 Q. Is this a copy of the financing  
19 statement that was filed in connection with the  
20 Term Loan?

21 MR. CALLAGY: Objection to the  
22 form.

23 A. It appears to be.

24 Q. You can set this aside as well.

25 Did you have some role with respect

1 to what we've already referred to as the  
2 synthetic lease transaction?

3 A. Yes.

4 Q. What was your role in that  
5 transaction?

6 A. Similar role in the context of  
7 working with partners within the bank to  
8 originate and structure the transaction. We  
9 also had a leasing group that was actively  
10 involved at the time as part of the structuring  
11 element together with our syndication group to  
12 syndicate the exposure to a group of lenders.

13 MR. FISHER: I'm going to ask the  
14 court reporter to please mark as Plaintiff's  
15 Exhibit 39 a document numbered JPMCB STB 896  
16 through 1033.

17 (Exhibit 39 for identification,  
18 Bates stamped JPMCB STB 896 through 1033.)

19 Q. Mr. Duker, I'll state that this  
20 appears to me to be two agreements put together.  
21 There's one agreement that appears to one from  
22 896 to 921, and then another agreement from 922  
23 through the end.

24 Take your time, and then just  
25 identify for me what each of those two

1 agreements is.

2 MR. CALLAGY: And again, this is  
3 based upon your recollection, not necessarily  
4 his -- in good faith he's making a  
5 representation, but you don't necessarily have  
6 to accept that representation.

7 A. (The witness reviews the document.)

8 The first section from 899 to I  
9 believe 921 is an amendment to a participation  
10 agreement. And from 922 to I believe through  
11 the remainder is the original participation  
12 agreement.

13 Q. And both of these agreements relate  
14 to what we've been referring to as the synthetic  
15 lease transaction?

16 A. That's correct.

17 Q. And that's your signature on page  
18 907?

19 A. Yes.

20 Q. And on page 1017, is that your  
21 signature as well?

22 A. Yes.

23 Q. Were you involved in a transaction  
24 that involved the payoff of the synthetic lease?

25 A. Yes --

1 MR. CALLAGY: Object to the form of  
2 the question.

3 Q. What was your involvement in that  
4 transaction?

5 A. My primary responsibility was to  
6 coordinate the payoff of the synthetic lease.

7 Q. I should have asked you this  
8 before. In connection with entering into the  
9 synthetic lease transaction, who was JPMorgan's  
10 counsel?

11 A. Simpson Thacher.

12 Q. And who was counsel with respect to  
13 the payoff the synthetic lease?

14 A. Simpson Thacher.

15 Q. When you say that it was your --  
16 that your involvement was coordinating the  
17 payoff of the synthetic lease, just explain what  
18 you mean by that.

19 A. I worked with our loan and agency  
20 group to determine what amounts were owing under  
21 the facility and based on the projected closing  
22 date, what accrued fees/expenses may exist. So  
23 I coordinated with them.

24 I also coordinated with the  
25 commercial paper issuer to confirm -- which I

1 the termination statement came to be filed?

2 MR. CALLAGY: I would assert the  
3 privilege to the extent he learned about that  
4 from counsel. To the extent you agree that that  
5 doesn't constitute a waiver, I'll let him tell  
6 you what his understanding is.

7 Q. You should try to exclude from your  
8 answer privileged information.

9 MR. FISHER: But I agree that this  
10 testimony would not constitute a waiver.

11 A. My understanding is that when Mayer  
12 Brown prepared the termination statements  
13 related to the synthetic lease, which we  
14 authorized them to do, that they inadvertently  
15 included an unrelated termination of different  
16 collateral under a different transaction which  
17 they were not involved with.

18 Q. Was the Term Loan amended at some  
19 point in time?

20 A. Yes.

21 Q. When was that?

22 A. I believe it was in the March/April  
23 time frame. I don't know the exact date. There  
24 was an amendment that was completed.

25 Q. And that's March/April of 2009?

1 A. Correct.

2 Q. In general terms, what was the  
3 purpose of the amendment?

4 A. The company was seeking a waiver of  
5 their expected going concern opinion from their  
6 auditors and had expressed interest in providing  
7 the U.S. Treasury with a second lien on the Term  
8 Loan collateral.

9 Q. As a consequence of the amendment,  
10 was Treasury granted a second lien on the Term  
11 Loan collateral?

12 A. No.

13 Q. So as finalized, what did the  
14 amendment accomplish?

15 MR. CALLAGY: Objection to the  
16 form. And the document is available, I'm sure  
17 you have it. It speaks for itself.

18 A. The only thing I recall is that we  
19 waived -- the lenders waived the going concern  
20 and there were modifications I believe to  
21 pricing and some fees.

22 Q. Did JPMorgan earn a fee in  
23 connection with this amendment?

24 A. Yes.

25 Q. What was the amount of the fee?



1 A. I'm not positive what the fee was.

2 Q. In connection with the amendment of  
3 the Term Loan, were any UCC searches performed?

4 A. I don't know.

5 Q. Is there someone at JPMorgan who  
6 would know whether or not UCC searches were  
7 performed in connection with the amendment of  
8 the Term Loan?

9 A. Not that I'm aware of.

10 Q. Just so I understand that, if those  
11 UCC searches were done, are you the person most  
12 likely to know that fact?

13 MR. CALLAGY: Objection to the form  
14 of the question.

15 A. Could you repeat that, please.

16 (The pending question was read.)

17 A. No. Simpson Thacher -- sorry, at  
18 the time we were working with Morgan Lewis.  
19 They would have been aware of whether those were  
20 performed. Whether they would have informed me  
21 or not I don't know.

22 Q. So Morgan Lewis represented  
23 JPMorgan in connection with the amendment of the  
24 Term Loan.

25 A. That's correct.

1 financing statements.

2           During the period leading up to the  
3 close of the synthetic lease transaction, I'll  
4 just ask this question once so I don't have to  
5 ask it ten times, did you have any discussions  
6 with anyone about any of the financing  
7 statements listed there?

8           A.       No.

9           MR. CALLAGY: This is, again,  
10 during the period of time leading up -- you  
11 stopped your question --

12           MR. FISHER: Yes, yes. Right.

13           Q.       In other words --

14           MR. CALLAGY: I think the record --  
15 as long as you confirm that that's the period of  
16 time. You're talking about October of 2008.

17           MR. FISHER: That's right.

18           Q.       Is it correct that the first time  
19 you had any discussions with anyone about these  
20 financing statements was sometime after the GM  
21 bankruptcy petition was filed?

22           A.       Yes.

23           Q.       Can you pinpoint -- you said you  
24 learned about the termination statement that's  
25 at issue in this case after the GM bankruptcy

1 Bates stamped JPMCB 1643 through 1645.)

2 Q. Is the top portion of this exhibit  
3 an e-mail that you received from Ryan Green?

4 A. It appears to be, yes.

5 Q. And Mr. Green refers to comments  
6 received from trustee's counsel. Do you  
7 remember who trustee's counsel was?

8 A. No.

9 Q. And who is the trustee being  
10 referred to there?

11 A. I don't recall.

12 Q. Who is BTMU?

13 A. BTMU is Bank of Tokyo Mitsubishi  
14 who was an investor in the transaction.

15 Q. Do you know whether JPMorgan  
16 provided Mayer Brown with comments on any of the  
17 closing documents that related to the payoff of  
18 the synthetic lease?

19 MR. CALLAGY: Objection to the  
20 form.

21 A. I'm not aware of JPMorgan giving  
22 any comments.

23 Q. Turn to the second page of this  
24 exhibit, there's an e-mail from you to Arun.  
25 Does reading that e-mail refresh your

1 Q. Do you recognize that TCP address?

2 A. Yes.

3 Q. What is that address?

4 A. It's Traditional Credit Products.

5 It's a middle office group that we can direct  
6 inquiries to related to documents, loans, et  
7 cetera.

8 Q. Where is that group located?

9 A. There's some people in New York,  
10 some in Houston, I believe there are some in --  
11 I'm not positive but I know there's also some  
12 groups in Bangalore.

13 Q. And the subject of the e-mail is  
14 "GM Term Loan," and it says, "Can we get a  
15 summary of legal/collateral documentation  
16 including details on all UCC filings?"

17 Did you send that e-mail on May 6,  
18 2009?

19 A. It appears to be, yes.

20 Q. Why did you make that inquiry on  
21 May 6, 2009?

22 A. At that point in time we were  
23 concerned about the potential bankruptcy of GM  
24 so we were getting all our ducks in a row  
25 preparing for a potential filing.

1 Q. And then he writes, "and for UCC:  
2 Lien Perfection, Bangalore." What does that  
3 refer to?

4 A. That's a group that tracks UCC  
5 filings that we've made and continued.

6 Q. Had you -- before you received this  
7 e-mail, in connection with other work that  
8 you've done at JPMorgan and its predecessors,  
9 did you communicate with this Lien Perfection  
10 Group in Bangalore?

11 A. I don't recall.

12 Q. To your recollection, is this the  
13 first time that you communicated with that  
14 group?

15 A. I really don't know.

16 Q. Your understanding of what this  
17 group does, where does that understanding come  
18 from?

19 A. Hard to say.

20 Q. You can't pinpoint a source.

21 A. Yes.

22 Q. It's just something you know.

23 A. Yes.

24 Q. Also continuing in this e-mail  
25 there's a series of numbers under General Motors

1 exposure we had related to the revolving credit  
2 we weren't the admin agent or the collateral  
3 agent on.

4 Q. Looking at the first page of this  
5 document, there is an e-mail in the middle of  
6 the page from someone named Shwetha Ramesh. Is  
7 that an e-mail that you received?

8 A. It appears to be, yes.

9 Q. Did Mr. Ramesh send you what you  
10 had asked for?

11 A. No.

12 Q. What did he send you?

13 A. He sent me documentation related to  
14 a previous facility that had been terminated.

15 Q. And the previous facility is the  
16 revolver?

17 A. A different -- not the Citibank  
18 revolver, but there was another revolver that we  
19 had agented that was secured by the stock of  
20 General Motors Acceptance Corp.

21 Q. And then going up one e-mail,  
22 there's an e-mail from you that says, "This  
23 appears to be the collateral for a GM revolver  
24 that has been canceled. I am looking for the  
25 collateral summary, copies of UCC filings, et

1 go as quickly as possible.

2 (Recess taken.)

3 BY MR. FISHER:

4 Q. Mr. Duker, I've put back before you  
5 Exhibit 49. The May 6, 2009 e-mail that starts  
6 off this chain on the second page, to your  
7 knowledge is that the earliest request that you  
8 made for a summary of UCC filings related to the  
9 GM Term Loan?

10 A. I don't know.

11 Q. Are you aware of any specific  
12 requests that you made earlier than May 6, 2009?

13 A. No.

14 Q. To your recollection, no one at  
15 JPMorgan ever got back to you with a summary of  
16 the UCC filings that related to the Term Loan?

17 A. I don't recall receiving it.

18 Q. What steps did you take to try to  
19 get that information?

20 MR. CALLAGY: Objection to form.  
21 Other than what he --

22 Q. Other than these e-mails, what  
23 other steps did you take to retrieve this  
24 information?

25 A. I don't know if I took any other

1 Q. Can you answer the question?

2 A. I'm not aware that they were  
3 notified.

4 Q. Is it your understanding that --  
5 and I'm not talking about the specific  
6 termination statement at issue in this case, but  
7 generally, is it your understanding that the job  
8 of the Lien Perfection Group is to register UCC  
9 filings that relate to JPMorgan collateral?

10 MR. CALLAGY: Objection to form.

11 A. If you mean to register them and  
12 file them, no.

13 Q. I mean register them as in --

14 A. On our books and records.

15 Q. And put them into JPMorgan's books  
16 and records.

17 A. Yes.

18 Q. The answer is yes?

19 A. Yes. I'm not aware that the bank  
20 is notified of UCC-3 terminations. So to my  
21 point before, I'm not sure whether they would  
22 have received notification of a termination.

23 Q. And I guess I'm asking -- do you  
24 have any understanding of how they go about  
25 performing that function -- withdrawn.



# **EXHIBIT D**

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]	
UCC Filings	800-828-0938
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
National Corporate Research 41 State Street Suite 600 Albany, NY 12207  melissa@nationalcorp.com	

DELAWARE DEPARTMENT OF STATE  
U.C.C. FILING SECTION  
FILED 03:23 PM 11/30/2006  
INITIAL FILING NUM: 6416808 4  
AMENDMENT NUMBER: 0000000  
SRV: 061094538

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME GENERAL MOTORS CORPORATION				
OR				
1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS 300 RENAISSANCE CENTER		CITY DETROIT	STATE MI	POSTAL CODE 48265-3000
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION Corporation	1f. JURISDICTION OF ORGANIZATION Delaware	1g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME** - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME				
OR				
2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

**3. SECURED PARTY'S NAME** (or NAME of TOTAL ASSIGNEE of ASSIGNOR SP) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT				
OR				
3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS P.O. BOX 2558		CITY HOUSTON	STATE TX	POSTAL CODE 77252
				COUNTRY USA

4. This FINANCING STATEMENT covers the following collateral:  
**THE ASSETS DESCRIBED ON ANNEX I ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.**

5. ALTERNATIVE DESIGNATION (if applicable)	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOBR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed for record (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (OPTIONAL FEE)		All Debtors	Debtor 1	Debtor 2	
8. OPTIONAL FILER REFERENCE DATA 6701-619 -- DE - Secretary of State						F# 176913 A# 274606

FILING OFFICE COPY -- UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

EXHIBIT  
# 38  
2/9/10  
PENGAD 800-631-6989

CONFIDENTIAL

MB005358

This Annex I  
consists of 4 pages

ANNEX I  
TO  
UCC-1 FINANCING STATEMENT

Debtor: General Motors Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000  
(the "Debtor")

Secured Party: JPMorgan Chase Bank, N.A., as Administrative Agent  
P.O. Box 2558  
Houston, TX 77252  
(the "Agent")

The financing statement to which this Annex I is attached covers all of the following property of the Debtor now owned or at any time hereafter acquired (collectively, the "Collateral"):

- (1) all Equipment and all Fixtures, other than Excluded Equipment and Fixtures;
- (2) all Documents and General Intangibles attributable solely to Equipment or Fixtures, other than Excluded Equipment and Fixtures;
- (3) all books and records pertaining solely to Equipment or Fixtures (or Proceeds or products of Equipment or Fixtures), in each case, other than Excluded Equipment and Fixtures (or Proceeds or products thereof); and
- (4) to the extent not otherwise included in the foregoing clauses, all Proceeds and products of any and all of the foregoing.

As used herein, the following terms shall have the following meanings:

"Collateral Agreement": the collateral agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Credit Agreement": the term loan agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Documents": all "Documents" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

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**"Equipment"**: all "Equipment" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Excluded Equipment and Fixtures"**: all Equipment and Fixtures, now owned or at any time hereafter acquired by the Debtor, which are not located at U.S. Manufacturing Facilities; provided, that no Equipment or Fixtures now owned or at any time hereafter acquired by the Debtor (a) located at a U.S. Manufacturing Facility or (b) transferred to a Non-U.S. Manufacturing Property other than (i) in the ordinary course of business or (ii) for a business purpose of the Debtor and its Subsidiaries (as determined in good faith by the Debtor) and not primarily for the purpose of (1) reducing the security for the Obligations or (2) making such Equipment and Fixtures available to other creditors, shall constitute Excluded Equipment and Fixtures.

**"Fixtures"**: all "Fixtures" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"General Intangible"**: a "General intangible" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Governmental Authority"**: any nation or government, any state, province, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of government including the European Central Bank.

**"Grantors"**: a collective reference to the Debtor and Saturn Corporation, and each other direct or indirect wholly-owned domestic Subsidiary of the Debtor that at the option of the Debtor becomes a party to the Collateral Agreement, the Credit Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

**"Lender"**: each Lender party to the Credit Agreement.

**"Lien"**: any mortgage, pledge, lien, security interest, charge, statutory deemed trust, conditional sale or other title retention agreement or other similar encumbrance.

**"Loan"**: a loan made by a Lender to the Debtor pursuant to the Credit Agreement.

**"Loan Documents"**: the Credit Agreement, the Security Documents, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

**"Non-U.S. Manufacturing Property"**: any real property of a Grantor that is not part of a U.S. Manufacturing Facility.

**"Note"**: a promissory note, executed and delivered by the Debtor with respect to the Loans, substantially in the form of Exhibit B to the Credit Agreement.

**"Obligations"**: all obligations of any Grantor in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest

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accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Grantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Grantor to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with the Credit Agreement, any other Loan Document or any other document made, delivered or given in connection therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

**"Person"**: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

**"Proceeds"**: all "Proceeds" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Secured Parties"**: the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

**"Security Documents"**: the Collateral Agreement and all other security documents delivered to the Agent granting or purporting to grant a Lien on any property of any Person to secure the Obligations, including financing statements or financing change statements under the applicable Uniform Commercial Code.

**"Subsidiary"**: as to any Person (the "parent"), any other Person of which at least a majority of the outstanding stock or other equity interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or comparable governing body of such Person (irrespective of whether or not at the time stock or other equity interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time owned by the parent, or by one or more Subsidiaries, or by the parent and one or more Subsidiaries.

**"UCC"**: the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

**"U.S. Manufacturing Facility"**: (a) any plant or facility of a Grantor listed on Schedule I hereto, including all related or appurtenant land, buildings, Equipment and Fixtures, and (b) any plant or facility of a Grantor, including all related or appurtenant land, buildings, Equipment and Fixtures, acquired or leased by a Grantor after the date hereof which is located within the continental United States of America and at which manufacturing, production, assembly or processing activities are conducted.

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**Schedule 1**  
**to Annex 1 to UCC-1 Financing Statement**

Num	Facility	City	State
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	KY
3	GM ASSEMBLY DETROIT HAMTRAMCK	DETROIT	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	KS
5	GM ASSEMBLY FLINT	FLINT	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	OH
11	GM ASSEMBLY MORaine	DAYTON	OH
12	GM ASSEMBLY ORION	LAKE ORION	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	MO
17	GM MFD AMT (SAMCO)	NEW HUDSON	MI
18	GM MFD FLINT	FLINT	MI
19	GM MFD FLINT TOOL & DIE	FLINT	MI
20	GM MFD GRAND BLANC	GRAND BLANC	MI
21	GM MFD GRAND RAPIDS	WYOMING	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	MI
24	GM MFD LORDSTOWN	LORDSTOWN	OH
25	GM MFD MANSFIELD	MANSFIELD	OH
26	GM MFD MARION	MARION	IN
27	GM MFD PARMA	PARMA	OH
28	GM MFD PONTIAC	PONTIAC	MI
29	GM MFD SHREVEPORT	SHREVEPORT	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	MI
36	GM POWERTRAIN MASSENA	MASSENA	NY
37	GM POWERTRAIN PARMA	PARMA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	MI

[[2660674]]

# **EXHIBIT E**

**INITIAL CLOSING OF \$325,000,000 SYNTHETIC LEASE FINANCING  
(WITH COMMERCIAL PAPER FACILITY)**

**FOR NINE CONSTRUCTED AND TO BE CONSTRUCTED DISTRIBUTION  
WAREHOUSES, SERVICE PARTS OPERATIONS CENTERS, AND A FITNESS  
CENTER AND PARKING FACILITY**

---

GENERAL MOTORS CORPORATION, as Lessee and Construction Agent,

AUTO FACILITIES REAL ESTATE TRUST 2001-1,  
as Lessor,

WILMINGTON TRUST COMPANY,  
as Trustee,

VARIOUS FINANCIAL INSTITUTIONS, as Investors,

RELATIONSHIP FUNDING COMPANY, LLC,

VARIOUS FINANCIAL INSTITUTIONS, as Backup Facility Banks, and

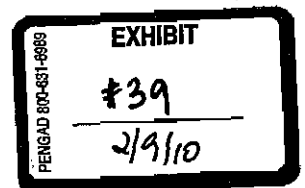
THE CHASE MANHATTAN BANK,  
as Administrative Agent for the Backup Facility Banks and RFC

---

J.P. MORGAN SECURITIES INC.,  
as Arranger and Book Runner

---

Initial Closing Date: October 31, 2001





**GENERAL MOTORS CORPORATION**

All documents are dated as of the Initial Closing Date unless otherwise indicated.

<b><u>Document</u></b>	<b><u>Tab No.</u></b>
Participation Agreement with Schedules and Exhibits thereto.....	1
Annex A to Participation Agreement: Rules of Usage and Definitions.....	2
Lease Agreement.....	3
Trust Agreement.....	4
Trust Certificates in favor of each Investor.....	5
Loan Facility Agreement.....	6
Structural Support Agreement.....	7
Liquidity Agreement.....	8
Assignment of Contracts.....	9
Lessee's Consent to Assignment of Contracts.....	10
Pledge Agreement and Control Agreement.....	11
Agency Agreement.....	12
Assistant Secretary's Certificate of Lessee with Lessee's Certificate of Incorporation Attached Thereto.....	13
Assistant Secretary's Certificate of Lessee with Lessee's By-Laws Attached Thereto.....	14
Secretary's Certificate of Lessee as to Board Resolutions.....	15
Good Standing Certificate of Lessee in the State of Delaware.....	16
Officer's Certification of Wilmington Trust Company attaching:	
-Exhibit A. Incumbency Certification	
-Exhibit B. Certificate of Incorporation	
-Exhibit C. By-Laws	
-Exhibit D. Board Resolutions for May 17, 2001	
-Exhibit E. Board Resolutions for July 19, 2001.....	17

Good Standing Certificate of Wilmington Trust Company in Delaware .....18

Certificate of Trust for Lessor.....19

Good Standing Certificate of Auto Facilities Real Estate Trust 2001-1 in Delaware .....20

Legal Opinion of Mayer Brown & Platt.....21

Legal Opinion of Mayer Brown & Platt (Pledge Agreement).....22

Legal Opinion of M. Gordon Ing, In-House Counsel to Lessee.....23

Legal Opinion of Morris, James, Hitchens & Williams LLP.....24

## FIRST AMENDMENT AND AGREEMENT

FIRST AMENDMENT AND AGREEMENT, dated as of January 6, 2003 (this "First Amendment and Agreement"), among GENERAL MOTORS CORPORATION, a Delaware corporation; AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust; WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual corporate capacity but solely as trustee of the Trust; THE VARIOUS FINANCIAL INSTITUTIONS party hereto and referred to on the signature pages hereof as Investors; THE VARIOUS FINANCIAL INSTITUTIONS party hereto and referred to on the signature pages hereof as Backup Facility Banks; RELATIONSHIP FUNDING COMPANY, LLC, a Delaware limited liability company; and JPMORGAN CHASE BANK (formerly known as The Chase Manhattan Bank), a New York banking corporation, as Administrative Agent (in such capacity, the "Administrative Agent").

### WITNESSETH:

WHEREAS, the parties hereto are parties to a Participation Agreement dated as of October 31, 2001, relating to a synthetic lease of the Properties defined therein (the "Participation Agreement"); and

WHEREAS, the Lessee desires to substitute certain of the Properties with new properties, and, in connection therewith, the parties hereto desire to amend and supplement certain provisions set forth in the Operative Agreements;

NOW THEREFORE, in consideration of the premises herein contained and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree, and consent for all purposes under any Operative Agreement, as follows:

1. Defined Terms. Capitalized terms used herein but not otherwise defined herein shall have the respective meanings, and shall be interpreted in accordance with the rules of usage, set forth in Annex A to the Participation Agreement (the "Definitions").

2. Amendments to the Operative Agreements. The Operative Agreements are hereby amended as follows:

(i) Exhibit B to the Agency Agreement is hereby deleted in its entirety and Exhibit A attached hereto is hereby substituted therefor.

(ii) Schedule 1 to the Definitions is hereby deleted in its entirety and Exhibit B attached hereto is hereby substituted therefor.

(iii) In Annex A to the Participation Agreement, the defined term "RFC Loan Commitment" is deleted in its entirety and replaced with the following: "RFC Loan Commitment" means \$314,730,000.

(iv) Parcel 6/C Purchase Option and Partial Release.

A. With respect to Parcel 6/C, Section 20.1 of the Lease is hereby amended to additionally grant Lessee the option to purchase (x) the strip of land anticipated to be dedicated to the City of Detroit for a north-south road right-of-way, bisecting Parcel 6/C at a point to be determined and connecting Franklin Street on the north

and Atwater Street on the south, and (y) that portion of Parcel 6/C east of, and contiguous with, the new road right-of-way (collectively, the "Parcel 6/C Released Portion"), for a Purchase Option Price equal to the Termination Value applicable to Parcel 6/C on the applicable Property Closing Date less the Remaining Parcel 6/C Termination Value (the "Parcel 6/C Release Price"). If Lessee consummates the partial purchase under this provision, thereafter for purposes of the Operative Agreements, all references to the Parcel 6/C Property shall be deemed to refer to Parcel 6/C, less the Parcel 6/C Released Portion, and the Termination Value for such remaining portion shall be the Remaining Parcel 6/C Termination Value. This provision shall not limit Lessee's option to purchase (x) the entire Parcel 6/C under Section 20.1 if Lessee does not consummate the partial purchase under this provision, or (y) the remaining portion of Parcel 6/C under Section 20.1 for the Remaining Parcel 6/C Termination Value thereafter if Lessee consummates the partial purchase under this provision.

B. If Lessee exercises its option described in 2(iv)A. above, the Parcel 6/C Release Price proceeds shall be applied in accordance with Section 13.3 of the Participation Agreement, except that the portion allocated with respect to clauses first, second and third of Section 13.3 shall be prorated to take into account the fact that it is a partial payment with respect to the Parcel 6/C Property.

C. Section 19.1 of the Lease is hereby modified as follows:

(i) in connection with any exercise by Lessee of the option described in 2(iv)A above, any reference to "the applicable Property" in Section 19.1(a) shall be deemed to mean the Parcel 6/C Released Portion, and

(ii) at or prior to the closing of the exercise of the partial purchase under this provision, Lessee shall deliver, or cause to be delivered, to Administrative Agent and the Required Investors the following: (a) appropriate endorsements to the title insurance policies delivered to Administrative Agent and Lessor pursuant to Sections 6.2(j) and (k) of the Participation Agreement, (b) a new survey of Parcel 6/C (less the Parcel 6/C Released Portion) meeting the requirements of Section 6.2(i) of the Participation Agreement (or an appropriate modification of the survey of Parcel 6/C delivered pursuant to Section 6.2(i) of the Participation Agreement), (c) the Appraisal referred to in the definition of "Remaining Parcel 6/C Termination Value", and (iv) any other documents or instruments that the Administrative Agent and/or the Required Investors may reasonably request in connection with the foregoing.

(v) The Lease is hereby amended as follows: With respect to Lessee's purchase options set forth in Sections 15, 16, 19 or 20 of the Lease, Lessee shall not have the ability to purchase either the River East Parking Deck or the Franklin Parking Deck unless contemporaneously therewith Lessee also purchases, in the case of a purchase of the River East Parking Deck, the Franklin Parking Deck and Parcel 6/C and, in the case of a purchase of the Franklin Parking Deck, the River East Parking Deck and Parcel 6/C, and any election by Lessee to purchase either the River East Parking Deck or the Franklin Parking Deck shall be deemed to be an election to purchase, in the case of an election to purchase the River East Parking Deck, the River East Parking Deck, the Franklin Parking

Deck and Parcel 6/C and, in the case of an election to purchase the Franklin Parking Deck, the Franklin Parking Deck, the River East Parking Deck and Parcel 6/C, provided, however, that (i) this provision shall not limit Lessee's purchase option with respect to the entirety of Parcel 6/C or the Parcel 6/C Released Portion, as set forth in clause (iv) of this Amendment and (ii) following any exercise by Lessee of its purchase option with respect to the Parcel 6/C Released Portion, this provision shall apply to the portion of Parcel 6/C still subject to this Lease.

(vi) The following definitions are added to the Definitions in alphabetical order:

"Franklin Parking Deck" means the Property located at 660-670 Woodbridge Street, Detroit, MI, identified on Exhibit B to the Agency Agreement as the "Franklin Parking Deck."

"Parcel 6/C" means the Property located at the North East Corner of St. Antoine and Atwater Streets, Detroit, MI, identified on Exhibit B to the Agency Agreement as "Parcel 6/C."

"Remaining Parcel 6/C Termination Value" means the value determined by the Appraiser or another reputable independent appraiser reasonably satisfactory to the Administrative Agent and the Required Investors, of Parcel 6/C less the Parcel 6/C Released Portion."

"River East Parking Deck" means the Property located at the South East Corner of Rivard and Franklin Street, Detroit, MI, identified on Exhibit B to the Agency Agreement as the "River East Parking Deck."

(vii) Section 3 of the form of Memorandum of Lease and Supplement, Section 3.1(a) of the Participation Agreement, and Section 7.1(a) of the Lease shall each be deleted in their entirety and respectively replaced with the following:

"SECTION 3. Ownership of the Property. It is the intent of the parties hereto that: (A) the Lease constitutes an "operating lease" pursuant to Statement of Financial Accounting Standards No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) for purposes of all federal, state, and local income, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and federal remedial laws, and for all other purposes, (i) the transaction contemplated by the Lease is a financing arrangement, Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Property for such tax purposes, (ii) the transaction contemplated by the Lease is a secured borrowing for the purposes of the exercise of remedies hereunder or any enforcement or collection actions pursuant to the term hereof following the occurrence and during the continuance of a Lease Event of Default, and (x) by the Lease, as supplemented by this Lease Supplement, the Lessee grants a mortgage upon and a security interest in and a lien on the Lessee's

ownership interest in the Property for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the lease and the other Operative Agreements, and (y) the Lessor holds title to or a ground leasehold interest in the Property so as to create and grant a first lien and prior security interest in the Property subject to the Permitted liens (a) pursuant to the Lease, as supplemented by this Lease Supplement, for the benefit of the Administrative Agent under the Assignment of Lease, to secure to the Agent the obligations of Lessee under the Lease, as supplemented by this Lease Supplement and (b) pursuant to the Mortgage to secure to the Administrative Agent the obligations of Lessor under the Mortgage, the Loan Facility Agreement and the Participation Agreement. In addition, the parties acknowledge and agree that the characterization of the transaction and the Lessee's obligations as provided in this Section 3 shall not diminish the Lessee's express rights under the Lease and the other Operative Agreements, including, without limitation, the Lessee's right to purchase the Property."

"SECTION 3.1 Ownership of the Property. (a) The parties hereto intend that (i) for financial accounting purposes with respect to Lessee (A) the Lease will be treated as an "operating lease" pursuant to Statement of Financial Accounting Standards (SFAS) No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) Lessor will be treated as the owner and lessor of the Properties, and (C) Lessee will be treated as the lessee of the Properties, but (ii) for purposes of all federal, state, and local income, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and federal remedial laws, and for all other purposes, (A) the transactions contemplated by the Operative Agreements will be treated as a financing arrangement, (B) the Lenders will be treated as senior lenders making loans to Lessee in an amount equal to the Loans, which Loans will be secured by the Properties, (C) Lessor and the Investors will be treated as a subordinated lender making a loan to Lessee in an amount equal to the Investor Contributions, which loan is secured by the Properties, and (D) Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Properties for such tax purposes."

"SECTION 7.1 Ownership of the Property (a) Lessor and Lessee intend that (i) for financial accounting purposes with respect to Lessee (A) this Lease will be treated as an "operating lease" pursuant to Statement of Financial Accounting Standards (SFAS) No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) Lessor will be treated as the owner and lessor of the Properties, and (C) Lessee will be treated as the lessee of the Properties, but (ii) for purposes of all federal, state, and local income, tax, sales tax and use tax laws, state and county real estate tax laws (including but not limited to all ad valorem taxes, transfer taxes, county transfer taxes, special assessments and/or charges and all related and/or similar tax, assessment and/or valuation laws), state and federal commercial and corporate tax laws, bankruptcy and insolvency laws, state and

federal remedial laws, and for all other purposes, (A) this Lease will be treated as a financing arrangement, (B) the Lenders will be treated as senior lenders making loans to Lessee in an amount equal to the Loans, which Loans will be secured by the Properties, (C) Lessor and the Investors will be treated as subordinated lenders making a loans to Lessee in an amount equal to the Investor Contributions, which loans are secured by the Properties, and (D) Lessee will be treated as the owner of the Properties, having the beneficial use thereof, and will be entitled to all tax benefits ordinarily available to an owner of property like the Properties for such tax purposes."

3. Conditions to Effectiveness. This First Amendment and Agreement shall become effective on the date upon which the Administrative Agent shall have received this First Amendment and Agreement, executed and delivered by a duly authorized officer of each of the parties hereto.

4. Representations and Warranties; No Defaults. Each of Lessee, Lessor and Support Provider hereby represents and warrants that the representations and warranties contained in the Participation Agreement and the other Operative Agreements were, after giving effect to this First Amendment and Agreement, true and correct in all material respects as of the date on which they were originally made. Lessee represents that as of the date hereof there exists no Lease Default or Lease Event of Default.

5. Continuing Effect of the Participation Agreement and the Other Operative Agreements. This First Amendment and Agreement shall not constitute an amendment or waiver of any provision of any Operative Agreement not expressly referred to herein, and shall not be construed as a waiver or consent to any further or future action on the part of Lessee, the Lessor, or Support Provider that would require a waiver or consent of the Administrative Agent, the Investors and/or the Lenders except as may be provided for herein. Except as expressly amended hereby, the provisions of the Participation Agreement and the other Operative Agreements are and shall remain in full force and effect and are hereby ratified and confirmed.

6. Execution in Counterparts. This First Amendment and Agreement may be executed in counterparts and all of the said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this First Amendment and Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

7. **GOVERNING LAW. THIS FIRST AMENDMENT AND AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

8. Expenses. Lessee agrees to pay or reimburse the Administrative Agent for all of its reasonable out-of-pocket costs and expenses incurred in connection with the preparation, negotiation and execution of this First Amendment and Agreement, including, without limitation, the fees and disbursements of its counsel.

9. Construction. The fact that all the parties hereto executed this First Amendment and Agreement should not be construed as requiring all such parties to execute or consent to any particular amendment of any Operative Agreement.

10. Instruction. The Administrative Agent, the Trustee, and Lessor are hereby instructed to execute this First Amendment and Agreement.

11. RFC. The provisions of Section 9.5(b) and 14.20 of the Participation Agreement are hereby incorporated into this Amendment as if fully set forth herein.



IN WITNESS WHEREOF, the parties hereto have caused this First Amendment and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

By: Michael G. Oller, Jr.  
Name: **Michael G. Oller, Jr.**  
Title: **Senior Financial Services Officer**

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as Administrative  
Agent

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

WILMINGTON TRUST COMPANY, in its individual capacity, only to the extent expressly set forth herein

By: Michael G. Oller, Jr.  
Name: **Michael G. Oller, Jr.**  
Title: **Senior Financial Services Officer**

RELATIONSHIP FUNDING COMPANY, LLC

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

BTM CAPITAL CORPORATION, as an Investor

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

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-I, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

By: Conrad P. Schwartz  
Name: CONRAD P. SCHWARTZ  
Title: DIRECTOR, WRE (GMC)

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as Administrative  
Agent

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

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

RELATIONSHIP FUNDING COMPANY, LLC

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

BTM CAPITAL CORPORATION, as an Investor

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

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2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee  
By: \_\_\_\_\_  
Name:  
Title:

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as Administrative  
Agent

By:   
Name:  
Title: RICHARD W. DUKER  
MANAGING DIRECTOR

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

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

RELATIONSHIP FUNDING COMPANY, LLC

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

BTM CAPITAL CORPORATION, as an Investor

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

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee  
By: \_\_\_\_\_  
Name:  
Title:

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as Administrative  
Agent

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

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

RELATIONSHIP FUNDING COMPANY, LLC

By: \_\_\_\_\_  
Name: *Thomas J. Irvin*  
Title: *Manager*

BTM CAPITAL CORPORATION, as an Investor

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

\* IN WITNESS WHEREOF, the parties hereto have caused this First Amendment and Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee  
By: \_\_\_\_\_  
Name:  
Title:

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as Administrative  
Agent

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

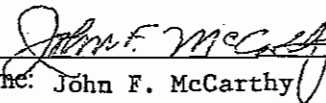
WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

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

RELATIONSHIP FUNDING COMPANY, LLC

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

BTM CAPITAL CORPORATION, as an Investor

By:   
Name: John F. McCarthy  
Title: Vice President  
HPC

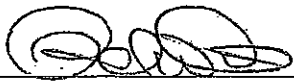


JH EQUITY REALTY INVESTORS, INC., as an Investor

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

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

JPMORGAN CHASE BANK (formerly known as The Chase Manhattan Bank), as a Backup Facility Bank

By:  \_\_\_\_\_  
Name:  
Title: RICHARD W. DUKER  
MANAGING DIRECTOR

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

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

CREDIT SUISSE FIRST BOSTON, as a Backup Facility Bank

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

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

JH EQUITY REALTY INVESTORS, INC., as an  
Investor

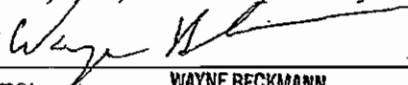
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as a Backup Facility  
Bank

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

CITIBANK, N.A., as a Backup Facility Bank

By:  \_\_\_\_\_  
Name: **WAYNE BECKMANN**  
Title: **Managing Director**  
**Citibank, N.A.**  
**388 Greenwich Street 23rd Fl**  
**212-816-5566**

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

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

CREDIT SUISSE FIRST BOSTON, as a Backup  
Facility Bank

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

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



JH EQUITY REALTY INVESTORS, INC., as an Investor

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

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

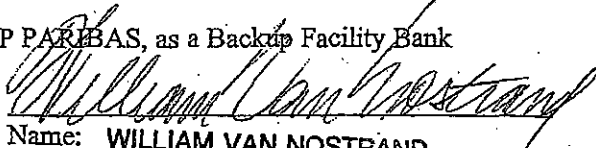
JPMORGAN CHASE BANK (formerly known as The Chase Manhattan Bank), as a Backup Facility Bank

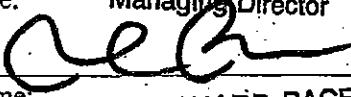
By: \_\_\_\_\_  
Name:  
Title:

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

By:   
Name: WILLIAM VAN NOSTRAND  
Title: Managing Director

By:   
Name: RICHARD PACE  
Title: Director

HSBC BANK USA, as a Backup Facility Bank

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

CREDIT SUISSE FIRST BOSTON, as a Backup Facility Bank

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

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

JH EQUITY REALTY INVESTORS, INC., as an  
Investor

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

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

JPMORGAN CHASE BANK (formerly known as  
The Chase Manhattan Bank), as a Backup Facility  
Bank

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

CITIBANK, N.A., as a Backup Facility Bank

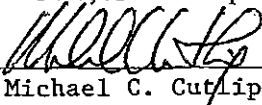
By: \_\_\_\_\_  
Name:  
Title:

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

By:   
Name: Michael C. Cutlip  
Title: SVP

CREDIT SUISSE FIRST BOSTON, as a Backup  
Facility Bank

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

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

JH EQUITY REALTY INVESTORS, INC., as an Investor

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

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

JPMORGAN CHASE BANK (formerly known as The Chase Manhattan Bank), as a Backup Facility Bank

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

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

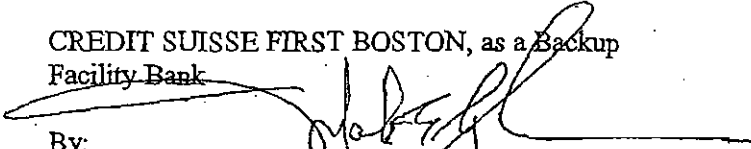
By: \_\_\_\_\_  
Name:  
Title:

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

HSBC BANK USA, as a Backup Facility Bank

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

CREDIT SUISSE FIRST BOSTON, as a Backup Facility Bank

By:   
Name: MARK E. GLEASON  
Title: DIRECTOR

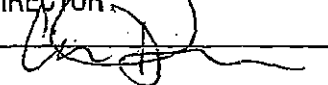
By:   
Name:  
Title: CASSANDRA DROOGAN  
ASSOCIATE

EXHIBIT A

EXHIBIT B

509420-0198-00754-NY02.2231203.7

JPMCB-STB-00000917

EXHIBIT A

Revised Exhibit B to Agency Agreement

Permitted Properties

SPO WAREHOUSE – BOLINGBROOK, IL ✓

- A distribution/warehouse facility located in Bolingbrook, Will County, Illinois
- Construction completed
- Developed for use by GM's SPO Division as a parts warehouse and distribution facility

SPO WAREHOUSE – RENO, NV ✓

- A distribution/warehouse facility located in Reno, Washoe County, Nevada
- Currently under construction
- Developed for use by GM's SPO Division as a parts warehouse and distribution facility

SPO WAREHOUSE – DENVER, CO

- A distribution/warehouse facility located in the Denver, Colorado metropolitan area
- Construction will be completed prior to bringing the property into the transaction
- Developed for use by GM's SPO Division as a parts warehouse and distribution facility

SPO WAREHOUSE – ONTARIO, CA ✓

- A distribution/warehouse facility located in Ontario, California
- Construction completed in 2002
- Developed for use by GM's SPO Division as a parts warehouse and distribution facility

TRANSMISSION PARTS DISTRIBUTION CENTER – INDIANAPOLIS, IN ✓

- A recently built, completed transmission parts distribution center located in Indianapolis, Marion County, Indiana

FRANKLIN PARKING DECK ✓

- 595 space parking garage situated on 47,969 square foot land parcel
- Located on the northeast corner of Franklin and St Antoine Streets, in the immediate east vicinity of the Renaissance Center, GM's Global Headquarters, located in Detroit, Wayne County, MI

- Construction completed in 1998
- Developed for the express purpose of accommodating parking for employees at GM's Global Headquarters

#### RIVER EAST PARKING DECK

- 2,167 space parking garage situated on 92,347 square foot land parcel
- Located on the northeast corner of Atwater and Rivard Streets, in the immediate east vicinity of the Renaissance Center, GM's Global Headquarters, located in Detroit, Wayne County, MI
- Construction completed in 2000
- Developed for the express purpose of accommodating parking for employees at GM's Global Headquarters

#### COMBINED PARCELS C & 6

- Vacant parcel of land measuring 2.833 acres in aggregate
- Situated at the southeast corner of Franklin and St. Antoine Streets, in the immediate east vicinity of the Renaissance Center, GM's Global Headquarters, located in Detroit, Wayne County, MI
- Original development plans called for placement of the River East deck on the parcel
- Market study results suggested alternative development strategies to achieve highest and best use
- Parcel remains vacant today

#### SPO HEADQUARTERS BUILDING

- Suburban office building consisting of one and three-story building, situated on a 45.65 acre land parcel in Grand Blanc, Genessee County, MI
- Construction completed in 1997
- Total gross building area is 340,418 square feet
- Developed for the purpose of housing GM's Service Parts Operation (SPO) Division
- Currently 100%-occupied and in use by SPO

#### SPO WAREHOUSE – BRANDON, MS

- 352,000 square foot built-to-suit distribution/warehouse facility situated on a 33 acre land parcel located in Brandon, Rankin County, Mississippi,
- Situated in an industrial-oriented development, approximately 10 miles east of downtown Jackson, MS
- Construction completed in mid-1999
- Developed for use by GM's SPO Division as a parts warehouse and distribution facility

### SPO WAREHOUSE – CHARLOTTE, NC

- 352,000 square foot built-to-suit distribution/warehouse facility situated on an approximate 37 acre land parcel located in Charlotte, Mecklenberg County, North Carolina
- Situated in a light industrial district located approximately 12 miles from the downtown Charlotte
- Construction completed in mid-1999
- Developed for use by GM's SPO Division operation as a parts warehouse and distribution facility

### POWERTRAIN L6 ENGINE PLANT – FLINT, MI

- 805,620 square foot built-to-suit, new engine manufacturing facility situated on an approximately 42 acre land parcel located in Flint, Genesee County, Michigan
- Situated at the northwest corner of Van Slyke and Bristol Roads, approximately 3 miles south of downtown Flint, Michigan
- Construction completed in November of 1999
- Developed as a component of the larger manufacturing compound for the express use by GM's Powertrain Group in the engine, rod and cam manufacturing and distribution process



**Exhibit B: Second Revision to Schedule I**  
**Budget for Properties**

	Automotive Parts Distribution Warehouse Bolingbrook, IL	SPO Warehouse Reno, NV	SPO Warehouse Denver, CO	SPO Warehouse Ontario, CA	Transmission Parts Distribution Center Indianapolis, IN	Ford Option Land & Parking Decks Renaissance Cir	SPO Headquarters Building Grand Blanc, MI	SPO Warehouse Brendon, MD	SPO Warehouse Charlotte, NC	Powertrain L8 Engine Plant Flint, MI	Unallocated Contingency	Total
Land	\$4,422,768	\$2,723,254	\$2,159,000	\$5,017,718	\$2,232,500	-	-	-	-	-	-	\$16,554,229
Land Contingency	-	-	890,000	-	-	-	-	-	-	-	-	890,000
Land/Building Improvements*	18,719,424	19,075,000	15,359,500	19,415,519	18,878,352	-	-	-	-	-	-	90,244,789
Construction Contingency	-	1,100,010	4,000,000	-	-	-	-	-	-	-	-	5,100,010
Buydown/Loan Balance	-	-	-	-	-	18,085,852	35,041,500	13,842,073	14,827,096	81,289,240	-	184,065,821
Capitalized Interest/Yield	-	21,047	31,105	217,833	-	-	-	-	-	-	-	289,885
Structuring	122,308	186,983	141,495	908,199	109,855	-	-	-	-	-	-	1,468,841
Legal Fees	159,087	344,652	130,000	806,532	104,507	100,000	100,000	80,000	90,000	100,000	-	2,032,759
RV Insurance*	-	-	2,531	-	-	-	-	-	-	-	-	2,531
Title Insurance	-	-	12,000	10,850	-	30,600	27,741	8,721	11,652	47,647	-	159,430
Undrawn Fac. Fees	-	5,850	48,920	167,077	-	-	-	-	-	-	-	222,846
Real Estate Taxes	-	-	50,000	-	-	-	-	-	-	-	-	50,000
Appraisal	15,000	15,000	20,000	15,000	15,000	20,000	20,000	20,000	20,000	20,000	-	160,000
Insurance	-	1,264,825	1,264,825	328,783	-	-	-	-	-	-	-	2,856,433
Additional Contingency	-	1,000,000	1,000,000	-	-	-	-	-	-	-	18,877,439	20,877,439
Cost of Ins/Advt/Conting	-	83,389	90,824	-	61,896	83,439	10,759	29,208	51,062	43,113	-	433,588
<b>Totals:</b>	<b>\$23,437,556</b>	<b>\$24,809,609</b>	<b>\$26,000,000</b>	<b>\$26,885,005</b>	<b>\$21,200,000</b>	<b>\$39,300,009</b>	<b>\$35,200,000</b>	<b>\$14,089,000</b>	<b>\$15,000,000</b>	<b>\$81,500,000</b>	<b>\$18,577,439</b>	<b>\$325,000,000</b>

\* Includes developer's interests

---

**PARTICIPATION AGREEMENT**

among

**GENERAL MOTORS CORPORATION, as Lessee and Construction Agent,**

**AUTO FACILITIES REAL ESTATE TRUST 2001-1,  
a Delaware business trust,  
as Lessor,**

**WILMINGTON TRUST COMPANY, not in its individual capacity except as set forth herein,  
but solely as trustee of the Lessor,**

**VARIOUS FINANCIAL INSTITUTIONS, as Investors,**

**RELATIONSHIP FUNDING COMPANY, LLC,**

**VARIOUS FINANCIAL INSTITUTIONS, as Backup Facility Banks, and**

**THE CHASE MANHATTAN BANK,  
as Administrative Agent for the Backup Facility Banks and RFC**

---

**J.P. MORGAN SECURITIES INC.,  
as Arranger and Book Runner**

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Dated as of October 31, 2001

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PARTICIPATION AGREEMENT, dated as of October 31, 2001 (this "Agreement"), among GENERAL MOTORS CORPORATION, a Delaware corporation, as Lessee and Construction Agent (together with its permitted successors and assigns); AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware business trust, as Lessor; WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual corporate capacity, except as expressly stated herein, but solely as trustee of the Lessor; THE VARIOUS FINANCIAL INSTITUTIONS party to the Trust Agreement referred to therein as Investors; THE VARIOUS FINANCIAL INSTITUTIONS party to the Liquidity Agreement referred to therein as Backup Facility Banks (collectively, the "Backup Facility Banks"; each a "Backup Facility Bank"); RELATIONSHIP FUNDING COMPANY, LLC, a Delaware limited liability company, and THE CHASE MANHATTAN BANK, a New York banking corporation, as Administrative Agent for RFC and the Backup Facility Banks. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings set forth in Annex A hereto.

#### Preliminary Statement

- A. Pursuant to the Trust Agreement, the Investors, as beneficiaries, have created the Lessor in order to provide equity investments in, and to facilitate the acquisition and construction of, the Properties.
- B. The Lessor has entered into the Agency Agreement with the Lessee, whereby the Lessee, as Construction Agent for the Lessor, has agreed to cause the construction and equipping of the Construction Improvements in accordance with the terms thereof.
- C. Pursuant to the Loan Facility Agreement, RFC and the Backup Facility Banks will provide RFC Loans and/or Backup Facility Loans to the Lessor to enable it to acquire the Completed Properties, to acquire the Construction Period Properties, to construct the Construction Improvements on the Construction Period Properties, and to pay Project Costs.
- D. The RFC Loans will be indirectly funded through the issuance of Commercial Paper by the CP Issuer.
- E. Pursuant to the terms hereof and the Trust Agreement, the Investors will provide funding to the Lessor to enable it to acquire the Completed Properties, to acquire the Construction Period Properties, to construct the Construction Improvements on the Construction Period Properties, and to pay Project Costs.
- F. Pursuant to the Lease, the Lessor will lease the Properties to the Lessee for the Term.
- G. Pursuant to the Structural Support Agreement, the Lessee will provide credit support for certain obligations of the Lessor under the Operative Agreements.
- H. Pursuant to the Security Documents, the obligations secured thereby will be secured by the collateral specified therein.

In consideration of the mutual agreements herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

## SECTION I. BASIC TRANSACTIONS

1.1 Loans. Upon the terms and subject to the conditions of this Agreement and the Loan Facility Agreement, on the Initial Closing Date and on each Funding Date, RFC and/or the Backup Facility Banks shall make RFC Loans and/or Backup Facility Loans, as applicable, to the Lessor in an aggregate principal amount not to exceed the RFC Loan Commitment and the Backup Facility Loan Commitment, respectively, in order to enable Lessor to acquire the Properties and construct the Construction Improvements and to pay other Project Costs. Pursuant to this Agreement and the Loan Facility Agreement, the Loans will be made to the Lessor from time to time at the request of the Construction Agent through a Requisition in consideration for the Construction Agent's agreeing for the benefit of the Lessor, pursuant to the Agency Agreement, to assist with the acquisition by the Lessor of parcels of Land or other Property and, if such Property is not a Completed Property, to construct Construction Improvements thereon in accordance with the applicable Plans and Specifications. Upon the terms and subject to the conditions of the Loan Facility Agreement and this Agreement, on each Funding Date, (i) RFC may make RFC Loans to the Lessor in immediately available funds in amounts in accordance with Section 5 below, and (ii) to the extent that RFC does not make RFC Loans under the Loan Facility Agreement, the Backup Facility Banks shall make Backup Facility Loans on such Funding Date in accordance with the terms of the Loan Facility Agreement. Pursuant to Section 2.14(c) of the Loan Facility Agreement, RFC may apply portions of Loans funded by RFC to amounts due RFC.

1.2 Investor Contributions. Upon the terms and subject to the conditions of this Agreement and the Trust Agreement, on the Initial Closing Date and on each Funding Date, each of the Investors shall make an investment in the Lessor (each, an "Investor Contribution") by making available in immediately available funds amounts in accordance with Section 5 below for the Initial Closing Date and on each such Funding Date. The Lessor shall use the Investor Contributions to pay a portion of the Project Costs simultaneously and pro rata with the fundings by RFC and/or the Backup Facility Banks under the Loan Facility Agreement. The aggregate amount of Investor Contributions made under this Section 1.2 made by each Investor shall not exceed the "Investor Contribution Commitment" for the applicable Investor (the "Investor Contribution Commitment") set forth on Schedule II attached hereto.

1.3 Investor Yield: Interest. (a) During the Construction Period, if any Requisition submitted pursuant to Section 5.2 specifies a Funding Date which is an Investor Yield Payment Date, such Requisition shall request, among other things, Loans and Investor Contributions in the amount equal to the aggregate amount of Allocated Investor Yield due and payable on such Investor Yield Payment Date with respect to the Construction Period Properties solely for the purpose of paying such Investor Yield which is then due and payable.

(b) During the Construction Period, if any Requisition submitted pursuant to Section 5.2 specifies a Funding Date which is a Settlement Date, such Requisition shall request, among other things, Loans and Investor Contributions in the amount equal to the aggregate



amount of Allocated Interest due and payable on the then outstanding Loans on such Settlement Date with respect to the Construction Period Properties solely for the purpose of paying such interest which is then due and payable. On each such Funding Date, the Tranche A/B Property Cost and the Tranche A/B Construction Property Cost of each Construction Period Property shall be increased by an amount equal to the Allocated Interest paid on such date with respect to such Property.

1.4 Fees. During the Construction Period, if any Requisition submitted pursuant to Section 5.2 specifies a Funding Date which is a date that any fees (including the Facility Fee and other fees payable under the Fee Letter Agreement) are payable (each a "Fee Payment Date"), such Requisition shall request, among other things, Loans in an amount equal to the fees which are due and payable on such Fee Payment Date solely for the purpose of paying such fees which are then due and payable.

1.5 Liquidity Facility. Subject to the terms and conditions hereinafter set forth and set forth in the other Operative Agreements, and in reliance on the representations and warranties contained herein or made pursuant hereto, on the Initial Closing Date, the Backup Facility Banks shall, pursuant to the Liquidity Agreement, and under the terms and conditions set forth in the Liquidity Agreement, agree to purchase RFC Loans.

1.6 Collateral For Loans. The repayment of the Loans and the Investor Contributions, and the obligations of the Lessor under the Loan Facility Agreement and the other Operative Agreements, shall be secured by, inter alia, (i) a first priority perfected assignment of the Lease, granted pursuant to the Assignment of Leases and consented to by the Lessee pursuant to the Consent to Assignment, (ii) a first priority perfected assignment of the Agency Agreement, granted pursuant to the Contract Assignment and consented to by the Construction Agent pursuant to the Consent to Contract Assignment; (iii) a first priority deed of trust or mortgage lien on the applicable Property pursuant to the Mortgages; (iv) the Structural Support Agreement; and (v) the other Security Documents.

1.7 Structural Support Agreement. The obligations of the Lessor hereunder, under the Loan Facility Agreement, and the other Operative Agreements, shall be supported by the Lessee as provided in, and to the extent provided in, the Structural Support Agreement.

## SECTION 2. SUMMARY OF THE TRANSACTIONS: COMPUTATIONS

2.1 Operative Agreements. On the Initial Closing Date, each of the respective parties thereto shall execute and deliver this Agreement, the Lease, the Notes (if any), the Structural Support Agreement, the Loan Facility Agreement, the Liquidity Agreement, the Agency Agreement, the Financing Statements, the Pledge Agreement, the Assignment of Leases, the Consent to Assignment, the Assignment of Contracts, the Contract Consent, the Trust Agreement, the Certificates, the other Security Documents, and such other documents, instruments, certificates and opinions of counsel as agreed to by the parties hereto.

2.2 Property Purchase and Lease. (a) On each Property Closing Date and subject to the terms and conditions of this Agreement and the Loan Facility Agreement (i) the Investors will make Investor Contributions in accordance with Section 1.2 hereof, (ii) the

Lenders will make Loans in accordance with Section 1.1 hereof and the terms and provisions of the Loan Facility Agreement secured by a Mortgage with respect to the applicable Property executed and delivered by the Lessor and the Lessee, (iii) the Lessor will purchase or ground lease all right, title and interest in and to each Property identified by the Construction Agent pursuant to the Agency Agreement with respect to such Property Closing Date, and (iv) the Lessor will simultaneously lease (or sublease, as the case may be) all of its right, title and interest in the applicable Property to the Lessee by executing and delivering a Memorandum of Lease and Supplement which will be recorded in the real estate records in the county where such Property is located. Notwithstanding anything contained herein or in the other Operative Agreements, neither the Lessee nor the Construction Agent shall have any obligation to identify any Property to be purchased by the Lessor or included in the Overall Transaction.

(b) On each Property Closing Date, the Lessee shall certify to the Administrative Agent in the applicable Memorandum of Lease and Supplement the Tranche A Percentage for each Property being acquired on such Property Closing Date. The Tranche A Percentage so certified shall be the Tranche A Percentage for such Property for the duration of the Term.

2.3 Construction of Construction Improvements: Lease of Improvements. On each Property Closing Date for a Construction Period Property, the Lessor and Lessee will execute and deliver an Agency Agreement Supplement, dated as of such Property Closing Date, pursuant to which the Lessee will agree to act as Construction Agent and to perform the Lessor's obligations in connection with the completion of the construction of the Construction Improvements on the Construction Land acquired on such Property Closing Date.

2.4 Aggregate Tranche A Percentage: Tranche A Percentage. Notwithstanding any other provision of this Agreement or the other Operative Agreements, the Lessee agrees that in no event shall the Lessee specify a Property for the Lessor to acquire and lease pursuant to the execution and delivery of a Memorandum of Lease and Supplement if the Aggregate Tranche A Percentage after giving effect to the acquisition and lease pursuant to the execution and delivery of a Memorandum of Lease and Supplement of such Property would be less than 86.00%.

2.5 Computations. (a) All computations of interest in respect of Eurodollar Loans under the Loan Facility Agreement, Investor Yield in respect of the Investor Contributions and other accrued amounts (other than with respect to RFC Loans) pursuant to the Operative Agreements shall be made by Administrative Agent on the basis of the actual number of days (including the first day but excluding the last day) occurring during the period for which such amount is payable over a year comprised of 360 days (or, in the case of computations of amounts accruing interest or Investor Yield by reference to the ABR, 365 days or, if appropriate, 366 days).

(b) Each determination by Administrative Agent of the Interest Rate (other than with respect to RFC Loans), Facility Fees, the Investor Yield Rate or any other amount due pursuant to any provision of this Agreement or any of the other Operative Agreements shall be conclusive and binding on all parties hereto, absent manifest error.

Each of the Investors and the Lessor hereby appoints the Administrative Agent as its agent for purposes of computing Investor Yield in respect of the Investor Contributions and determining the Investor Yield Rate.

2.6 Budgets for Properties. Changes for the Budget for any Property can be made in accordance with Section 3.1(b) of the Agency Agreement.

SECTION 3. INTENTIONS OF THE PARTIES

3.1 Ownership of the Properties. (a) The parties hereto intend that (i) for financial accounting purposes with respect to Lessee (A) the Lease will be treated as an "operating lease" pursuant to Statement of Financial Accounting Standards (SFAS) No. 13, as amended, and all EITF pronouncements pursuant thereto, (B) Lessor will be treated as the owner and lessor of the Properties, and (C) Lessee will be treated as the lessee of the Properties, but (ii) for federal, state and local income tax purposes, state real estate, commercial law and bankruptcy purposes, remedial purposes and all other purposes (A) the transactions contemplated by the Operative Agreements will be treated as a financing arrangement, (B) the Lenders will be treated as senior lenders making loans to Lessee in an amount equal to the Loans, which Loans will be secured by the Properties, (C) the Investors will be treated as subordinated lenders making loans to Lessee in amounts equal to the Investor Contributions, which loans are secured by the Properties, and (D) Lessee will be treated as the owner of the Properties and will be entitled to all tax benefits ordinarily available to an owner of property like the Properties for such tax purposes.

(b) The parties hereto further intend and agree that, for the purpose of securing Lessee's obligations for the repayment of the above-described loans, (i) the Lease shall also be deemed to be a security agreement and financing statement within the meaning of Article 9 of the UCC and a real property mortgage or deed of trust, as applicable; (ii) the conveyance provided for in Section 7.1(b) of the Lease shall be deemed a grant of a security interest in and a mortgage lien on the Lessee's right, title and interest in the Properties and all the proceeds of the conversion, voluntary or involuntary, of the foregoing into cash, investments, securities or other property, whether in the form of cash, investments, securities or other property, for the benefit of the Lessor to secure the Lessee's payment of all amounts owed by the Lessee under the Lease and the other Operative Agreements and Lessor holds title to the Properties so as to create and grant (A) a first lien and prior security interest in the Lessor's right, title, and interest in the Lease and all amounts payable thereunder pursuant to the Assignment of Lease, to secure to the Administrative Agent the obligations of the Lessor under the Mortgage and the Loans and (B) a first mortgage lien and prior security interest in the Properties pursuant to the Mortgage to secure to the Administrative Agent the obligations of the Lessor under the Mortgage and the Loans; (iii) the possession by Lessor or any of its agents of notes and such other items of property as constitute instruments, money, negotiable documents or chattel paper evidencing the proceeds referred to in (ii) above shall be deemed to be "possession by the secured party" for purposes of perfecting the security interest pursuant to Section 9-313 of the UCC; and (iv) notifications to Persons holding such property, and acknowledgements, receipts or confirmations from financial intermediaries, bankers or agents (as applicable) of Lessee shall be deemed to have been given for the purpose of perfecting such security interest under applicable law. The Participants shall, to the extent consistent with the Lease and the other Operative Agreements, take such actions as

may be necessary to ensure that, if the Lease were deemed to create a security interest in the Properties in accordance with this Section, such security interest would be deemed to be a perfected security interest of first priority under applicable law and will be maintained as such throughout the Term. Nevertheless, Lessee acknowledges and agrees that none of the Participants has provided or will provide tax, accounting or legal advice to Lessee regarding the Lease, the Operative Agreements or the transactions contemplated hereby and thereby, or made any representations or warranties concerning the tax, accounting or legal characteristics of the Operative Agreements, and that Lessee has obtained and relied upon such tax, accounting and legal advice concerning the Operative Agreements as it deems appropriate.

(c) The Participants further intend and agree that in the event of any insolvency or receivership proceedings or a petition under the United States bankruptcy laws or any other applicable insolvency laws or statute of the United States of America or any State or Commonwealth thereof affecting Lessee or Lessor, the transactions evidenced by the Lease shall be regarded as loans made by an unrelated third party lender to Lessee.

3.2 Amounts Due Under Lease. (a) Anything else herein or elsewhere to the contrary notwithstanding, it is the intention of Lessee, Lessor, each Investor, the Lenders, and the Administrative Agent that after Completion of a Construction Period Property and after the Property Closing Date for any other Property, the amount and timing of installments of Basic Rent for each such Property due and payable from time to time from Lessee under the Lease shall be equal to the aggregate payments due and payable on that portion of the Loans and Investor Contributions as allocated for such Property on each Settlement Date and Certificate Payment Date, respectively, with respect to interest, Facility Fees and Investor Yield then due.

(b) Notwithstanding anything to the contrary contained in the Operative Agreements, if Lessee makes a payment of Rent to the Funding Account as required under the Operative Agreements, and the amount of and the timing of such payment is based on or defined by a payment due by another party pursuant to the Operative Agreements, payment by Lessee of such amount to such account shall be deemed to also constitute payment of such amount by such other party at the time such amount is received in the Funding Account. By way of illustration, but not by way of limitation, if interest in the amount of \$1,000,000 owing by the Lessor to the Administrative Agent (for the account of the Backup Facility Banks) with respect to Backup Facility Loans is due on July 1, 2001, the same amount is due on such date by Lessee to Lessor as Basic Rent, Lessee pays such amount by wire transfer to the Funding Account and such amount is received in such account on July 1, 2001 within the time period required in the Operative Agreements, then such \$1,000,000 shall be deemed to have been paid in a timely manner (i) by Lessee with respect to Basic Rent, and (ii) by Lessor with respect to the Backup Facility Loans held by the Backup Facility Banks.

#### SECTION 4. THE INITIAL CLOSING

4.1 Initial Closing Date. All documents and instruments required to be delivered on the Initial Closing Date shall be delivered at the offices of Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, New York, or at such other location as may be determined by the Administrative Agent and the Lessee.

4.2 Trust Company Authorization. The Investors agree that, with respect to the Initial Closing Date and each Funding Date, the satisfaction or waiver of the conditions contained in Section 6 hereof shall constitute, without further act, authorization and direction by the Investors to the Trust Company to take on behalf of the Lessor the actions specified in Section 2.2 of the Trust Agreement.

## SECTION 5. FUNDING OF ADVANCES

5.1 General. To the extent funds have been made available to the Lessor as Loans and Investor Contributions, the Lessor will make advances of such funds to the Construction Agent from time to time in accordance with the terms and conditions of this Agreement and the other Operative Agreements in order to provide sufficient funds to: (i) allow the Lessor, at the direction of the Construction Agent, to acquire the Construction Land or Completed Property in accordance with the terms of this Agreement and the other Operative Agreements; (ii) allow the Lessor to pay Transaction Expenses; (iii) permit the Construction Agent to construct the Construction Improvements in accordance with the Plans and Specifications and the terms of the Agency Agreement, the Lease and the other Operative Agreements; and (iv) pay all other Project Costs.

5.2 Procedures for Funding. (a) Not later than 1:00 P.M. New York City time at least three (3) Business Days prior to the Initial Closing Date, and at least three (3) Business Days prior to each proposed Funding Date (but only one (1) Business Day with regard to funding of an ABR Loan exclusively), the Construction Agent shall deliver to the Administrative Agent a requisition (a "Requisition"), appropriately completed, in the form of Exhibit C attached hereto.

(b) The Requisition relating to the Initial Closing Date shall (i) be irrevocable, and (ii) request funds to pay Project Costs. Each Requisition relating to a Funding Date shall: (i) be irrevocable; (ii) request funds in an amount of at least \$3,500,000 (or such lesser amount as shall be equal to the total aggregate of the Available RFC Loan Commitments plus the Available Investor Commitment at such time or with respect to the last draw being made under this Agreement) for the payment of Project Costs which have previously been incurred or which are to be incurred within the next sixty (60) days and were not the subject of, and funded pursuant to, a prior Requisition, in each case as specified in such Requisition; and (iii) in the event that Loans are being borrowed from the Backup Facility Banks, specify whether the funds requested are to bear interest based upon ABR or the Eurodollar Rate, and the Interest Period with respect thereto. The Construction Agent shall not have the right to submit more than one (1) Requisition in any calendar month and shall in any event submit a Requisition at least one (1) time in each consecutive three (3) calendar months. All Advances shall be allocated by Lessee among the Properties in accordance with the Requisition. Advance amounts which do not specifically relate to an one Property may be allocated and reallocated by the Lessee from time to time among the Properties on a pro rata basis.

(c) As long as the conditions of Section 6.1, 6.2 and/or 6.3, as applicable, have been satisfied when required by the terms hereof, on each Funding Date (i) the Lenders shall, in accordance with the Loan Facility Agreement, make Loans to the Lessor in an aggregate amount equal to 96.84% of the funds specified in any Requisition, up to an aggregate principal amount equal to the Available Loan Commitments; (ii) each Investor shall make an Investor

Contribution in an amount equal to its Percentage Share of 3.16% of the funds specified in any Requisition, up to an amount equal to the Available Investor Commitment; and (iii) the total amount of such Loans and Investor Contribution made on such date shall be paid to the Construction Agent to pay the Project Costs.

(d) Notwithstanding anything to the contrary in this Agreement, (i) the Lenders shall not be required to make Loans with respect to any Construction Period Property in an aggregate amount in excess of 96.84% of the amount allocated to such Property in the Budget, and (ii) no Investor shall be required to make Investor Contributions with respect to any Construction Period Property in an aggregate amount in excess of its Percentage Share of 3.16% of the amount allocated to such Property in the Budget.

## SECTION 6. CONDITIONS OF THE CLOSING AND ADVANCES

6.1 General Conditions to Investor's and Lender's Obligations to Make Advances. The obligation of each Investor, RFC and each Backup Facility Bank to perform its obligations on each Funding Date (including each Property Closing Date), including funding Investor Contributions in the case of each Investor, funding Loans in the case of RFC and the Backup Facility Banks, shall be subject to the fulfillment to the reasonable satisfaction of (including, with respect to writings, such writings being in form and substance reasonably satisfactory to the addressee or beneficiary thereof) (or the waiver in writing by the Administrative Agent and to the extent the Investors have a right of approval set forth below, the Required Investors (provided the conditions applicable to RFC Loans may only be waived in writing by RFC)), of the following conditions precedent set forth in this Section 6.1 immediately prior to or concurrently with the making of such Advance:

(a) Operative Agreements. Each of the Operative Agreements (other than those which are required to be executed pursuant to Section 6.2 or 6.3) shall have been duly authorized, executed and delivered by the parties thereto, and shall be in full force and effect and the Administrative Agent shall have received a fully executed copy of each such Operative Agreement;

(b) Taxes. All taxes, fees and other charges in connection with the execution, delivery, and, where applicable, recording, filing and registration of the Operative Agreements shall have been paid or provisions for such payment shall have been made by Lessee;

(c) Governmental Actions. Subject to Section 6.6, all necessary Governmental Actions shall have been obtained or made and be in full force and effect;

(d) Litigation. No action or proceeding shall have been instituted, nor to the knowledge of the Lessee shall any action or proceeding be threatened, against Lessee, Lessor, or any Property, before any Governmental Authority, nor shall any order, judgment or decree have been issued or proposed to be issued by any Governmental Authority which in any case seeks (i) to set aside, restrain, enjoin or prevent the full performance of this Agreement, any other Operative Agreement or any of the

transactions contemplated hereby or thereby, or (ii) which is reasonably likely to have a Material Adverse Effect;

(e) Reserved.

(f) Liquidity Agreement. With respect to RFC Loans only, the Liquidity Agreement shall be in full force and effect;

(g) Representations and Warranties. The representations and warranties of the Lessee and the Lessor contained herein and in each of the other Operative Agreements shall be true and correct in all material respects on and as of the applicable Funding Date as if made on and as of such Funding Date, *provided, however*, that with respect to property-related representations and warranties, the Lessee is only reaffirming those property-related representations and warranties relating to the Property or Properties for which any portion of such Advance is being requested for payment of the costs of acquisition of such Property (or the applicable Land) or construction of the applicable Improvements on such Property;

(h) Reserved.

(i) Reserved.

(j) Lessee's Resolutions and Incumbency Certificate, etc. On the Initial Closing Date, Lessee shall have delivered to the Administrative Agent certificate(s) of its Secretary or an Assistant Secretary attaching, and certifying as to (A) the resolutions of the Board of Directors duly authorizing the execution, delivery and performance by it of each Operative Document to which it is or on any future Funding Date will be a party, (B) its certificate of incorporation and by-laws, (C) the incumbency and signature of persons authorized to execute and deliver on its behalf the Operative Agreements to which it is or on any future Funding Date will be a party, (D) a good standing certificate for the state of Delaware, and which shall state that the resolutions thereby certified have not been amended, modified, revoked or rescinded;

(k) Corporate Proceedings of the Trust Company. On the Initial Closing Date, the Administrative Agent, the Investors and the Lessee shall have received a certificate(s) of the President or any Vice President, Assistant Vice President, Trust Officer and the Secretary or any Assistant Secretary of the Trust Company attaching, and certifying as to (A) the resolutions of the Board of Directors duly authorizing the execution, delivery and performance by it of each Operative Document to which it or the Lessor is or on any future Funding Date will be a party, (B) its certificate of incorporation and by-laws, (C) the incumbency and signature of persons authorized to execute and deliver on its behalf the Operative Agreements to which it or the Lessor is or on any future Funding Date will be a party, (D) a good standing certificate for the state of Delaware, and which shall state that the resolutions thereby certified have not been amended, modified, revoked or rescinded;

(l) Fees. The Administrative Agent and the Arranger shall have received the fees to be paid on the Initial Closing Date pursuant to the Fee Letter Agreement;

(m) Legal Opinions.

(i) On the Initial Closing Date, the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of internal counsel to the Lessee, in the form of Exhibit D-1 hereto;

(ii) On the Initial Closing Date, the Administrative Agent, the Lessee and the Investors shall have received the executed legal opinion of Morris, James, Hitchins, & Williams LLP, counsel to the Lessor and the Trust Company, in the form of Exhibit D-3 hereto;

(iii) On the Initial Closing Date, the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of Mayer Brown & Platt, counsel to the Lessee in the form of Exhibit D-4 hereto; and

(iv) On the Initial Closing Date, the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of Mayer Brown & Platt, counsel to the Lessee in the form of Exhibit D-5 hereto.

## (n) [Intentionally Deleted]

(o) Default. No Default (other than a Default described in Sections 17.1(d), (e), (f), (i) or (j) of the Lease) or Event of Default under any of the Operative Agreements shall have occurred and be continuing nor shall any Default or Event of Default occur by virtue of the Advance requested by such Requisition;

(p) Transaction Expenses. All Transaction Expenses (excluding those set forth in the Fee Letter) shall have been paid in full to the extent then invoiced, and all Transaction Expenses specified in the Fee Letter Agreement shall have been paid in accordance with the terms of the Fee Letter Agreement. Payments of Transaction Expenses to be paid on the Initial Closing Date shall be made out of the requested Advance, provided Lessee shall have received invoices and supporting information for such Transaction Expenses, and made by wire transfer of immediately available funds to the accounts specified by the parties receiving such payments;

(q) Loan Facility Agreement. The conditions precedent set forth in Section 3.2(b) of the Loan Facility Agreement shall have been satisfied or waived; and

(r) Lender Advances. With respect to each Advance, each Investor shall be satisfied that the Lessor shall receive from the Lenders on the relevant Funding Date Loans an amount equal to 96.84% of the applicable Advance.

(s) Legal Prohibition. The transactions contemplated by Operative Agreements shall not violate any Legal Requirement, and no change shall have occurred



or been proposed in any Legal Requirement that would make it illegal for any Participant to participate in such transactions.

6.2 Conditions to the Investor's and the Lenders' Obligations to Make Advances to Pay Property Acquisition Costs. In addition to the conditions set forth in Section 6.1 (other than those that solely relate to the Initial Closing Date), the obligations of each Investor to make each Investor Contribution, and of the Lenders to make Loans to the Lessor, on a Funding Date for the purpose of providing funds to the Lessor necessary to acquire a Property, are subject to the satisfaction (or waiver by the Administrative Agent, and to the extent the Investors have a right of approval set forth below, the Required Investors (provided the conditions applicable to RFC Loans may only be waived by RFC)) of the following conditions precedent:

(a) Requisition. The Administrative Agent, RFC and the Investors shall have received a fully executed counterpart of the Requisition in accordance with Section 5.2;

(b) Deed or Ground Lease. Subject to Section 6.6, there shall have been delivered to the Lessor, as applicable, (i) a deed (the "Deed"), in form and substance appropriate for recording with the applicable Governmental Authorities, with respect to each Property (and all Improvements located thereon) being purchased on such Property Closing Date, conveying fee simple title to such Property to the Lessor, subject only to the Permitted Exceptions, or (ii) a Ground Lease with respect to each Property being ground leased on such Property Closing Date (such Ground Lease, or a Memorandum of such Ground Lease, as appropriate under applicable Legal Requirements, to be in form and substance appropriate for recording with the applicable Governmental Authorities), subject only to Permitted Exceptions;

(c) Memorandum of Lease and Supplement. The Lessee shall have delivered to the Administrative Agent a Memorandum of Lease and Supplement executed by the Lessee and the Lessor with respect to each Property being acquired on such Property Closing Date;

(d) Agency Agreement Supplement. The Construction Agent shall have delivered to the Administrative Agent an Agency Agreement Supplement executed by the Construction Agent and the Lessor with respect to each Construction Period Property being acquired on such Property Closing Date;

(e) Recordation. Subject to Section 6.6, the Administrative Agent and the Investors shall have received evidence reasonably satisfactory to it that the Memorandum of Lease and Supplement, the Mortgage, the Assignment of Lease and the Financing Statements relating to the applicable Property have been recorded or filed (or that such documents are held by the Title Company or a closing agent acceptable to Administrative Agent and are in a position to be so filed and recorded, as applicable) in a manner sufficient to properly secure the interests of Administrative Agent and Lessor therein;

(f) Consent to Assignment of Lease. The Lessee shall have delivered to the Administrative Agent a Consent to Assignment executed by the Lessee with respect to each Property being acquired on such Property Closing Date;

(g) Environmental Site Assessment. The Administrative Agent and the Investors shall have received not less than five (5) Business Days prior to the Funding Date with respect to such Property Closing Date (i) an Environmental Site Assessment with respect to each Property being acquired on such Property Closing Date, prepared by the Environmental Engineer and the results of the Environmental Site Assessment shall be in form and substance satisfactory to the Administrative Agent and reasonably satisfactory to the Required Investors; and (ii) letters from the Environmental Engineer stating, among other things, that the Administrative Agent, the Lenders, the Lessor and the Investors may rely on the Environmental Site Assessment with respect to each Property being acquired on such Property Closing Date which were prepared by such firm as if they were originally addressed to them in all respects;

(h) Appraisal. The Administrative Agent and the Investors shall have received an Appraisal of each Property being acquired on such Property Closing Date and such Appraisal shall show that the value of each Property, as specified in clause (i) of the definition of "Appraisal" is at least equal to the projected Project Costs for such Property as set forth on the Budget, and such Appraisal shall be reasonably satisfactory in all respects to the Administrative Agent and the Required Investors;

(i) Survey. The Administrative Agent, the Lessor, the Investors and the Title Company shall have each received a survey of each Property being acquired on such Property Closing Date, certified to the Administrative Agent, the Lessor, the Investors and the Title Company as of a date within ninety (90) days of such Property Closing Date, by an independent professionally licensed land surveyor reasonably satisfactory to the Administrative Agent and the Investors, which survey shall be made in accordance with the Minimum Standard Detail Requirements for Land Title Surveys jointly established and adopted by the American Land Title Association and the American Congress on Surveying and Mapping in 1992, and, without limiting the generality of the foregoing, there shall be surveyed and shown on such survey the following: (i) the locations on such Property of all the buildings, structures and other improvements, if any, and the established building setback lines; (ii) the lines of streets abutting such Property; (iii) all access and other easements appurtenant to such Property; (iv) all roadways, paths, driveways, easements, encroachments and overhanging projections and similar encumbrances burdening such Property, whether or not recorded, apparent from a physical inspection of such Property or otherwise known to the surveyor; (v) any encroachments on any adjoining property by the building, structures and improvements on such Property; (vi) if such Property is described as being on a filed map, a legend relating the survey to said map; and (vii) the flood hazard determination referred to in Section 7.4(c);

(j) Mortgagee's Title Insurance Policy. Subject to Section 6.6, with respect to each Property being acquired on such Property Closing Date, the Administrative Agent shall have received with respect to the Mortgage a mortgagees' title policy, or marked up

unconditional binder for such insurance dated such Property Closing Date or other evidence, satisfactory to Administrative Agent, of the commitment of the Title Company to issue a mortgagee's title policy; such title insurance policy shall (i) be in an amount equal to 96.84% of the aggregate amount of Project Costs shown on the Budget for any Construction Period Property (with a pending disbursements clause) and 96.84% of the Property Cost for any Completed Property; (ii) insure that the Mortgage insured thereby creates a valid first Lien on such Property, free and clear of all defects and encumbrances, except Permitted Exceptions; (iii) name the Administrative Agent for the benefit of the Lenders as the insured thereunder; (iv) be in the form of ALTA Loan Policy - 1970 (Amended 10/17/70) (to the extent such policy is available, or if unavailable, then such other ALTA Loan Policy form as is available in the state in which the applicable Property is situated); (v) contain, where available, comprehensive, access, tax lot, revolving credit, zoning (unless the cost of a zoning endorsement is more than nominal and the Lessee has delivered other evidence of zoning compliance reasonably acceptable to the Administrative Agent, and such other endorsements and affirmative coverage as the Administrative Agent may reasonably request; and (vi) be issued by the Title Company, and the Administrative Agent shall have received evidence reasonably satisfactory to it that all premiums in respect of such title insurance policy, and all charges for any mortgage recording tax with respect to the Mortgage have been paid or provision made therefor;

(k) Owner's or Leasehold Title Insurance Policy. Subject to Section 6.6, the Lessor shall have received an owner's or leasehold, as applicable, title policy, or marked up unconditional binder for such insurance or other evidence, satisfactory to Administrative Agent and the Required Investors, of the commitment of the Title Company to issue an ALTA owner's or leasehold, as applicable, title policy, dated such Property Closing Date, and containing a "recharacterization" endorsement and where available, the other endorsements referred to in clause (v) of Section 6.2(j), for each Property being acquired on such Property Closing Date, in standard forms and shall be in an amount equal to the aggregate amount of Project Costs shown on the Budget for any Construction Period Property (with a pending disbursements clause) and 100% of the Property Cost with respect to any Completed Property, and the Lessor and the Investors shall have received evidence reasonably satisfactory to it that all premiums in respect of such policy have been paid or provision made therefor;

(l) Lien Searches. The Administrative Agent shall have received the results of a recent search by a Person reasonably satisfactory to the Administrative Agent, of the Uniform Commercial Code, judgment and tax lien filings which may have been filed in the State of Delaware, and other appropriate jurisdictions, with respect to the Lessor, and the results of such search shall be satisfactory to the Administrative Agent;

(m) Construction Schedule. With respect to each Construction Period Property being acquired on such Property Closing Date, the Administrative Agent and the Investors shall have received a copy of the schedule prepared by or at the direction of the Construction Agent showing, to the satisfaction of the Administrative Agent and the Required Investors, the estimated (i) a schedule of certain construction milestones relating to the completion of the Construction Improvements showing in any event that

Completion with respect to such Construction Period Property is anticipated to occur on or before the Outside Completion Date, and (ii) timetable for the making of Loans and Investor Contributions with respect to such Construction Period Property;

(n) Budget. With respect to each Construction Period Property being acquired on such Property Closing Date, the Administrative Agent and the Investors shall have received a copy of the Budget, and such Budget shall be in form and substance satisfactory to the Administrative Agent and the Required Investors;

(o) Plans and Specifications. With respect to each Construction Period Property being acquired on such Property Closing Date, the Administrative Agent and the Investors shall have received, if available, a copy of the Plans and Specifications;

(p) Legal Opinions. With respect to each Property being acquired on such Property Closing Date:

- (i) the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of internal counsel to Lessee, substantially in the form of Exhibit D-1 hereto, limited to those Operative Agreements executed on such Property Closing Date, which opinion shall be reasonably satisfactory to the Administrative Agent; and
- (ii) the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of local counsel to the Lessee in the state in which such Property is located, substantially in the form of Exhibit D-2 hereto, with such changes as may be appropriate based upon applicable local law and practice, which opinion shall be reasonably satisfactory to the Administrative Agent; and
- (iii) the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of counsel to Lessor, the Trust and the Trust Company, substantially in the form of Exhibit D-3 hereto, limited to those Operative Agreements executed on such Property Closing Date, which opinion shall be reasonably satisfactory to the Administrative Agent; and
- (iv) the Administrative Agent, the Lessor, the Trust Company and the Investors shall have received the executed legal opinion of counsel to Lessee, substantially in the form of Exhibit D-4 hereto, limited to those Operative Agreements executed on such Property Closing Date, which opinion shall be reasonably satisfactory to the Administrative Agent;

(q) Insurance. Subject to Section 6.6, with respect to the Properties for which such Advance is being requested, the Administrative Agent and the Investors each shall have received evidence in form and substance satisfactory to each of the Administrative

Agent and the Required Investors that all of the requirements of Section 14 of the Lease and Section 6 of the Agency Agreement shall have been satisfied (which evidence shall include insurance certificates and may include copies of all applicable insurance policies and riders and endorsements);

(r) FIRPTA Affidavit. Subject to Section 6.6, the Administrative Agent and the Investors shall have received either (i) a FIRPTA Affidavit from the seller of the applicable Property in customary form or (ii) if such seller is a "foreign person" as defined in Section 1445 of the Code, evidence that a portion of the sales price to be paid to such seller has been withheld, if so required, in accordance with the provisions of the Code;

(s) No Event of Loss. Subject to Section 6.6, no Casualty or loss (other than one which is immaterial) shall have occurred in respect of a Construction Period Property unless covered by insurance (other than any Casualty or loss which is subject to an insurance deductible amount, which when aggregated with insurance deductibles associated with any other casualties or losses subject to insurance deductibles with respect to such Property, does not exceed the amount allocated to insurance deductibles in the applicable Budget). No action shall be pending or threatened by a Governmental Authority to initiate a Condemnation (other than one which is immaterial) by such Governmental Authority in respect of such Property; and

(t) Flood Zone. No portion of any Property being acquired by the Lessor on such Property Closing Date shall be located in an area identified as a special flood hazard area by the Federal Emergency Management Agency or other applicable agency, or if any such Property is located in an area identified as a special flood hazard area by the Federal Emergency Management Agency or other applicable agency, then flood insurance shall have been obtained for such Property in accordance with Section 14.2(b) of the Lease and in accordance with the National Flood Insurance Act of 1968, as amended.

6.3 Conditions to the Investor's and the Lenders' Obligations to Make Advances to Pay Project Costs for Construction on any Construction Period Property. In addition to the conditions set forth in Section 6.1 (other than those that solely relate to the Initial Closing Date), the obligations of each Investor to make each Investor Contribution, and of the Lenders to make Loans to the Lessor, on a Funding Date for the purpose of providing funds to the Lessor necessary to pay for the construction of the Construction Improvements or the payment of Transaction Costs or other Project Costs (other than Property Acquisition Costs) are subject to the satisfaction (or waiver by the Administrative Agent, and to the extent the Investors have a right of approval set forth below, the Required Investors (provided the conditions applicable to RFC Loans may only be waived by RFC)) of the following conditions precedent:

(a) Requisition. The Administrative Agent, RFC and the Investors shall have received a fully executed counterpart of the Requisition, in accordance with Section 5.2;

(b) Budget in Balance. Based upon the Budget for the Properties, the Available RFC Loan Commitment and the Available Investor Commitment will be

sufficient to acquire such Properties, and complete the Construction Improvements on, such Properties;

(c) Lien Waivers. With respect to each Construction Period Property to which such Requisition relates, the Administrative Agent shall have received lien waivers, in form and substance reasonably satisfactory to the Administrative Agent, from each contractor, subcontractor, supplier and materialmen which the Lessee reasonably believes will receive total compensation for services rendered or materials supplied in connection with the construction of the related Construction Improvements of \$250,000 or more; each such lien waiver shall evidence that such contractor, subcontractor, supplier or materialmen has been paid in full for all work performed or materials supplied to the date which is thirty (30) days prior to the date of the request for such Advance, other than work which is the subject of such request; and

(d) Plans and Specifications. With respect to each Property to which such Requisition relates, the Administrative Agent and the Investors shall have received a copy of the Plans and Specifications with respect to each Improvement to be constructed and installed on such Property, if such Plan and Specifications have not already been provided pursuant to Section 6.2(o), above.

6.4 Backup Facility. Notwithstanding anything to the contrary contained in Section 6.1, 6.2 or 6.3 of this Agreement, the Liquidity Agreement and the Loan Facility Agreement solely as they relate to transactions among the Administrative Agent, RFC and the Backup Facility Banks shall be effective upon the execution of such agreements by all such parties.

6.5 Approvals. (a) The remittance by any Lender (other than RFC) of its portion of the Loans and the remittance by any Investor of its portion of the Investor Contributions shall evidence such Lender's or Investor's, as applicable, satisfaction that the conditions precedent to such Advance have been met or waived.

(b) Each of the Lessor, the Administrative Agent, and the Lenders shall be deemed to have approved (x) all items set forth in Sections 6.1, 6.2, 6.3, 8.1(b) and Section 9.16 which are subject to the approval of such Person, or (y) any item for which the Lessee requests approval under Sections 10.2, 11.1(c) and 15 of the Lease or Sections 3.1, 6.1(b) and 6.2(a) of the Agency Agreement, unless such Person shall have provided express written notice to the Lessee, (in the case of approvals of any Person other than the Administrative Agent) the Administrative Agent, and (in the case of approvals of the Administrative Agent) the Lessor, on or prior to the applicable Funding Date (assuming in each case that such Person has been provided with the item or items subject to such approval at least five (5) Business Days prior to the date such approval is required), or (for approvals not related to any such dates) within five (5) Business Days after the Lessee's or Construction Agent's request for such approval, of any such disapproval, which notice shall be in writing and shall specifically indicate: (i) that it is a disapproval notice under this Section 6.5(b), (ii) the item so disapproved and (iii) the specific reason for such disapproval. In any case where any Investor has a right of consent or approval, such consent or approval shall not be unreasonably withheld or delayed.

6.6 Property Acquisitions. Notwithstanding anything to the contrary in Section 6, if Lessee requires a Property Closing Date to occur on a date which is not a Funding Date, the Administrative Agent, the Lessor, each Investor, RFC and each Backup Facility Bank agree that pursuant to Section 5.2(b), Lessee may submit a Requisition to fund Project Costs with respect to such Property on the Funding Date immediately preceding the applicable Property Closing Date. In such event, the following provisions shall be applicable:

- (i) Such amounts will be advanced into the Funding Account on such Funding Date;
- (ii) In connection with such acquisition Lessee shall (x) not be required to satisfy the conditions of Sections 6.1(c), 6.2(b), 6.2(e), 6.2(j), 6.2(k), 6.2(q), 6.2(r) and 6.2(s) until such Property Closing Date, and (y) on or prior to such Property Closing Date (or through the Property closing escrow), satisfy such conditions, at which time the Administrative Agent shall release to or as directed by Lessee the amounts held in the Funding Account pursuant to the immediately preceding clause (i) with respect to the applicable Property;
- (iii) In the event that Lessee is unable to satisfy the conditions of Sections 6.1(c), 6.2(b), 6.2(e), 6.2(j), 6.2(k), 6.2(q), 6.2(r) or 6.2(s) prior to such Property Closing Date, or if after such Funding Date, Lessee elects at its sole discretion not to acquire such Property, the funds deposited in the Funding Account shall be applied in accordance with Section 13:10(a)(i) and all documents in escrow or delivered by Lessee in connection with such Property shall be released to Lessee; *provided, however*, that in such event the Lessee shall have the right, subject to the terms and conditions of this Agreement, to include in a subsequent Requisition a request for an Advance of such funds for the acquisition of such Property; and
- (iv) Interest on the Loans and Investor Yield on the Investor Contributions shall begin accruing on the date such funds are advanced by the Participants.

## SECTION 7. REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of each Investor on the Initial Closing Date and as of each Funding Date. Each Investor represents and warrants to each of the other parties hereto as of the Initial Closing Date and as of each Funding Date as follows:

- (a) Due Organization, etc. It is a duly organized and validly existing corporation in good standing under the laws of the jurisdiction of its organization and has the power and authority to carry on its business as now conducted and to enter into and perform its obligations under this Agreement, each Operative Agreement to which it is or will be a party and each other agreement, instrument and document executed and delivered by it in connection with or as contemplated by each such Operative Agreement.
- (b) Authorization: No Conflict. The execution, delivery and performance by such Investor of each Operative Agreement to which it is a party has been duly authorized by all necessary action on its part and neither the execution and delivery thereof, nor the consummation of the transactions contemplated thereby, nor compliance

by it with any of the terms and provisions thereof (i) requires or will require any approval of (which approval has not been obtained) the shareholders of, or approval or consent of any trustee or holders of any indebtedness or obligations of such Investor, (ii) contravenes or will contravene any Legal Requirement applicable to or binding on it as of the date hereof, (iii) does or will contravene or result in any breach of or constitute any default under, or result in the creation of any Lessor Lien upon the Properties or any of the Improvements, its articles of incorporation or by-laws, any indenture, mortgage, chattel mortgage, deed of trust, conditional sales contract, bank loan or credit agreement or other agreement or instrument to which it or its properties may be bound, or (iv) does or will require any Governmental Action by any Governmental Authority.

(c) Enforceability, etc. Each Operative Agreement to which it is a party has been duly executed and delivered by it and constitutes, or upon execution and delivery will constitute, a legal, valid and binding obligation of such Investor enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(d) ERISA. Such Investor is making the Investor Contributions contemplated to be made by it hereunder for its own account and with its general corporate assets in the ordinary course of its business, and no part of such amount constitutes the plan assets of any Employee Benefit Plan.

(e) Litigation. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or, to such Investor's knowledge, threatened by or against such Investor (a) with respect to any of the Operative Agreements or any of the transactions contemplated hereby or thereby, or (b) which could reasonably be expected to have a material adverse effect on such Investor's ability to perform its obligations under the Operative Agreements.

(f) Source of Funds. The Investor Contributions to be made by such Investor will be made from equity held by such Investor, or if such funds are to be borrowed by such Investor, such borrowing is recourse to such Investor and to such Investor's knowledge, it has assets (other than its interest in the Overall Transaction) to fully pay such debt and all amounts due with respect thereto when due.

(g) Lessor Liens. There are no Lessor Liens attributable to such Investor.

(h) Offer of Securities, etc. Neither such Investor nor any Person authorized to act on its behalf has, directly or indirectly, offered to sell the Certificates or any other similar securities (the sale or offer of which would be integrated with the sale or offer of the Certificates), for sale to, or solicited any offer to acquire any of the same from, any Person.

(i) No Registration. Such Investor understands and acknowledges that the Certificates have not been and will not be registered under the Securities Act in reliance



upon the exemption provided in Section 4(2) of the Securities Act or any other applicable exemption, that the Certificates have not and will not be registered or qualified under the securities or "blue sky" laws of any jurisdiction, that the Certificates may be resold or otherwise transferred only if so registered or qualified or if an exemption from registration or qualification is available, that none of the Lessee, the Lessor or the Administrative Agent is required to register the Certificates and that any transfer must comply with the provisions of the Operative Agreements relating thereto. Such Investor will comply with all applicable federal and state securities laws in connection with any subsequent resale of the Certificates held by it.

(j) Institutional Investor. Such Investor is a sophisticated institutional investor and an "accredited investor" as defined in paragraph (1), (2), (3) or (7) of Rule 501(a) of the Securities Act, and has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of its investment in the Certificates and is able to bear the economic risk of such investment. Such Investor has been given such information concerning the Certificates, the other Operative Agreements, the Properties, the Lessor and the Lessee as it has requested.

(k) Legend. Such Investor understands and acknowledges that the Certificate which it is acquiring will bear a legend as set forth in the form of Certificate included in the Trust Agreement.

(l) Funding Dates. As of such Funding Date, the representations and warranties of such Investor set forth herein and in each of the other Operative Agreements are true and correct in all respects on and as of such Funding Date as if made on and as of such Funding Date, and such Investor is in compliance with its obligations under the Operative Agreements.

7.2 Representations and Warranties of Lessor on the Initial Closing Date and each Property Closing Date. Lessor represents and warrants to each of the other parties hereto as of the Initial Closing Date and each Property Closing Date as follows:

(a) Due Organization, etc. Lessor is a duly formed and validly existing business trust in good standing under the laws of the State of Delaware and has the power and authority to carry on its business as now conducted and to enter into and perform its obligations under this Agreement, each Operative Agreement to which it is a party and each other agreement, instrument and document executed and delivered by it in connection with or as contemplated by each such Operative Agreement.

(b) Authorization; No Conflict. The execution, delivery and performance by Lessor of each Operative Agreement to which it is a party has been duly authorized by all necessary action on its part and neither the execution and delivery thereof, nor the consummation of the transactions contemplated thereby, nor compliance by it with any of the terms and provisions thereof (i) requires or will require any approval of (which approval has not been obtained) any party or approval or consent of any trustee or holders of any indebtedness or obligations of the Lessor (ii) contravenes or will contravene any Legal Requirement applicable to or binding on it as of the date hereof, (iii) does or will

contravene or result in any breach of or constitute any default under, or result in the creation of any Lessor Lien upon the Property or any of the Improvements or the Trust Agreement, any indenture, mortgage, chattel mortgage, deed of trust, conditional sales contract, bank loan or credit agreement or other agreement or instrument to which it or its properties may be bound, or (iv) does or will require any Governmental Action by any Governmental Authority.

(c) Enforceability, etc. Each Operative Agreement to which it is a party has been duly executed and delivered by it and constitutes, or upon execution and delivery will constitute, a legal, valid and binding obligation of Lessor enforceable against it in accordance with the terms thereof, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(d) Litigation. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or threatened by or against the Lessor (a) with respect to any of the Operative Agreements or any of the transactions contemplated hereby or thereby, or (b) which could reasonably be expected to have a material adverse effect on the assets, liabilities, operations, business or financial condition of the Lessor.

(e) Assignment. Lessor has not assigned or transferred any of its right, title or interest in or under the Lease, any other Operative Agreement or any of the Properties, except in accordance with the other Operative Agreements.

(f) No Default. The Lessor is not in default under or with respect to any of its Contractual Obligations in any respect which could have a material adverse effect on the assets, liabilities, operations, business or financial condition of the Lessor. No Default or Event of Default attributable to it has occurred and is continuing.

(g) Chief Place of Business. The Lessor's chief place of business, chief executive office and office where the documents, accounts and records relating to the transactions contemplated by this Agreement and each other Operative Agreement are kept are located at Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware.

(h) Federal Reserve Regulations. The Lessor is not engaged principally in, and does not have as one of its most important activities, the business of extending credit for the purpose of purchasing or carrying any Margin Stock, and no part of the proceeds of the Loans will be used by it, directly or indirectly, to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock or for any purpose that violates, or is inconsistent with, the provisions of Regulations of the Board, including but not limited to, T, U or X of the Board.

(i) Investment and Holding Company Status. The Lessor is not (i) an "investment company" as defined in, or subject to regulation under the Investment

Company Act of 1940, or (ii) a "holding company" as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935.

(j) Securities Act. Neither the Lessor nor any Person authorized by the Lessor to act on its behalf has offered or sold any interest in the Properties, the Loans, the Notes (if any), or the Certificates, or in any similar security or interest relating to the Properties, or in any security the offering of which for the purposes of the Securities Act would be deemed to be part of the same offering as the offering of the aforementioned securities to, or solicited any offer to acquire any of the same from, any Person other than, in the case of the Loans, the Notes (if any), or the Certificates, the Administrative Agent or the Arranger, and neither the Lessor nor any Person authorized by the Lessor to act on its behalf will take any action which would subject the issuance or sale of any interest in the Properties, the Loans, the Notes (if any) or the Certificates, to the provisions of Section 5 of the Securities Act or require the qualification of any Operative Agreement under the Trust Indenture Act of 1939, as amended.

(k) Reserved.

(l) Lessor Liens. The Properties are free and clear of all Lessor Liens.

(m) Purpose: No Other Assets. Lessor was organized exclusively for the purposes of (i) acquiring the fee and leasehold interests in the Properties, (ii) leasing the Land and the Improvements to Lessee pursuant to the Lease, and (iii) conducting any ancillary business necessary to accomplish the purpose set forth in clauses (i) and (ii), and it has not engaged in any business unrelated to such purposes. It has no assets other than those related to its leasing, ownership and operation of the Properties.

(n) Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required by the Lessor in connection with the Overall Transaction, except such as have been given, made or obtained are in full force and effect.

(o) Representations and Warranties. The representations and warranties of the Lessor set forth herein and in each of the other Operative Agreements are true and correct in all material respects on and as of the Initial Closing Date and each Property Closing Date as if made on such date.

7.3 Representations and Warranties of the Lessee on the Initial Closing Date and each Funding Date. The Lessee represents and warrants to each of the other parties hereto as of the Initial Closing Date and each Funding Date (including each Property Closing Date, except as specifically set forth below) as follows:

(a) Organization: Powers. The Lessee (i) is duly organized, validly existing and in good standing under the laws of the State of Delaware, (ii) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted, (iii) is qualified to do business in every jurisdiction where such qualification is required, except where the failure so to qualify would not result in a Material Adverse Effect, and (iv) has the power and authority to execute,

deliver and perform its obligations under each of the Operative Agreements and each other agreement or instrument contemplated thereby to which it is or will be a party.

(b) Authorization. The execution, delivery and performance by the Lessee, Support Provider, and the Construction Agent of each of the Operative Agreements to which it is a party (a) has been duly authorized by all necessary corporate action and (b) will not (i) violate (A) any Legal Requirements applicable to Lessee, (B) any order of any Governmental Authority or (C) any provision of any indenture, agreement or other instrument to which the Lessee or the Construction Agent is a party or by which it or any of its property is or may be bound, (ii) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under any such indenture, agreement or other instrument of Lessee, (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by the Lessee or any of its Subsidiaries except in accordance with the Operative Agreements or (iv) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of Lessee, except for such approvals or consents which will be obtained on or before the Initial Closing Date (or, in the case of any Operative Agreement executed and delivered after the Initial Closing Date, on or before such date of execution or delivery) and disclosed in writing to the Administrative Agent and the Investors.

(c) Enforceability. This Agreement and each of the other Operative Agreements to which the Lessee, Support Provider, and/or the Construction Agent is a party has been duly authorized, executed and delivered by the Lessee and, assuming the due authorization, execution and delivery thereof on the part of the parties thereto (other than Lessee and the Construction Agent), constitutes a legal, valid and binding obligation of the Lessee and the Construction Agent, enforceable against the Lessee and the Construction Agent, in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(d) Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required by the Lessee, Construction Agent or Support Provider in connection with the Overall Transaction, except such as have been given, made or obtained, or which will be given, made or obtained in a timely manner, and those theretofore given, made or obtained are in full force and effect. All material Governmental Actions necessary for the construction, operation, use, leasing and ownership of the Land and Improvements then owned by Lessor or to be acquired on such Funding Date or that are required for the construction work which is the subject of the applicable Advance have been obtained, and such Governmental Actions are in full force and effect, and are not currently subject to any appeal or further proceeding,

(e) No Legal Bar. The execution, delivery and performance of this Agreement and the other Operative Agreements; and the Loans and Investor Contributions, and the use of the proceeds thereof, will not violate any Legal

Requirement or Contractual Obligation of the Lessee, Construction Agent or Support Provider, and will not result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any such Legal Requirement or Contractual Obligation, except as contemplated hereby or thereby and except to the extent any such violation of creation or imposition of a Lien would not reasonably be expected to have a Material Adverse Effect.

(f) Financial Statements. The Lessee has heretofore furnished to the Backup Facility Banks and the Investors the consolidated balance sheet and statement of income and cash flow of the Lessee, as of and for the fiscal year ended December 31, 2000, audited by and accompanied by the opinion of their independent public accountants. Such financial statements present fairly the financial condition and results of operations of the Lessee and its Subsidiaries as of such dates and for such periods. Such financial statements were prepared in accordance with GAAP applied on a consistent basis.

(g) No Material Adverse Change. As of the Initial Closing Date, there has been no material adverse change in the financial condition of the Lessee and its Subsidiaries, taken as a whole, since June 30, 2001, and as of each Funding Date other than the Initial Closing Date, there has been no material adverse change in the financial condition of the Lessee and its Subsidiaries, taken as a whole, since June 30, 2001 which materially impairs the ability of the Lessee, the Construction Agent or the Support Provider to perform their obligations under the Operative Agreements.

(h) Strikes, Lockouts, Etc. There are no strikes, lockouts, or other material labor disputes, or grievances against the Lessee relating to the construction of any Construction Period Property or, to the Lessee's knowledge, threatened against or affecting the Lessee relating to the construction of any Construction Period Property, and no significant unfair labor practice, charges, or grievances are pending against the Lessee relating to the construction of any Construction Period Property, or to the Lessee's knowledge, threatened against the Lessee relating to construction of any Construction Period Property before any Governmental Authority, any of which would have a Material Adverse Effect.

(i) Title to Properties; Possession Under Leases. (i) Lessee has (A) valid leasehold interests in (in the case of leasehold interests in real or personal property), or (B) good title to (in the case of all other personal property), all its properties and assets material to its business, except for minor defects that do not interfere with the ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes.

(ii) Lessee has complied with all obligations under all leases to which it is a party and all such leases are in full force and effect. Lessee enjoys peaceful and undisturbed possession under all such leases.

(j) Litigation: Compliance with Laws. (i) Except as disclosed in the financial statements described in Section 7.3(f), there are not any actions,

suits or proceedings, arbitration or governmental investigations at law or in equity by or before any Governmental Authority now pending; or to the knowledge of Lessee, threatened, against or affecting the Lessee or any business, property or rights of Lessee (x) which involve any Operative Agreements or the Overall Transactions; (y) which might reasonably be expected to have a Material Adverse Effect or (z) which adversely affect the title to, or the use, operation or value of, any Property.

(ii) Lessee is not in violation of any Legal Requirements or in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default could reasonably be anticipated to result in a Material Adverse Effect.

Reserved.

(k) Federal Reserve Regulations. Lessee is not engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

(l) Investment Company Act; Public Utility Holding Company Act. Lessee is not (i) an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, or (ii) a "holding company" as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935.

(m) Tax Returns. Lessee has filed or caused to be filed all Federal, state, local and foreign tax returns required to have been filed by it and has paid or caused to be paid all taxes shown to be due and payable on such returns or on any assessments received by it, except taxes that are being contested in good faith by appropriate proceedings and for which the Lessee shall have set aside on its books adequate reserves.

(n) No Material Misstatements; Full Disclosure. No information, report, financial statement, exhibit or schedule furnished by or on behalf of the Lessee to the Administrative Agent, any Investor or any Lender pursuant to any Operative Agreement or included therein, contains any material misstatement of fact or, omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were, made, not misleading. The Lessee has disclosed to the Administrative Agent and the Lessor in writing, any and all facts the failure of which to disclose would have a Material Adverse Effect.

(o) Employee Benefit Plans. Each of the Lessee and its ERISA Affiliates is in compliance in all material respects with all applicable provisions of ERISA and the regulations and published interpretations thereunder. No Reportable Event has occurred as to which the Lessee or any ERISA Affiliate was required to file a report with the PBGC, and the present value of all benefit liabilities (as defined in Section 4001(a)(16) of ERISA) under each Single Employer Plan (based on those assumptions used to fund such Plan) did not, as of the last annual valuation date applicable thereto, exceed by more than \$5,000,000 the value of the assets of such Single Employer Plan. Neither the Lessee nor

any ERISA Affiliate has incurred any Withdrawal Liability which remains unpaid and that could result in a Material Adverse Effect. Neither Lessee nor any ERISA Affiliate has received any notification that any Multiemployer Plan is in reorganization or has been terminated for purposes of Title IV of ERISA, and to the best knowledge of the Lessee no Multiemployer Plan is reasonably expected to be in reorganization or to be terminated for purposes of Title IV of ERISA, where such reorganization or termination has resulted or could reasonably be expected to result, through increases in the contributions required to be made to such Multiemployer Plan or otherwise, in a Material Adverse Effect.

(p) Representations and Warranties; Defaults. The representations and warranties of the Construction Agent and the Lessee set forth herein and in each of the other Operative Agreements are true and correct in all respects on and as of such Funding Date as if made on and as of such Funding Date. The Lessee is in compliance with its obligations under the Operative Agreements and there exists no Default or Event of Default under any of the Operative Agreements, before the making of, as a result of, or after giving effect to, the Advance requested by the Requisition on such Funding Date.

(q) Conditions Precedent in Operative Agreements. All conditions precedent contained in this Agreement and in the other Operative Agreements relating to the funding of such Advance have been satisfied in full or waived by the appropriate parties.

#### 7.4 Representations and Warranties of the Lessee on Property Closing Dates.

The Lessee hereby represents and warrants to each of the other parties hereto as of each Property Closing Date as follows:

(a) Recording of Documents. Each of the Deed, or the Ground Lease or a Memorandum of Ground Lease, as applicable, the Memorandum of Lease and Supplement, the Assignment of Lease, the Consent of the Assignment, and the Mortgage delivered on such Property Closing Date has been recorded with the appropriate Governmental Authorities in the order set forth in this paragraph (or have been delivered to the Title Company for recording with appropriate recording instructions and effective "gap" coverage), and the Lessee Financing Statements and Lessor Financing Statements with respect to the Property being acquired have been, or will be, filed with the appropriate Governmental Authorities.

(b) Priority of Liens. (i) Upon recording in the appropriate offices in the State where the applicable Property is located, each Mortgage, each Assignment of Lease and each Memorandum of Lease and Supplement delivered on such Property Closing Date, constitutes a valid and perfected first lien on each applicable Property in an amount not less than the Tranche A/B Property Cost with respect to such Property, subject only to the Permitted Exceptions or Permitted Liens, and (ii) upon filing with the appropriate Governmental Authorities, the Lessor Financing Statements perfect the Lessor's interest under the Lease to the extent the Lease is a security agreement governed by Article 9 of the Uniform Commercial Code.

(c) Flood Zone. No portion of any Property being acquired by the Lessor on such Property Closing Date is located in an area identified as a special flood hazard area by the Federal Emergency Management Agency or other applicable agency, or if any such Property is located in an area identified as a special flood hazard area by the Federal Emergency Management Agency or other applicable agency, then flood insurance has been obtained for such Property in accordance with Section 14.2(b) of the Lease and in accordance with the National Flood Insurance Act of 1968, as amended.

(d) Insurance Coverage. The Lessee maintains insurance coverage for each Property being acquired by the Lessor on such Property Closing Date which meets the requirements of Section 14.1 of the Lease (if applicable), Section 6 of the Agency Agreement, and the other Operative Agreements, and such coverage is in full force and effect.

(e) Consents, etc. All Governmental Actions required by all Legal Requirements as of the applicable Property Closing Date for construction, completion, occupancy and operation of each Property being acquired on such Property Closing Date have been obtained and are in full force and effect.

(f) Governmental Actions. (i) The Property being acquired on such Property Closing Date is zoned in such a manner that will permit construction, occupancy and use of the Improvements as a matter of right, and (ii) the Lessee has no reason to believe that all Governmental Actions necessary for the construction, operation, use, leasing, ownership and routine maintenance of the Property being acquired on such Property Closing Date that have not been obtained on or prior to such Property Closing Date will not be obtained in the ordinary course of business on or prior to the date such Governmental Actions will be required to permit the timely construction, operation, use, leasing, ownership and routine maintenance of the Property being acquired on such Property Closing Date.

(g) Environmental Matters. Except as disclosed in any Environmental Site Assessment delivered to the Administrative Agent and the Investors prior to the applicable Property Closing Date:

(i) the Property being acquired on such Property Closing Date does not contain any Hazardous Substances in amounts or concentrations which constitute a Material Environmental Violation or would reasonably be expected to result in material liability under Environmental Laws;

(ii) the Property and all operations at such Property are in compliance in all material respects with all applicable Environmental Laws;

(iii) Lessee is conducting its business in compliance in all material respects with all applicable Environmental Laws and Lessee has not received notice of any failure so to comply. The Lessee's and the Subsidiaries' facilities do not manage any hazardous wastes, hazardous substances, hazardous materials, toxic substances, toxic pollutants or



substances similarly denominated, as those terms or similar terms are used in the Environmental Laws, in violation in any material respect of any such law or any regulations promulgated pursuant thereto;

(iv) Lessee has not received any notice of violation, alleged violation, non-compliance, liability or potential liability regarding compliance with Environmental Laws with regard to the Property being acquired on such Property Closing Date, nor does the Lessee have knowledge that any such notice will be received or is being threatened;

(v) no Person has transported or disposed of Hazardous Substances from the Property being acquired on such Property Closing Date in violation of any Environmental Law, nor has any Person generated, treated, stored or disposed of any Hazardous Substances at, on or under such Property in violation of any applicable Environmental Law;

(vi) no judicial proceeding or governmental or administrative action is pending or, to the best knowledge of the Lessee, threatened, under any Environmental Law to which the Lessee is or will be named as a party with respect to the Property being acquired on such Property Closing Date, nor are there any consent decrees or other decrees, consent orders, administrative orders or other orders, or other administrative or judicial requirements outstanding under any Environmental Law with respect to such Property;

(vii) there has been no release or threat of release of Hazardous Substances at or from the Property being acquired on such Property Closing Date, or arising from or related to the operations of the Lessee in connection with such Property, in violation of or in amounts or in a manner that could reasonably be expected to give rise to any Environmental Violation or could reasonably be expected to result in any Environmental Violation or in material liability under Environmental Laws; and

(viii) all applicable licenses, approvals, authorizations, consents, permits (including, without limitation, building, demolition and environmental permits, licenses, approvals, authorizations and consents), easements and rights-of-way, including proof of dedication, required for the use, treatment, storage, transport, disposal or disposition of any Hazardous Substance on, at, under or from the Property being acquired on such Property Closing Date during the construction of the Construction Improvements thereon have been obtained, or will be obtained in a timely manner, from the appropriate Governmental Authorities having jurisdiction or from private parties.

(h) Title to the Property. The Lessor has good and marketable title to the Property being acquired on such Property Closing Date in fee simple, or good and valid

leasehold title to such Property leased under any Ground Lease, subject in each case only to the Permitted Exceptions or Permitted Liens. The Lessor has the right to grant the Mortgage on such Property.

(i) Conditions Precedent in Operative Agreements. To Lessee's knowledge all conditions precedent contained in this Agreement and in the other Operative Agreements relating to the acquisition of a Property by the Lessor have been satisfied in full or waived by the appropriate parties.

(j) Property-Related Matters. Each Construction Period Property, when improved in accordance with the Plans and Specifications, will comply in all material respects, and each Completed Property complies in all material respects with all Legal Requirements (including all applicable zoning and land use laws and Environmental Laws) and Insurance Requirements. The Plans and Specifications have been prepared in accordance with all applicable Legal Requirements (including all applicable Environmental Laws and building, planning, zoning and fire codes) and upon completion of the applicable Construction Improvements in accordance with the Plans and Specifications, such Construction Improvements on the Construction Period Properties will not encroach in any manner onto any adjoining land (except as permitted by express written easements or variance) and such Improvements and the use thereof by the Lessee and its agents, assignees, employees, invitees, lessees, licensees and tenants will comply with all applicable Legal Requirements (including all applicable Environmental Laws and building, planning, zoning and fire codes). Upon completion of such Construction Improvements in accordance with the Plans and Specifications, all water, sewer, electric, gas, telephone and drainage facilities and all other utilities required to adequately service each Property for its intended use will be available pursuant to adequate permits (including any that may be required under applicable Environmental Laws) and all utilities serving the Properties, or proposed to serve the Properties in accordance with the Plans and Specifications, are located in, and in the future will be located in, and vehicular access to the Improvements on each of the Properties is or will be provided by, either public rights-of-way abutting the Properties or Appurtenant Rights. No Casualty with respect to any Completed Property has occurred which Casualty has had a material adverse effect on the Lessee's ability to perform its obligations under the Agency Agreement and the other Operative Agreements or which is a Significant Casualty.

7.5 Representations and Warranties of the Trust Company on the Initial Closing Date and each Funding Date. The Trust Company represents and warrants to each of the other parties hereto as of the Initial Closing Date and each Funding Date as follows:

(a) Due Organization, etc. It is a banking corporation duly organized and validly existing and in good standing under the laws of the State of Delaware and has the power and authority to enter into and perform its obligations under the Trust Agreement and has the corporate power and authority to act as the trustee under the Trust Agreement and to enter into and perform the obligations under each of the other Operative Agreements to which Trust Company is or will be a party and each other agreement, instrument and document to be executed and delivered by it on or before the Initial

Closing Date in connection with or as contemplated by each such Operative Agreement to which the Trust Company is or will be a party.

(b) Authorization: No Conflict. The execution, delivery and performance of each Operative Agreement which it has executed, either in its individual capacity or (assuming due authorization, execution and delivery of the Trust Agreement by the Investors) as trustee of the Lessor, as the case may be, has been duly authorized by all necessary action on its part and neither the execution and delivery thereof, nor the consummation of the transactions contemplated thereby, nor compliance by it with any of the terms and provisions thereof (i) does or will require any approval or consent of any trustee or holders of any of its indebtedness or obligations, (ii) does or will contravene any current United States federal law, governmental rule or regulation governing its banking or trust powers; (iii) does or will contravene or result in any breach of or constitute any default under, or result in the creation of any Lien upon any of its property under, its charter or by-laws, or any indenture, mortgage, chattel mortgage, deed of trust, conditional sales contract, bank loan or credit agreement or other agreement or instrument to which it is a party or by which it or its properties may be bound or affected, or (iv) does or will require any Governmental Action by any Governmental Authority of the United States or the State of Delaware governing its banking or trust powers.

(c) Trust Company Enforceability, etc. The Trust Agreement and, assuming the Trust Agreement is the legal, valid and binding obligation of the Investors, each other Operative Agreement to which Trust Company or the Lessor, as the case may be, is or will be a party have been, or will be, duly executed and delivered by Trust Company, and the Trust Agreement and each such other Operative Agreement to the extent entered into by the Trust Company constitutes, or upon execution and delivery will constitute, a legal, valid and binding obligation enforceable against Trust Company in accordance with the terms thereof, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(d) Litigation. No litigation, investigation or proceeding of or before any arbitrator or Governmental Authority is pending or threatened by or against the Trust Company with respect to any of the Operative Agreements or any of the transactions contemplated hereby or thereby.

(e) Securities Act. Neither the Trust Company nor anyone authorized to act on behalf of the Trust Company has, directly or indirectly, in violation of Section 5 of the Securities Act or any state securities laws, offered or sold any interest in the Loans, the Notes (if any), the Certificates, or the Lease, or in any security or lease the offering of which, for purposes of the Securities Act or any state securities laws, would be deemed to be part of the same offering as the offering of the aforementioned securities or leases, or solicited any offer to acquire any of the aforementioned securities or leases.

(f) Authority of the Lessor. The execution and delivery of each Operative Agreement delivered by the Trust Company on behalf of the Lessor on such date and the

performance of the obligations of the Lessor under each Operative Agreement has been duly authorized by all requisite action of the Lessor.

(g) Execution and Delivery by the Lessor. Each Operative Agreement delivered by the Trust Company on behalf of the Lessor on such date has been duly executed and delivered by the Lessor.

(h) Representations and Warranties: No Default. The representations and warranties of the Trust Company set forth herein and in each of the other Operative Agreements are true and correct in all respects on and as of such Funding Date as if made on and as of such Funding Date, and the Trust Company is in compliance with its respective obligations under the Operative Agreements.

7.6 Representations and Warranties of the Lessor on Each Funding Date. The Lessor hereby represents and warrants to each of the other parties hereto as of each Funding Date as follows:

(a) Representations and Warranties: No Default. The representations and warranties of the Lessor set forth herein and in each of the other Operative Agreements are true and correct in all respects on and as of such Funding Date as if made on and as of such Funding Date. The Lessor is in compliance with its respective obligations under the Operative Agreements and there exists no Default or Event of Default under any of the Operative Agreements. No Default or Event of Default will occur under any of the Operative Agreements as a result of, or after giving effect to, the Advance requested by the Requisition on such Funding Date.

(b) Authority of the Lessor. The execution and delivery of each Operative Agreement delivered by the Lessor on such date and the performance of the obligations of the Lessor under each Operative Agreement has been duly authorized by all requisite action of the Lessor.

(c) Execution and Delivery by the Lessor. Each Operative Agreement delivered by the Lessor on such date has been duly executed and delivered by the Lessor.

(d) Valid and Binding Obligations of the Lessor. Each Operative Agreement delivered by the Lessor on such date is a legal, valid and binding obligation of the Lessor, enforceable against the Lessor in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(e) Conditions Precedent Contained in the Operative Agreements. All conditions precedent contained in this Agreement and in the other Operative Agreements to be satisfied by the Lessor relating to the relevant Advance have been satisfied in full.

7.7 Representations and Warranties of RFC. As of the Initial Closing Date and as of each Funding Date, RFC represents and warrants to the other parties to this Agreement that:

(a) Due Organization, etc. RFC (i) is a duly organized and validly existing limited liability company in good standing under the laws of the State of Delaware and has the power and authority to carry on its business as now conducted, and (ii) has duly qualified and is authorized to do business and is in good standing in all jurisdictions where the failure to do so would have a material adverse effect on it or its assets.

(b) Company Power and Authority, Enforceability. RFC has the power and authority to execute, deliver and carry out the terms and provisions of the Operative Agreements to which it is or will be a party (each an "RFC Operative Agreement") and has taken all necessary company action to authorize the execution, delivery and performance of each RFC Operative Agreement and has duly executed and delivered each RFC Operative Agreement required to be executed and delivered by it and, assuming the due authorization, execution and delivery thereof on the part of each other party thereto, each RFC Operative Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, except as the same may be limited by insolvency, bankruptcy, reorganization or other laws relating to or affecting the enforcement of creditors' rights or by general equitable principles.

(c) Assignment. RFC has not assigned or transferred any of its right, title or interest in or under the RFC Loans or any other Operative Agreement, except as expressly contemplated by the Operative Agreements.

(d) Chief Place of Business. RFC's chief place of business, chief executive office and office where the documents, accounts and records relating to the transactions contemplated by this Agreement and each other Operative Agreement are and will be kept is located at c/o The Liberty Hampshire Company, LLC, 227 West Monroe Street, Suite 4000, Chicago, Illinois, 60606.

(e) No Approvals, etc. The execution and delivery by RFC of the RFC Operative Agreements do not require the consent or approval of, or the giving of notice to or registration with, or the taking of any other action in respect of, any Governmental Authority having jurisdiction over RFC.

(f) Litigation. There is no action, proceeding or investigation pending or, to the knowledge of RFC, threatened against RFC which questions the validity of the RFC Operative Agreements, and there is no action, proceeding or investigation pending or threatened which is likely to result, either in any case or in the aggregate, in any material adverse change in the ability of RFC to perform its respective obligations under the RFC Operative Agreements.

(g) No Conflict. Neither the execution and delivery by RFC of this Agreement or the Loan Facility Agreement, nor the consummation of the transactions herein or therein contemplated, nor compliance with the provisions hereof or thereof will violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on RFC or its constituent documents or the provisions, of any indenture, instrument or agreement to which RFC is a party or is subject, or by which it, or its property, is bound, or conflict with or constitute a default thereunder, or result in the

creation or imposition of any Lien in, of or on the property of RFC pursuant to the terms of any such indenture, instrument or agreement.

(h) Taxes. RFC has filed all U.S. federal tax returns and all other tax returns which are required to be filed and has paid all taxes due pursuant to said returns or pursuant to any assessment received by RFC except such taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided. No tax liens have been filed and no claims are being asserted with respect to any taxes. The charges, accruals and reserves on the books of RFC in respect of any taxes or other governmental charges are adequate.

(i) Contingent Obligations. RFC has no material contingent obligations.

(j) ERISA. No part of the Loans contemplated to be made by RFC constitute the plan assets of any Employee Benefit Plan.

(k) Accuracy of Information. No information, exhibit or report furnished by (i) RFC to the Administrative Agent or Lessee in connection with the negotiation of, or compliance with, this Agreement or the Loan Facility Agreement contained any material misstatement of fact or (ii) omitted to state a material fact or any fact necessary to make the statements contained therein not misleading.

(l) Material Agreements. RFC is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (i) any material agreement to which it is a party or (ii) any agreement or instrument evidencing or governing indebtedness.

(m) Compliance With Laws. RFC has complied with all applicable statutes, rules, regulations, orders and restrictions of any domestic or foreign government or any instrumentality or agency thereof, having jurisdiction over the conduct of its business or the ownership of its property. RFC has not received any notice to the effect that its operations are not in material compliance with any of the requirements of applicable federal, state and local environmental, health and safety statutes and regulations or the subject of any federal, state or local investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment.

(n) Investment Company Act. RFC is not an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

#### 7.8 Representations of Administrative Agent and the Backup Facility Banks

As of the Initial Closing Date (or, with respect to any Backup Facility Bank becoming party hereto after the Initial Closing Date, as of the date such Backup Facility Bank becomes party hereto), and as of each subsequent Funding Date each of (with respect to clauses (a), (b), (d) and (e)) Administrative Agent and (with respect to clauses (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k)) each Backup Facility Bank hereby represents and warrants to Lessor, Lessee and each of the other Participants that:

(a) Corporate Existence and Power. It is, respectively, a banking association or corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all corporate powers and authority and all material governmental licenses, authorizations and approvals required to perform its obligations under each of the Operative Agreements to which it is a party.

(b) Binding Effect. This Agreement and the other Operative Agreements to which it is a party constitute the legal, valid and binding obligations of it, enforceable against it in accordance with their respective terms except as such enforceability may be limited by any applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity. It has taken all necessary corporate action to authorize the execution, delivery and performance of this Agreement and each other Operative Agreement to which it is a party and has duly executed and delivered each Operative Agreement required to be executed and delivered by it.

(c) Loans. Such Backup Facility Bank is making its Loans and entering into the transaction contemplated hereby for its own account and not with a view to any distribution thereof; except that the disposition of any interest in such loans shall be at all times within the control of such Backup Facility Bank, subject to the restrictions of Section 11.

(d) No Violation. Neither the execution, delivery and performance by it of the Operative Agreements to which it is or will be a party nor compliance with the terms and provisions thereof, nor the consummation of the transactions contemplated therein, (i) will contravene any Legal Requirements or (ii) will violate any provision of its certificate of incorporation or by-laws.

(e) No Approvals, etc. The execution and delivery by it of the Operative Agreements to which it is a party does not require the consent or approval of, or the giving of notice to or registration with, or the taking of any other action in respect of any Governmental Authority having jurisdiction over it.

(f) ERISA. No part of the Loans contemplated to be made by such Backup Facility Bank constitute the plan assets of any Employee Benefit Plan.

(g) Lessor Liens. There are no Lessor Liens attributable to Administrative Agent or such Backup Facility Bank, respectively.

(h) Offer of Securities, etc. Neither such Backup Facility Bank nor any Person authorized to act on its behalf has, directly or indirectly, offered to sell the Notes (if any) or any other similar securities (the sale or offer of which would be integrated with the sale or offer of the Notes (if any)), for sale to, or solicited any offer to acquire any of the same from, any Person.

(i) No Registration. Such Backup Facility Bank understands and acknowledges that the Notes (if any) have not been and will not be registered under the Securities Act in reliance upon the exemption provided in Section 4(2) of the Securities

Act or any other applicable exemption, that the Notes (if any) have not been and will not be registered or qualified under the securities or "blue sky" laws of any jurisdiction, that the Notes (if any) may be resold or otherwise transferred only if so registered or qualified or if an exemption from registration or qualification is available, that none of the Lessee, the Lessor or the Administrative Agent is required to register the Notes (if any) and that any transfer must comply with the provisions of the Operative Agreements relating thereto. Such Backup Facility Bank will comply with all applicable federal and state securities laws in connection with any subsequent resale of the Notes (if any) held by it.

(j) Institutional Investor. Such Backup Facility Bank is a sophisticated institutional investor and an "accredited investor" as defined in paragraph (1), (2), (3) or (7) of Rule 501(a) of the Securities Act, and has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of its investment in the Notes (if any) and is able to bear the economic risk of such investment. Such Backup Facility Bank has been given such information concerning the Notes (if any), the other Operative Agreements, the Properties, the Lessor and the Lessee as it has requested.

(k) Legend. Such Backup Facility Bank understands and acknowledges that the Note, if any, which it may acquire will bear a legend similar to that set forth in the form of Certificate included in the Trust Agreement.

#### SECTION 8. PAYMENT OF CERTAIN FEES AND EXPENSES

Lessee agrees, for the benefit of the Participants, as follows:

8.1 Transaction Expenses. (a) On the Initial Closing Date, to pay, or cause to be paid, all Transaction Expenses incurred by each of the Lessor, the Trust Company, RFC, the Administrative Agent, the Investors, the CP Issuer, and the Securities Intermediary in connection with the transactions contemplated by the Operative Agreements and incurred in connection with the Initial Closing Date; *provided, however*, that if the Lessee has not received written invoices and supporting information therefor prior to such date, such Transaction Expenses shall be paid within thirty (30) Business Days after the Lessee has received written invoices and supporting information thereof as reasonably requested by the Lessee. Transaction Expenses may, subject to the conditions hereof, be paid with the proceeds of an Advance. In the event that the Transaction Expenses relating to a Property not yet subject to the Lease are paid directly by Lessee, Lessee shall be reimbursed for such Transaction Expenses in the first Advance for such Property.

(b) On each Property Closing Date, to pay, or cause to be paid, all Transaction Expenses incurred by each of (i) the counsel to Administrative Agent, (ii) the counsel to the Investors, (iii) the counsel to the Trust Company, (iv) the counsel to RFC, and (v) the local counsel in each State in which a Property is located selected by Lessee and reasonably approved by the Administrative Agent, all in connection with the transactions contemplated by the Operative Agreements and incurred in connection with such Property Closing Date, including all Transaction Expenses arising from such Property Closing Date; *provided, however*, that if the Lessee has not received written invoices and supporting information therefor prior to such date, such Transaction Expenses shall be paid within thirty (30) Business Days after the Lessee has



received written invoices and supporting information therefor as reasonably requested by the Lessee.

8.2 Certain Fees and Expenses. To pay or cause to be paid (i) the Transaction Expenses relating to the Trust Company and any necessary co-trustees or any successor owner trustee, for acting as trustee under the Trust Agreement, (ii) all Transaction Expenses incurred by the Lessee, the Administrative Agent, the Securities Intermediary, the Investors, the Lenders, the Trust Company or the Lessor in entering into any future amendments or supplements with respect to any of the Operative Agreements, whether or not such amendments or supplements are ultimately entered into, or giving or withholding of waivers of consents hereto or thereto, which have been requested by the Lessee, and (iii) all Transaction Expenses incurred by the Lessor, the Lessee, the Investors, the Lenders, the Trust Company or the Administrative Agent in connection with the purchase of the Property by the Lessee pursuant to Section 20 or Section 21 of the Lease, *provided, however*, that the Lessee has received written invoices and supporting information therefor on the date such payment is requested, and if Lessee has not so received such written invoices and supporting information, such Transaction Expenses shall be paid within thirty (30) Business Days after the Lessee has received written invoices and supporting information therefor as reasonably requested by the Lessee.

8.3 Operative Agreements and Related Obligations. (a) To pay, or cause to be paid, on or prior to the due date thereof, all costs, fees, expenses and other amounts (other than principal and interest on the Loans, but including breakage costs and interest on overdue amounts) pursuant to the Operative Agreements required to be paid by the Lessor under any Operative Agreement.

(b) Facility Fees. To pay, or cause to be paid, to Administrative Agent for the account of each Backup Facility Bank, a facility fee (individually, a "Facility Fee" and in the aggregate, the "Facility Fees"), which shall accrue at the applicable Facility Fee Rate on the daily amount of the Backup Facility Bank's Backup Facility Loan Commitment (to the extent unused) during the period (including any portion thereof when the obligation of any Backup Facility Bank to make or purchase Loans is suspended by reason of any failure of the conditions set forth in Section 3.2 of the Loan Facility Agreement or Section 1.2(e) of the Liquidity Agreement to be satisfied) commencing on the Initial Closing Date, in the case of each Backup Facility Bank that is signatory hereto, or the effective date specified in the Assignment and Acceptance pursuant to which it became a Backup Facility Bank, in the case of each other Backup Facility Bank, and continuing until the Backup Facility Loan Commitment Termination Date, provided that, if such Backup Facility Bank continues to have Loans outstanding after its commitment terminates, then such Facility Fee shall continue to accrue on the daily amount of such Backup Facility Bank's Backup Facility Loans from and including the date on which its commitment terminates to but excluding the date on which such Backup Facility Bank ceases to have any Loans outstanding. The Facility Fees shall be paid quarterly in arrears on each Settlement Date for the period ending on such Settlement Date and on the Backup Facility Loan Commitment Termination Date, and the date of any reduction or termination of the Backup Facility Loan Commitments in accordance with the provisions of Section 2.6 or Article V of the Loan Facility Agreement. All payments made by Lessee under this Section 8.3(d) shall be made not later than 1:00 p.m. (New York City time) on the date when due and shall be made in freely transferable Dollars and in immediately available funds at the Payment Office of Administrative

Agent. Facility Fees payable pursuant hereto shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed.

8.4 Advances. Transaction Expenses may, subject to the conditions hereof, be paid with the proceeds of an Advance.

## SECTION 9. OTHER COVENANTS AND AGREEMENTS

9.1 Covenants of the Lessor, the Lessee, the Trust Company, Administrative Agent, and each Participant. Each party named below specifically hereby agrees with the other parties hereto as provided below on its own behalf that so long as this Agreement is in effect:

(a) Discharge of Liens. Each of the Investors, the Lessor, the Trust Company and the Administrative Agent, in its individual capacity, will not create, incur, assume, or permit to exist at any time, and will, at its own cost and expense, promptly take such action as may be necessary duly to discharge, or to cause to be discharged, all Lessor Liens on the Lease, the Improvements, the Land or the Properties attributable to it or any of its Affiliates; *provided, however,* that each Investor, the Lessor and the Trust Company shall not be required to so discharge any such Lessor Lien while the same is being contested in good faith by appropriate proceedings diligently prosecuted so long as such proceedings shall not involve any material danger of impairment of the Liens of the Security Documents or of the sale, forfeiture or loss of, and shall not interfere with the use or disposition of the Improvements, the Land or, the Properties or title thereto or any interest therein or the payment of Rent.

(b) Trust Agreement. Without prejudice to any right under the Trust Agreement of the Trust Company to resign, or any Investor's right under the Trust Agreement to remove the institution acting as Trustee, each of the Investors and the Trust Company hereby agrees with the Lessee and the Administrative Agent (i) not to terminate or revoke the trust created by the Trust Agreement except as permitted by Section 8 of the Trust Agreement, and (ii) not to amend, supplement, terminate or revoke or otherwise modify any provision of the Trust Agreement without the prior written consent of any party hereto adversely affected by such amendment.

(c) Successor Trust Company. The Trust Company or any successor may resign or be removed by the Investors as Trustee, a successor Trustee may be appointed, and a corporation may become the Trustee under the Trust Agreement, only in accordance with the provisions of Section 8 of the Trust Agreement and with the consent of the Lessee, which consent shall not be unreasonably withheld or delayed.

(d) Indebtedness: Other Business. The Lessor shall not conduct, transact or otherwise engage in, or commit to transact, conduct or otherwise engage in, any business or operations other than the entry into, and exercise of rights and performance of obligations in respect of the Operative Agreements and other activities incidental or related to the foregoing. The Lessor shall not contract for, create, incur, assume, suffer to exist, or otherwise become or remain liable in respect of any, Indebtedness, and will not

acquire, by long-term or operating lease or otherwise, any property or other assets, in each case other than pursuant to or under the Operative Agreements.

(e) No Violation. The Investors will not instruct the Lessor to take any action in violation of the terms of any Operative Agreement.

(f) No Voluntary Bankruptcy. The Lessor shall not (i) commence any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, arrangement, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (ii) seek appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial benefit of its creditors; and so long as no Lease Event of Default has occurred and is continuing, neither the Investors nor the Lessor shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in this paragraph.

(g) Change of Chief Place of Business or Name. The Lessor shall give prompt notice to the Lessee, the Investors, and the Administrative Agent if the office where the records concerning the accounts or contract rights relating to the transactions contemplated in the Operative Agreements are kept shall cease to be located at Wilmington Trust Company, 1100 North Market Street, Wilmington, Delaware, or if the Lessor shall change its name or identity.

(h) Compliance with Operative Agreements. Each of the Investors, the Trustee, the Trust Company, the Administrative Agent and the Lessor shall at all times observe and perform all of the covenants, conditions and obligations required to be performed by it under each Operative Agreement to which it is a party.

(i) Disposition of Assets. The Lessor shall not convey, sell, lease, assign, transfer, pledge, hypothecate, encumber or otherwise dispose of (by operation of law or otherwise) any Property, Improvements or Fixtures acquired with the proceeds or Advances, or its interest in the Loans and the Investor Contributions, whether now owned or hereafter acquired, except to the extent expressly contemplated by the Operative Agreements.

(j) Investments. The Lessor will not make, incur, or suffer to exist any loan, advance, extension of credit or other investment in any Person other than pursuant to the Loan Facility Agreement and the Trust Agreement.

(k) No Other Agreements. The Lessor will not (i) enter into or be a party to any agreement or instrument other than any Operative Agreement or any documents and agreements incidental thereto or (ii) except as otherwise provided for in Section 14.5 of this Agreement, amend, modify or waive any provision of any Operative Agreement to which it is a party.

(l) Maintenance of Separate Existence. The Lessor will do all things necessary to maintain its trust existence separate and apart from that of each Investor, Affiliates of each Investor and any other Person, including, without limitation:

- (i) practicing and adhering to trust formalities, such as maintaining appropriate Lessor books and records;
- (ii) owning or leasing (including through shared arrangements with Affiliates) all office furniture and equipment necessary to operate its business;
- (iii) refraining from (A) guaranteeing or otherwise becoming liable for any obligations of any of its Affiliates or any other Person, (B) having its obligations guaranteed by its Affiliates or any other Person (except as otherwise contemplated by the Operative Agreements), (C) holding itself out as responsible for debts of any of its Affiliates or any other Person or for decisions or actions with respect to the affairs of any of its Affiliates or any other Person, and (D) being directly or indirectly named as a direct or contingent beneficiary or loss payee on any insurance policy of any Affiliate;
- (iv) maintaining its deposit and other bank accounts and all of its assets separate from those of any other Person;
- (v) maintaining its financial records separate and apart from those of any other Person;
- (vi) compensating all its employees, officers, consultants and agents for services provided to it by such Persons, or reimbursing any of its Affiliates in respect of services provided to it by employees, officers, consultants and agents of such Affiliate, out of its own funds;
- (vii) maintaining any owned or leased office space separate and apart from that of any of its Affiliates (even if such office space is subleased from or is on or near premises occupied by any of its Affiliates);
- (viii) accounting for and managing all of its liabilities separately from those of any of its Affiliates and any other Person, including, without limitation, payment directly by the Lessor of all payroll, accounting and other administrative expenses and taxes;
- (ix) allocating, on an arm's-length basis, all shared Lessor operating services, leases and expenses, including, without limitation, those associated with the services of shared consultants and Administrative Agents and shared computer and other office equipment and software;
- (x) refraining from filing or otherwise initiating or supporting the filing of a motion in any bankruptcy or other insolvency proceeding involving it, Lessor, any Investor, any Affiliate of it, Lessor or any Investor or any other Person to substantively consolidate it with Lessor, any Investor, any Affiliate of it, Lessor or any Investor or any other Person;

- (xi) remaining solvent;
- (xii) conducting all of its business (whether written or oral) solely in its own name;
- (xiii) refraining from commingling its assets with those of any of its Affiliates or any other Person;
- (xiv) maintaining an arm's-length relationship with all of its Affiliates;
- (xv) refraining from acquiring obligations or securities of any Investor or any Affiliate of it or any Investor;
- (xvi) refraining from pledging its assets for the benefit of any of its Affiliates or any other Person or making any loans or advances to any of its Affiliates or any other Person (in each case, except as otherwise permitted pursuant to the Operating Documents); and
- (xvii) correcting any known misunderstanding regarding its separate identity.

For purposes of this Section 9.1(m), each Investor shall be deemed to be an Affiliate of the Lessor.

(m) Use of Proceeds. The proceeds of the Loans and the Investor Contributions shall be applied by the Lessor solely in accordance with the provisions of the Operative Agreements.

(n) Knowledge of Default. If on any date an Authorized Officer of Trustee shall obtain actual knowledge of the occurrence of a Lease Default or Lease Event of Default, Trustee shall give written notice thereof to Administrative Agent, RFC and each Investor promptly but in no event later than two (2) Business Days after the date it obtains actual knowledge thereof.

(o) No Issuance of Certificates. The Trustee shall not issue or sell Certificates, except as expressly contemplated by the Operative Agreements.

(p) Compliance with Laws. The Trustee shall comply with all requirements of the Delaware Business Trust Act the non-compliance with which would reasonably be anticipated to have a material adverse effect upon the ability of the Trustee to perform its obligations under the Operative Agreements to which it is a party or the validity or enforceability against the Trustee of any of the Operative Agreements to which it is a party.

(q) Litigation. The Trustee shall notify the Administrative Agent and the Lessee of the institution of any litigation against it which would reasonably be anticipated to have a material adverse effect upon the ability of the Trustee to perform its obligations

under the Operative Agreements to which it is a party or the validity or enforceability against the Trustee of any of the Operative Agreements to which it is party.

(r) Subleases. The Lessor, Administrative Agent, the Trust Company and each Participant hereby acknowledge and accept the provisions of Section 24 of the Lease and, to the extent that such Sublease is a Minor Sublease or the Required Investors approve of a Market Sublease, authorize and direct the Trustee to execute and deliver subordination and non-disturbance agreements (or non-disturbance agreements) provided for therein with respect to such Minor Subleases or Market Subleases from time to time upon the Lessee's request.

(s) Investor Amount. The Investors shall maintain an aggregate Investor Amount in the Trust equal to not less than three percent of the sum of the Advances made from time to time (determined in accordance with the requirements of EITF 96-21); provided, that this Section 9.1(t) shall not be construed to increase or otherwise affect each Participant's Backup Facility Loan Commitment or Investor Contribution Commitment, as applicable.

(t) Acceptance of Provisions of the Lease and Lease Supplements. The Lessor, the Trust Company, Administrative Agent and each Participant hereby acknowledge, accept and will comply with, as applicable, the provisions of Sections 14.4, 15.1, 19.1(a)(iv) and (vi), and 24.2 of the Lease.

9.2 RFC Covenants. RFC covenants as follows:

(a) No Sale. RFC shall not transfer any of its interests in the RFC Loans except as provided in the RFC Operative Agreements.

(b) No Plan Assets. No part of the Loans to be made by RFC will be made with assets that constitute the plan assets of any Employee Benefit Plan.

9.3 Proceeds of Casualty. The Lessor and the Investors agree, for the benefit of the Administrative Agent and the Lenders, that if at any time either the Lessor or any Investor receives any proceeds as a result, directly or indirectly, of any Casualty or Condemnation with respect to any Property which the Lessor is entitled to retain and hold in accordance with the terms of the Lease, the Lessor and the Investors agree that they will promptly deposit such amounts in an account with the Administrative Agent in the Funding Account. The Lessor and the Investors also agree that they will execute and deliver such documents and instruments as the Administrative Agent may request in order to grant the Administrative Agent, for the benefit of the Lenders, and the Investors, a valid and perfected, first priority security interest in such proceeds.

9.4 Intercreditor Agreement. Each of the parties hereto hereby agree and confirm that the provisions of Section 13 hereof are intended to constitute an intercreditor agreement and a subordination agreement under Section 510 of the Bankruptcy Code or any similar provision therein.

9.5 No Proceedings. (a) Each of the parties hereto (other than the Lessor) hereby covenants and agrees that prior to the date which is one (1) year and one day after the payment in full of the Loans, the amounts due each Investor, and all other obligations of Lessee under any Operative Agreement to which Lessee is a party, it will not institute against, or join or assist any other Person in instituting against Lessor, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States (each a "Proceeding"). In the event that any party hereto takes action in violation of this Section 9.5(a), the petitioned party hereby agrees it shall file an answer with the bankruptcy court or otherwise properly contest the filing of such a petition by the applicable instituting party against such petitioned party or the commencement of such action and raise the defense that the instituting party has agreed in writing not to take such action and should be estopped and precluded therefrom and such other defenses, if any, as its counsel advises that it may assert. The provisions of this Section 9.5(a) shall survive the termination of this Agreement and the other Operative Agreements.

(b) Each of the parties hereto (other than RFC) hereby covenants and agrees that prior to the date which is one (1) year and one day after the payment in full of the indebtedness of RFC, it will not institute against, or join or assist any other Person in instituting against RFC any Proceeding. In the event that any party hereto takes action in violation of this Section 9.5(b), the petitioned party hereby agrees it shall file an answer with the bankruptcy court or otherwise properly contest the filing of such a petition by the applicable instituting party against such petitioned party or the commencement of such action and raise the defense that the instituting party has agreed in writing not to take such action and should be estopped and precluded therefrom and such other defenses, if any, as its counsel advises that it may assert. The provisions of this Section 9.5(b) shall survive the termination of this Agreement and the other Operative Agreements.

9.6 Notice of Credit Rating Decline. Each Backup Facility Bank severally agrees that it shall immediately notify Lessee, RFC and the Administrative Agent in writing in the event that it is placed on negative credit watch by any Rating Agency or its short-term debt rating is downgraded below A-1 by S&P or below P-1 by Moody's, or withdrawn by any Rating Agency.

9.7 Waiver of Set-off and Other Rights. Each party hereto hereby waives, to the extent not specifically arising under this Agreement, any right of set-off, banker's lien or other security interest which it may have with respect to any funds in the Funding Account.

9.8 Repayment of Certain Amounts on Maturity Date. The Investors, the Lessor and the Administrative Agent hereby agree that if (i) on the Maturity Date (after giving effect to all payments made by the Lessee under the Lease and the application of all sales proceeds pursuant to Section 13 of this Agreement) there remains any outstanding principal or accrued and unpaid interest under the Tranche B Loans (the aggregate amount of such outstanding principal, the "Tranche B Deficit") and (ii) during the Marketing Period the Lessor or the Investors have received any Marketing Period Equity Return, then on the Maturity Date the Investors shall pay to the Administrative Agent an amount up to the amount of the Tranche B Deficit, but in no event greater than the Marketing Period Equity Return received by it.

9.9 Covenants of the Administrative Agent and RFC. (a) Release of Documents. The Administrative Agent hereby agrees that, (i) upon the request of Lessee the Administrative Agent shall release or subordinate Liens in connection with action under Section 12.2 of the Lease or Section 9.16 hereof, and (ii) upon a sale of any Property pursuant to Sections 20 or 21 of the Lease and payment of all amounts due and owing from the Lessee under the Operative Agreements with respect to such Property or repayment in full of all Loans and Investor Contributions and all other amounts due and owing from the Lessee under the Operative Agreements with respect to such Property to Administrative Agent, the Lenders, and the Investors, the Administrative Agent shall execute and deliver to the Lessee (at the Lessee's reasonable expense) each of the following documents which the Lessee shall tender to the Administrative Agent for execution: (A) a release of the applicable Mortgage, (B) releases of the applicable Assignment of Leases, (C) releases of all other Liens created by the Operative Agreements with respect to such Property, and (D) termination statements for any Financing Statements relating to such Property which are then of record naming the Administrative Agent as secured party or assignee thereof.

(b) Loan Facility Agreement, Liquidity Agreement and Notes. The Administrative Agent covenants and agrees, for the benefit of the Lessee and the Participants, (i) to duly and timely perform its obligations under the Loan Facility Agreement and the Liquidity Agreement, and (ii) in the case of any assignment of any Note (if any) or any portion thereof under Section 11.3, to hold the original Note (if any) upon the issuance of any one or more amended and restated Notes.

(c) Statements of Basic Rent, Fees, Interest and Yield. Not later than the fifth (5<sup>th</sup>) Business Day prior to each Payment Date, the Administrative Agent (in the case of clause (i), (ii) (except as it relates to RFC), and (iii) below) and RFC (in the case of clause (ii) as it relates to RFC and clause (iii)) shall deliver to the Lessee (i) a written statement for each Property subject to the Lease setting forth and itemizing the amounts due and payable by the Lessee on such Payment Date as Basic Rent on account of Facility Fees, Backup Facility Loans and Investor Yield; (ii) a written statement setting forth and itemizing the amounts due and payable to RFC, each of the Backup Facility Banks and each of the Investors on such Payment Date (including, without limitation, amounts due for fees under Section 8, interest and Yield), and (iii) the method and manner of determination of each such amount.

9.10 Covenants of Lessee. The Lessee hereby agrees that, so long as the Backup Facility Loan Commitments and/or the Investor Contribution Commitments remain in effect, or any amount is owing to any Participant under any Operative Agreement, the Lessee shall:

- (a) Financial Statements. Furnish to each Lender and each Investor:
- (i) as soon as available, but in any event within one hundred ten (110) days after the end of each fiscal year of the Lessee, a copy of the consolidated balance sheet of the Lessee and its consolidated Subsidiaries, taken as a whole, as at the end of such year and the related consolidated statements of income and shareholders equity and of cash flows for such



year, setting forth in each case in comparative form the figures for the previous year; and

(ii) as soon as available, but in any event not later than sixty (60) days after the end of each of the first three quarterly periods of each fiscal year of the Lessee, the unaudited consolidated balance sheet of the Lessee and its consolidated Subsidiaries, taken as a whole, as at the end of such quarter and the related unaudited consolidated statements of income and of condensed cash flows for such quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year;

all such financial statements shall be prepared in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein).

(b) Certificates: Other Information. Furnish to:

(i) each Lender and each Investor, concurrently with the delivery of the financial statements referred to in subsection 9.10(a)(i), a certificate of a Responsible Officer stating that, to the best of such Responsible Officer's knowledge (A) such financial statements present fairly the financial condition and results of operations of the Lessee and its Subsidiaries for the period referred to therein (subject, in the case of interim statements, to normal year-end audit adjustments), and (B) during such period the Lessee has performed all of its covenants and other agreements contained in the Operative Agreements to be performed by it, and that no Default or Event of Default has occurred, except as specified in such certificate;

(ii) each Lender and each Investor, within fifteen (15) Business Days after the same become public, copies of all 10-K's and 10-Q's which the Lessee may make to, or file with, the SEC or any successor or analogous Governmental Authority to the extent not otherwise provided above; and

(iii) the Administrative Agent, within ten (10) Business Days after the occurrence thereof, written notice of any change in Status; provided that the failure to provide such notice shall not delay or otherwise affect any change in the Applicable Margin or other amount payable under the Operative Agreements which is to occur upon a change in Status pursuant to the terms of the Operative Agreements.

(c) Notices. Promptly upon obtaining knowledge thereof, give notice to the Administrative Agent, each Lender and each Investor of the occurrence of any Default or Event of Default, accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Lessee proposes to take with respect thereto.

(d) Merger, Consolidation, etc. Not, directly or indirectly merge or consolidate with any other Person or sell or convey all or substantially all of its assets to any Person unless, in the case of mergers and consolidations, (a) the Lessee shall be the continuing corporation and (b) immediately before and immediately after giving effect to such merger or consolidation, no Default or Event of Default shall have occurred and be continuing.

9.11 Repayment of Investor Contributions. The Lessee shall prepay the Investor Contributions in connection with the exercise by the Lessee of its right to direct the Lessor to prepay the Loans in accordance with Section 10.1(a). Such prepayment shall be in an amount such that after giving effect to such prepayment of Investor Contributions and Loans, the ratio of the unreturned Investor Contributions to the outstanding principal balance of the Loans is the same as it was immediately prior to such prepayment.

9.12 Mandatory Prepayment of Loans by Lessee. Subject to the provisions of Section 5.4(a) of the Agency Agreement with respect to a Construction Period Property, if a Lease Event of Default has occurred and is continuing, and to the extent that Lessee has not paid such amounts pursuant to Section 17.2 of the Lease, Administrative Agent may immediately demand payment of the Termination Value and the accrued but unpaid Basic Rent from Lessee pursuant to the Lease.

9.13 Additional Covenants of Lessee and Construction Agent.

(a) Lessee, as lessee under the Lease, and as Construction Agent under the Agency Agreement,

(i) agrees to pay and deliver to the Administrative Agent (or its designees) all Lease Rent (as defined in the Assignment of Leases) and other sums payable under the Lease (except for Excepted Payments), and all Contract Payments (as defined in the Assignment of Contracts) and other sums payable to the Lessor under the Agency Agreement (except for Excepted Payments), each without any offset, deduction, defense, abatement, deferment, diminution or counterclaim, and the Lessee will not assert any offset, deduction, defense (other than the defense of payment to the Administrative Agent (or its designee)), abatement, deferment, diminution or counterclaim in any proceeding brought under the Assignment of Leases or Assignment of Contracts or with respect to the transactions contemplated therein or herein;

(ii) will not, for any reason whatsoever, seek to recover from the Administrative Agent (or its designee) any moneys paid to the Administrative Agent (or its designee) by virtue of the Assignment of Leases or the Assignment of Contracts or with respect to the transactions contemplated therein or herein; and

(iii) agrees (A) to deliver to the Administrative Agent (or its designee), each Investor and the Lessor, at their addresses set forth herein, duplicate

original or copies of all notices, undertakings, demands, statements, documents and other communications which the Lessee is required or permitted to deliver pursuant to the Lease, the Assignment of Leases, the Agency Agreement or the Assignment of Contracts; (B) that, subject to the Excepted Rights, any notice delivered or declaration made to the lessee by the Administrative Agent (or its designee) pursuant to the Lease or the Agency Agreement shall be effective as a notice given or declaration made to the Lessee by the Lessor; (C) that the Administrative Agent (and its designee) shall not by reason of the Assignment of Leases or Assignment of Contracts be subject to any liability or obligation under the Lease or the Agency Agreement; and (D) that, subject to the Excepted Rights, any waiver, consent or approval by the Lessor under the Lease or the Agency Agreement shall not be valid unless approved in writing by the Administrative Agent (or its designee).

(b) The Lessee and the Construction Agent shall cause the Lease Rents (as defined in the Assignment of Leases) and the Contract Payments (as defined in the Assignment of Contracts) and other sums payable to the Lessor under the Lease and the Agency Agreement respectively to be delivered to the Administrative Agent (or its designee), as an absolute net sum, in such manner that the Administrative Agent (or its designee) shall have "collected funds" on the date and at the time payments are due under the Lease or the Agency Agreement.

(c) The Lessee and the Construction Agent agree to remain obligated under the Lease and the Agency Agreement in accordance with their respective terms, and to take no action to terminate (except in accordance with the express terms of the Lease), annul, rescind or avoid the Lease or the Agency Agreement or to abate, reduce, offset, suspend or defer or make any counterclaim or raise any defense (other than the defense of payment to the Administrative Agent (or its designee)) with respect to the Lease Rents (as defined in the Assignment of Leases) or Contract Payments (as defined in the Assignment of Contracts) payable thereunder or to cease paying such Lease Rents (as defined in the Assignment of Leases) or Contract Payments (as defined in the Assignment of Contracts) to the Administrative Agent (or its designee) as provided therein.

(d) The Lessee agrees that upon the occurrence of a Lease Default or a Lease Event of Default, the Administrative Agent (or its designee) shall have the right to deliver a notice of default under the Lease and make demand for payment under the Structural Support Agreement, which shall be effective for all purposes as if sent by the Lessor.

(e) Subject to the Excepted Rights, the Lessee and the Construction Agent agree that they will not, unilaterally or by agreement, subordinate, amend, supplement, modify, extend (except in accordance with the express terms of the Lease or the Agency Agreement), discharge, waive or terminate (except in accordance with the express terms of the Lease or the Agency Agreement) the Lease or the Agency Agreement respectively or any provision thereof without the Administrative Agent's prior written consent, which consent may be withheld in the Administrative Agent's sole discretion, and that any

attempted subordination, amendment, supplement, modification, extension, discharge, waiver or termination without such consent shall be null and void. In the event that the Lease or the Agency Agreement shall be amended or supplemented as herein permitted, the Lease or the Agency Agreement respectively, as so amended or supplemented, shall continue to be subject to the provisions of the Assignment of Leases and the Assignment of Contracts without the necessity of any further act by any of the parties thereto. Nothing in this Section 9.13(e) shall be construed as limiting or otherwise affecting in any way the Excepted Rights or Shared Rights.

(f) Neither the execution and delivery of the Assignment or Leases or Assignment of Contracts, nor any action or inaction on the part of the Administrative Agent shall impair or diminish any obligations of the Lessor or the Lessee under the Lease or the Lessor or the Construction Agent under the Agency Agreement, and shall not impose on the Administrative Agent, the Backup Facility Banks or RFC (or their designees) any such obligations, nor shall it impose on the Administrative Agent (or its designee) a duty to produce Rents or cause the Administrative Agent to be a mortgagee in possession for any purpose.

(g) The Lessee agrees to provide to the Participants within sixty (60) days following a Property Closing Date with respect to a Construction Period Property complete copies of the Builder's Risk Insurance policy required to be obtained pursuant to Section 6.1(b) of the Agency Agreement.

9.14 Tax Deferred Exchanges. From time to time, the Lessee may propose to enter into an Exchange Transaction (defined below). Each of the Lessor, the Administrative Agent and the Participants agrees to cooperate with the Lessee and take such action and deliver such documents as the Lessee may from time to time reasonably require in connection with the consummation of such Exchange Transaction; provided, that no such party will provide any assurance that any such Exchange Transaction proposed, and documented as requested, by the Lessee will satisfy the requirements for a tax-deferred exchange, the determination that the Lessee's proposed Exchange Transaction will satisfy such requirements being solely the responsibility of the Lessee. All reasonable costs and expenses incurred by the Lessor, the Administrative Agent and the Participants in connection with any proposed Exchange Transaction shall constitute Transaction Expenses and shall be payable (x) out of Advances in connection with the acquisition of the applicable Property or (y) if the Exchange Transaction is not consummated, by Lessee. If the Required Participants consent to any action requested by the Lessee to be taken in connection with any Exchange Transaction, the Lessor or the Administrative Agent, as applicable, shall take such action. As used herein, an "Exchange Transaction" shall mean (i) the disposition by the Lessee of a Property (or Properties) pursuant to Section 20 of the Lease and release of the Liens of the Operative Agreements encumbering such Property, and the acquisition of a replacement property (or properties) by the Lessee (and not the Lessor), or (ii) the disposition by the Lessee of a property and the acquisition of a Property (or Properties) by the Lessor in replacement thereof, in either case, in a manner which the Lessee believes will satisfy the requirements for tax-deferred exchanges of property under Section 1031 or 1033 of the Code (including, without limitation, through transfer of Properties, replacement properties or contract rights thereto to and from certain intermediaries).

9.15 Governmental Incentive Transactions. The Lessor, the Administrative Agent and the Participants agree as follow:

(a) Upon notice from the Lessee to the Lessor and the Administrative Agent and delivery of the Officer's Certificate specified in clause (d) below, the Lessee may elect (consistent with its general policies and procedures) to have a bond authority, economic development agency, corporation or other entity or other governmental authority of any state or municipality engage in a transaction contemplated by applicable law which may require transfer of title or execution of a lease or security instrument, or other document or agreement with respect to any of the real and/or personal property comprising the applicable Property, by such governmental or development entity and/or by Lessor, Administrative Agent or the Participants, with the intent to receive ad valorem tax, sales/use tax, or other tax related or other governmental incentives for any one or more of the Properties.

(b) At the request of the Lessee, each of the Lessor, the Administrative Agent and the Participants hereby covenants and agrees to cooperate with the others in connection with the consummation of the transactions described in clause (a) above, including, without limitation, by the timely execution and delivery to the Lessee of documents, agreements or instruments reasonably requested by the Lessee under this clause (b); *provided, however*, that all reasonable costs, including reasonable legal fees and expenses as provided in clause (j) of the definition of Transaction Expenses, in connection with such cooperation shall be paid by the Lessee (subject, in the case of any Construction Period Property, to Section 14.23).

(c) Lessee shall possess (i) a limited power of attorney to execute and deliver, as attorney-in-fact on behalf of the Lessor, and/or (ii) the right and power, without the further direction or consent of the Investors or the Administrative Agent, to direct the Trustee to execute and deliver, such documents as are necessary or appropriate in furtherance of the transactions with, or involving, the respective agencies or other entities described in clause (a) above, and for the purposes described therein, such as incentive or abatement applications or agreements and amendments thereto, project submissions, certificates, and similar documents; *provided, however,* that the power of attorney granted hereunder shall not extend to or include documents, agreements or instruments that purport to create, modify, transfer or subordinate an interest in real property, including, without limitation, a deed, lease, ground lease, easement, or security instrument. Lessee shall deliver to Lessor and Administrative Agent copies of all agreements and documents executed pursuant to this clause (c).

(d) In connection with any transaction contemplated by clause (a) above, Lessee shall deliver to Lessor and the Administrative Agent an Officer's Certificate stating that: (i) the applicable transaction, agreement or other action does not impair (in more than a de minimis manner) the value or the utility or remaining useful life of the applicable Property, or the security for the Loans and Investor Contributions; (ii) such transaction, agreement or other action is, in Lessee's reasonable business judgment, necessary or desirable in connection with the ownership, lease, construction, use, maintenance, alteration, renovation or improvement of the applicable Property; (iii) Lessee shall remain obligated under this Lease and under any other Operative Agreement to which it is a party, in each such case in accordance with their terms, as though such transaction, agreement or other action had not been effected, and (iv) Lessee shall pay and perform any obligations of Lessor under such transaction.

#### SECTION 10. LESSEE'S RIGHTS

10.1 Lessee's Rights. Notwithstanding anything to the contrary contained in the Operative Agreements, the Lessor, the Administrative Agent and the other Participants hereby agree that, so long as no Event of Default has occurred and is continuing:

(a) Lessee shall have the right to give all Requisitions (and if any such Requisition contains all of the requisite information, the giving of such Requisition by Lessee shall be deemed the giving by Lessor of a Notice of Borrowing), Notice of Borrowings, conversion notices, continuation notices, Interest Period selections, and prepayment notices relating to the Loan Facility Agreement and pursuant to Section 3.7 of the Trust Agreement;

(b) Lessee shall have the right, in place of the Lessor, to give Extension Requests pursuant to the Liquidity Agreement;

(c) Lessee shall have the right to approve any successor "Administrative Agent" to the extent permitted pursuant to Section 14.15;

(d) Lessee shall receive copies of all notices delivered to the Lessor under the Loan Facility Agreement and the other Operative Agreements and such notices shall not be effective until received by Lessee;

(e) Lessee shall have the right to cure, to the extent susceptible to a cure, any Default or Event of Default of the Lessor under the Loan Facility Agreement;

(f) Lessee shall have the right, on behalf of the Lessor, to select any person or persons (including the Lessee) to whom funds may be paid at the discretion of the Lessor in accordance with Section 13 of this Agreement;

(g) Lessee shall have the right to designate the portion of the Loans on which interest is due and payable for purposes of the definitions of "Allocated Interest" and "Allocated Investor Yield";

(h) Lessee shall have the right, in the place of the Lessor, to give notice of the prepayment of any Loans or reductions of any RFC Loan Commitments and Backup Facility Loan Commitments in accordance with the Loan Facility Agreement;

(i) Lessee shall have the right, in place of the Lessor to replace any Backup Facility Bank in accordance with the terms of the Loan Facility Agreement (subject to the terms of the Liquidity Agreement);

(j) Lessee shall have the right, in the place of the Lessor, (i) to replace any Backup Facility Bank (or any replacement thereof) in accordance with the Liquidity Agreement with an Eligible Assignee if the Backup Facility Bank is a Defaulting Bank, Defaulting Backup Facility Bank, a Downgraded Bank or a Non-Consenting Bank or any replacement of any thereof, (ii) to consent to a financial institution which is nominated pursuant to clause (y) of Section 1.4(a) of the Liquidity Agreement or (iii) to consent to any assignment or sale pursuant to clause (y) of Section 3.5(a) of the Liquidity Agreement;

(k) Lessee has the right to replace any Investor if the Investor is a Defaulting Investor by requiring by written notice to the Defaulting Investor that it assign its Investor Contribution Commitment to another Investor or to another Person which is willing to accept such assignment, as the case may be, subject to the Defaulting Investor being paid by such other Investor or Person, as the case may be, in full, all amounts owing to such Defaulting Investor hereunder and under the Operative Agreements in respect thereof on or prior to the date of replacement;

(l) In the event that, upon the Maturity Date, Lessee desires to renew the term of the Lease and keep the Operative Agreements in effect and a particular Participant does not so agree (which no party to this Agreement has any obligation to do), Lessee shall have the right, subject to the terms and conditions of the Liquidity Agreement (if RFC is consenting to the renewal, and if RFC does not consent to the renewal, all RFC Loans shall be paid in full as a condition to such renewal), to replace such Participant by requiring by written notice to the replaced Participant that it assign its Loans or Investor Contributions, as applicable, to another Participant or to another Person which is willing to accept such assignment, as the case may be, subject to the replaced Participant being paid by such other Participant or Person, as the case may be, in full, of all amounts owing

to the Participant hereunder and under the Operative Agreements in respect thereof on or prior to the date of replacement;

(m) without limiting the foregoing clauses (a) through (l), and in addition thereto, (x) the Lessor shall not exercise any right under the Loan Facility Agreement without giving the Lessee at least ten (10) Business Days' prior written notice (or such shorter period as may be required but in no case less than three (3) Business Days) and, following such notice, the Lessor shall take such action, or forbear from taking such action, as the Lessee shall direct and (y) the Lessee shall have the right to exercise any other right of the Lessor under the Loan Facility Agreement upon not less than two (2) Business Days' prior written notice from the Lessee to the Lessor. Notwithstanding the foregoing, the Investors shall retain the exclusive right to direct the Lessor with respect to the exercise of the Excepted Rights;

(n) In addition to Section 12.9(c), Lessee shall have the right to replace any Backup Facility Bank or any Investor if such Backup Facility Bank or Investor fails to consent to a request for a consent, waiver, amendment, supplement or modification and such failure shall result in such consent or waiver not being granted or such amendment, supplement or modification not being approved or entered into, by requiring (x) in the case of a Backup Facility Bank, by written notice to the replaced Backup Facility Bank that it assign its interest in the Operative Agreements to another Backup Facility Bank or to another Person which is willing to accept such assignment, which assignment is made in accordance with Section 3.5(a) of the Liquidity Agreement, subject to the replaced Backup Facility Bank being paid by such other Backup Facility Bank or Person, as the case may be, in full, all amounts owing to such Backup Facility Bank hereunder and under the Operative Agreements in respect thereof on or prior to the date of replacement, and (y) in the case of an Investor, by written notice to the replaced Investor that it assign its Investor Contribution Commitment to another Investor or to another Person which is willing to accept such assignment, as the case may be, subject to the replaced Investor being paid by such other Investor or Person, as the case may be, in full, all amounts owing to such Investor hereunder and under the Operative Agreements in respect thereof on or prior to the date of replacement;

(o) Lessee shall have the right to income or interest as provided in Section 2.1(a) of the Pledge Agreement and shall have the right, in place of the Administrative Agent, to exercise the rights of the Administrative Agent under Section 2.1(b) of the Pledge Agreement; and

(p) Lessee shall have the right to approve the form of promissory note issued from time to time pursuant to Section 2.17(e) of the Loan Facility Agreement.

## SECTION 11. TRANSFER OF INTEREST

11.1 Transfers by Investors. (a) The following provisions shall be applicable to any assignment, conveyance or other transfer by any Investor of its right, title and interest in or to the Trust Estate, the Lessor or the Trust Agreement:



(A) during the Commitment Period, any Investor may assign, convey or otherwise transfer any of its right, title or interest in or to the Trust Estate, the Lessor or the Trust Agreement to a Permitted Transferee with the consent of the Administrative Agent and, if no Lease Event of Default then exists, the Lessee (which consents may be withheld at the sole discretion of the Administrative Agent and the Lessee (except in the case of an assignment to an existing Backup Facility Bank or Investor or an Affiliate thereof or to a bank that is a lender in Lessee's corporate revolver, in which case, such consents shall not be unreasonably withheld)); provided, however, that if the transferor Investor shall certify to the Lessee that (x) such proposed transfer is being made by virtue of a Legal Requirement applicable to such Investor and (y) compliance with such Legal Requirement or order cannot be satisfied by the Investor granting a participation to the proposed transferee, such transfer shall not be subject to the consent of the Administrative Agent or the Lessee;

(B) after the Commitment Period, any Investor may assign, convey or otherwise transfer any of its right, title or interest in or to the Trust Estate, provided that the Person to whom the transfer is made is a Permitted Transferee; provided, however, that if the transferor Investor shall certify to the Lessee that (x) such proposed transfer is being made by virtue of a Legal Requirement or order of a Governmental Authority with jurisdiction over such Investor and (y) compliance with such Legal Requirement or order cannot be satisfied by the Investor granting a participation to the proposed transferee, such transfer shall not be subject to the consent of the Administrative Agent or the Lessee;

provided, that (i) prior to offering such interest, the transferor Investor shall provide the Lessee with at least ten (10) Business Day's notice of its election to assign such interest and, if the Lessee identifies a proposed transferee satisfying the requirements of clauses (ii) through (v) of this Section 11.1, the transferor Investor will transfer such interest to a Person designated by the Lessee, (ii) no such assignment shall be in an aggregate amount less than \$2,500,000 of Investor Contributions and Investor Contribution Commitments (other than in the case of an assignment of all of an Investor's interests under the Operative Agreements), (iii) each assignment or transfer shall comply with all applicable securities laws, (iv) no purchasing Investor shall then be entitled to receive any greater amount pursuant to subsection 12.3, 12.4, 12.5 and 12.6 than the assigning Investor would have been entitled to receive thereunder in respect of the rights and obligations assigned by such assigning Investor to such purchasing Investor had no such assignment occurred, (v) each assignee or transferee (A) acknowledges that the obligations to be performed from and after the date of such transfer or assignment under this Participation Agreement and all other Operative Agreements are its obligations, including the obligations imposed by this Section 11.1(a) (and the transferor and transferee Investor shall deliver to the Lessee, the Lessor and the Administrative Agent an Assignment and Acceptance, in substantially the form of Exhibit E-1, and an investor's letter in substantially the form of Schedule 2 to Exhibit E-1, executed by the assignee or transferee), (B) further represents and warrants to the Lessee, the Lessor, the Administrative Agent and each Participant as set forth in Section 7.1 and that: (w) it has the requisite power and authority to accept such assignment or transfer and to engage in the transactions contemplated by the Operative agreements; (x) it will not take any action with respect to the Certificate that would violate any applicable securities laws; (y) it will not assign or transfer any Certificate except in compliance with this Section 11.1; and (z) it will not transfer any Certificate unless the proposed transferee makes the foregoing representations and covenants. Notwithstanding anything to the contrary contained herein or in

any other Operative Agreement, the Equity Investor shall not assign, convey or transfer its right, title and interest in or to the Trust Estate, the Lessor or the Trust Agreement except to (i) the Secured Investor or (ii) any permitted transferee of the Secured Investor, and in either event, no such transfer by the Equity Investor shall be permitted unless it shall otherwise satisfy the requirements of this Section 11.1.

(b) Notwithstanding the provisions of Section 11.1(a) to the contrary, an Investor may at any time sell to an Affiliate of such Investor, or to any Backup Facility Bank or any Affiliate of any Backup Facility Bank, or to any special purpose funding vehicle formed by such Investor, participating interests in the economic interest held by such Investor in the Trust Estate or the Trust Agreement, provided that (i) such Investor's obligations under this Agreement and the other Operative Agreements to the other parties hereto and thereto shall remain unchanged, such Investor shall remain solely responsible for the performance thereof (ii) the Administrative Agent, the Lessee and the other parties to the Operative Agreements shall continue to deal solely and directly with such Investor in connection with such Investor's rights and obligations under this Agreement and the other Operative Agreements (iii) the Investor shall make the same ERISA and other similar representations that the lead Investor made, and (iv) the terms of the participation shall contain customary limitations on the participant's right to vote or control the lead Investor's actions. Lessee agrees that each participating Investor shall be entitled to the benefits of Section 12 (other than Section 12.3) with respect to such participating Investor's participating interests, provided that no participating Investor shall be entitled to receive any greater benefits (proportionate to its participation interest) pursuant to such Section than the selling Investor would have been entitled to receive in respect of the participating interests transferred by the selling Investor to such participating Investor had no such transfer occurred.

(c) From and after any transfer effected in accordance with this Section 11.1, the transferor shall be released, to the extent of such transfer, from its liability hereunder and under the other documents to which it is a party in respect of obligations to be performed on or after the date of such transfer, except if the transferee is an Affiliate of the transferor; provided, however, that any transferor Investor shall remain liable under the Trust Agreement to the extent that the transferee Investor shall not have assumed the obligations of the transferor Investor thereunder. Upon any transfer by an Investor as above provided, any such transferee shall assume the obligations of such Investor, and shall be deemed an "Investor" for all purposes of such documents and each reference herein to the transferor shall thereafter be deemed a reference to such transferee for all purposes, except as provided in the preceding sentence. Notwithstanding any transfer of all or a portion of the transferor's interest as provided in this Section 11.1, the transferor shall be entitled to all benefits accrued and all rights vested prior to such transfer, including rights to indemnification under any Operative Agreement. Any transfer in violation of the requirements of this Section 11.1 shall be void ab initio and of no force or effect.

(d) The Lessee authorizes each Investor to disclose to any prospective investor any and all financial information in such Investor's and its Affiliates' possession which has been delivered to such Investor by or on behalf of the Lessee pursuant to this Agreement or which has been delivered to all Investors by or on behalf of the Lessee in connection with their respective credit evaluations of the Lessee and its Affiliates prior to becoming a party to this Agreement; provided that (i) such prospective investor has executed and delivered to the Lessee a written confidentiality agreement substantially in the form of that which has been executed and delivered

by each Investor prior to the date hereof, and (ii) in the case of any information other than that contained in the Confidential Information Memorandum, the Lessee has been informed of the identity of such prospective investor and has consented to the disclosure of such information thereto. Nothing contained in this Section 11.1(d) shall be deemed to prohibit the delivery to any prospective investor of any financial information which is otherwise publicly available.

(e) In the event that after a transfer, the transferee becomes a Competitor, or an Affiliate of a Competitor, of the Lessee or a Person which fails to satisfy the provisions of clause (D) of the definition of "Permitted Transferee," thereupon, such transferee shall promptly notify the Trustee, the Administrative Agent and the Lessee, and so long as such transferee is a Competitor, or an Affiliate of a Competitor of the Lessee or fails to satisfy clause (D) of the definition of "Permitted Transferee", shall no longer have any rights to consent to any matter or document, amendment, modification, supplement or waiver under any Operative Agreement, and such transferee's Certificate shall be ignored (and shall be deemed to not be outstanding) for purposes of determining whether the Required Investors or Required Participants shall have approved any such matter, document, amendment, modification, supplement or waiver.

11.2 Transfers by RFC. RFC may not transfer or assign any or all of its rights and obligations under this Agreement, the Loan Facility Agreement or any other Operative Agreement without the prior written consent of each Backup Facility Bank, Lessor, and provided no Lease Default shall exist at the time of such assignment, the Lessee, provided, that nothing contained herein shall prohibit RFC from transferring or assigning the Investment to the Backup Facility Banks as contemplated by the Liquidity Agreement.

11.3 Transfers by Backup Facility Banks. (a) Any Backup Facility Bank may, in the ordinary course of its business and in accordance with Legal Requirements, at any time and from time to time assign to: (i) any Affiliate of such Backup Facility Bank (in which event the assigning Backup Facility Bank shall not be released from its obligations) without the consent of the Lessee or the Administrative Agent, (ii) except during the Commitment Period, any other Backup Facility Bank or any Affiliate of any Backup Facility Bank without the consent of Lessee or Administrative Agent, and (iii) in any other case with the consent of Lessee (unless a Lease Default shall have occurred and be continuing) and Administrative Agent, which consent shall not be unreasonably withheld or delayed (except that during the Commitment Period Lessee's consent is subject to the sole discretion of Lessee (except in the case of an assignment to an existing Backup Facility Bank or an Affiliate thereof or Investor or to a bank that is a lender under Lessee's corporate revolver)), to any Person (each, a "Purchasing Bank") all or any ratable part of its rights and obligations under this Agreement, the Loan Facility Agreement and the other Operative Agreements (excluding the Liquidity Agreement) pursuant to an Assignment and Acceptance, substantially in the form of Exhibit E-2, executed by such Purchasing Bank, such assigning Backup Facility Bank (and, in the case of a Purchasing Bank that is not a Backup Facility Bank or an Affiliate thereof, by Lessee and Administrative Agent) and delivered to Administrative Agent for its acceptance and recording in the Register, *provided, however*, that (i) no such assignment to a Purchasing Bank (other than any Backup Facility Bank or any Affiliate thereof that is an Eligible Assignee) shall be in an aggregate principal amount less than \$5,000,000 of Backup Facility Loans and Backup Facility Loan Commitments (other than in the case of an assignment of all of a Backup Facility Bank's interests under the Operative Agreements), (ii) after giving effect to any such assignment (other than an assignment of all of a

Backup Facility Bank's interests under the Operative Agreements), the assigning Backup Facility Bank (together with any Backup Facility Bank which is an Affiliate of such assigning Backup Facility Bank) shall retain Backup Facility Loans and/or Backup Facility Loan Commitments aggregating not less than \$5,000,000, (iii) each such assignment by a Backup Facility Bank of any of its Loans shall be made in such manner so that, after giving effect to such assignment, the percentage held by the assignee of the aggregate outstanding principal amount of all Tranche A Loans is the same as the percentage held by such assignee of the aggregate outstanding principal amount of all Tranche B Loans, (iv) at the time of any such assignment, the Purchasing Bank shall purchase an identical percentage of such Backup Facility Bank's Backup Facility Loan Commitment in accordance with the Liquidity Agreement, (v) no Purchasing Bank shall then be entitled to receive any greater amount pursuant to subsection 12.3, 12.4, 12.5 and 12.6 than the assigning Backup Facility Bank would have been entitled to receive thereunder in respect of the rights and obligations assigned by such assigning Backup Facility Bank to such Purchasing Bank had no such assignment occurred), (vi) each assignment or transfer shall comply with all applicable securities laws, and (vii) each assignee or transferee further represents and warrants to the Lessee, the Lessor, the Administrative Agent and each Participant as set forth in Section 7.8. Upon such execution, delivery, acceptance and recording, from and after the effective date determined pursuant to such Assignment and Acceptance, (x) the Purchasing Bank thereunder shall be a party to this Agreement and the Loan Facility Agreement and, to the extent provided in such Assignment and Acceptance, have the rights and obligations of a Backup Facility Bank under this Agreement, the Loan Facility Agreement and the other Operative Agreements (excluding the Liquidity Agreement), and (y) the assigning Backup Facility Bank thereunder shall, to the extent provided in such Assignment and Acceptance, be released from its obligations under this Agreement and the Loan Facility Agreement except in the case of any assignment by a Backup Facility Bank to an Affiliate thereof (and, in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Backup Facility Bank's rights and obligations under the Operative Agreements (excluding the Liquidity Agreement), such assigning Backup Facility Bank shall cease to be a party to this Agreement and the Loan Facility Agreement).

Upon satisfaction of the conditions set forth in the preceding paragraph and upon its receipt of an Assignment and Acceptance executed by an assigning Backup Facility Bank and a Purchasing Bank (and, in the case of a Purchasing Bank that is not a Backup Facility Bank or an Affiliate thereof, by Lessee and Administrative Agent to the extent required) together with payment to Administrative Agent by the assigning Backup Facility Bank of a registration and processing fee of \$3,500, which shall not be a payment obligation of Lessee under the Operative Agreements, Administrative Agent shall (i) promptly accept such Assignment and Acceptance and (ii) promptly after the effective date determined pursuant thereto, record the information contained therein in the Register and give notice of such acceptance and recordation to the Lenders, Lessor, and Lessee. Any transfer in violation of the requirements of this Section 11.3 shall be void ab initio and of no force or effect.

(b) Administrative Agent shall maintain at its address referred to in Section 14.3 a copy of each Assignment and Acceptance delivered to it and a register (the "Register") for the recordation of the names and addresses of the Backup Facility Banks, the Investors, each Backup Facility Banks' Backup Facility Loan Commitment, each Investor's Investor Contribution Commitment, the principal amount of the Loans owing to each Lender from time to time and the

amount of each Investor Contribution owing to each Investor from time to time. The entries in the Register shall be conclusive, in the absence of clearly manifest error, and Lessee, Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as the owner of the Loan recorded therein for all purposes of this Agreement. The Register shall be available for inspection by Lessee, Lessor, the Investors or any Lender at any reasonable time and from time to time upon reasonable prior notice.

(c) Any Backup Facility Bank may, in the ordinary course of its business and in accordance with Legal Requirements, at any time sell to one or more banks, financial institutions or other entities (each a "Participating Bank") participating interests in any Loan owing to such Backup Facility Bank. In the event of any such sale by a Backup Facility Bank of such a participating interest to a Participating Bank, such Backup Facility Bank's obligations under the Loan Facility Agreement to the other parties to the Loan Facility Agreement shall remain unchanged, such Backup Facility Bank shall remain solely responsible for the performance thereof, such Backup Facility Bank shall remain the holder of any such Loan for all purposes under the Loan Facility Agreement and the other Operative Agreements, and the Lenders and Administrative Agent shall continue to deal solely and directly with such Backup Facility Bank in connection with such Backup Facility Bank's rights and obligations under the Loan Facility Agreement, the Notes (if any), and the other Operative Agreements. Such transferring Backup Facility Bank shall pay all costs and expenses incurred in connection with a sale pursuant to this Section 11.3(c) which shall not be a payment obligation of Lessee under the Operative Agreements. In no event shall any Participating Bank have any right to approve any amendment or waiver of any provision of this Agreement or any other Operative Agreement, or any consent to any departure by Lessee or any other Person therefrom, except to the extent that such amendment, waiver or consent would (i) reduce the principal of, or interest on, any Loan or postpone the date of the final maturity of any Loan or reduce the amount of any Facility Fee, in each case to the extent subject to such participation, (ii) permit a Participating Bank to require the transferring Backup Facility Bank to be a Non-Consenting Bank pursuant to Section 1.4 of the Liquidity Agreement to the extent of such participating interest if the Participating Bank funds to such Backup Facility Bank the amount of its participating interest on the applicable Commitment Expiry Date or (iii) release all or substantially all of the Collateral. Lessee agrees that each Participating Bank shall be entitled to the benefits of Section 12 (other than Section 12.3) with respect to such Participating Bank's participating interests, provided that no Participating Bank shall be entitled to receive any greater benefits (proportionate to its participation interest) pursuant to such Section than the selling Backup Facility Bank would have been entitled to receive in respect of the participating interests transferred by the selling Backup Facility Bank to such Participating Bank had no such transfer occurred.

(d) Notwithstanding any of the foregoing or any other provision herein, any Backup Facility Bank may at any time assign or pledge all or a portion of its rights hereunder, including without limitation its Loans, to a Federal Reserve Bank as collateral in accordance with Regulation A of the Board of Governors of the Federal Reserve System and the applicable circular of such Federal Reserve Bank.

(e) The Lessee authorizes each Backup Facility Bank to disclose to any prospective Participating Bank, any Participating Bank or any prospective Purchasing Bank (each, a "Transferee") any and all financial information in such Backup Facility Bank's and its

Affiliates' possession which has been delivered to such Backup Facility by or on behalf of the Lessee pursuant to this Agreement or which has been delivered to all Backup Facility Banks by or on behalf of the Lessee in connection with their respective credit evaluations of the Lessee and its Affiliates prior to becoming a party to this Agreement; provided that (i) such Transferee has executed and delivered to the Lessee a written confidentiality agreement substantially in the form of that which has been executed and delivered by each Backup Facility Bank prior to the date hereof, and (ii) in the case of any information other than that contained in the Confidential Information Memorandum, the Lessee has been informed of the identity of such Transferee and has consented to the disclosure of such information thereto. Nothing contained in this Section 11.3(e) shall be deemed to prohibit the delivery to any Transferee of any financial information which is otherwise publicly available.

(f) Notwithstanding anything herein to the contrary, the parties acknowledge that any assignment or participation by a Backup Facility Bank of its Commitment shall be made pursuant to, and in accordance with, Section 3.5 of the Liquidity Agreement.

## SECTION 12. INDEMNIFICATION

12.1 General Indemnity. (a) Subject to and limited by Section 12.1(b), the Lessee, whether or not any of the transactions contemplated hereby shall be consummated, hereby assumes liability for and agrees to defend, indemnify and hold harmless each Indemnatee on an After Tax Basis from and against any Claims which may be imposed on, incurred by or asserted against an Indemnatee in any way relating to or arising or alleged to arise out of (i) the financing, refinancing, purchase, acceptance, rejection, ownership, design, construction, delivery, acceptance, non-delivery, leasing, subleasing, possession, use, operation, repair, modification, transportation, condition, sale, return, repossession (whether by summary proceedings or otherwise), or any other disposition of the Properties or any part thereof; (ii) any latent or other defects in any Property whether or not discoverable by an Indemnatee or the Lessee; (iii) a violation of Environmental Laws, Environmental Claims or other loss of or damage relating to the Property; (iv) the Operative Agreements, or any transaction contemplated thereby; (v) any breach by the Lessee or the Construction Agent of any of its representations or warranties under the Operative Agreements, any failure by the Lessee or the Construction Agent to perform or observe any covenant or agreement to be performed by it under any of the Operative Agreements, and any other Lease Default or Lease Event of Default; (vi) personal injury, death or property damage relating to any Property, including Claims based on strict liability in tort; (vii) the transactions contemplated hereby or by any other Operative Agreement in respect of any Prohibited Transaction (except with respect to any Claims arising out of a violation of ERISA or Section 4975 of the Code that is attributable to any act or omission of such Indemnatee or any Commonly Controlled Entity of such Indemnatee); (viii) the borrowing of the Loans in accordance with the terms of the Operative Agreements; or (ix) a Fully Indemnifiable Event; but in any event excluding (1) Claims against a particular Indemnatee to the extent resulting from the gross negligence or willful misconduct of such Indemnatee or any Related Person thereto or the breach of a representation, warranty or covenant of such Indemnatee or any Related Person thereto in any Operative Agreement, (2) except as provided in Section 5.4(a) of the Agency Agreement with respect to any Claim relating to a specific Property Claims to the extent such Claims arise solely out of events occurring after the expiration of the Term and after the Lessee's discharge of all its obligations under the Lease and which relate solely to Properties



that Lessee has not purchased, (3) any Taxes except to the extent indemnified pursuant to either Section 12.2 or 12.3, (4) any Claim resulting from Lessor Liens, (5) any Claim resulting from the Mortgage or other Liens contemplated by any of the Operative Agreements to the extent the applicable Indemnitee is in breach of any obligation under the Operative Agreements to discharge such Liens, or (6) any Claim arising from a breach by any of the Participants, the Administrative Agent or the Lessor of any agreement entered into in connection with the assignment or participation of any Note or any Certificate. The Lessee shall be entitled to assume and control the defense and settlement of any Claim and any action, suit or proceeding related thereto, except that the Lessee shall not be entitled to assume and control the defense and (other than in accordance with the immediately succeeding paragraph) settlement thereof if and to the extent that: (A) in the reasonable opinion of such Indemnitee, (w) such action, suit or proceeding involves any risk of imposition of criminal liability or (x) such action, suit or proceeding involves any material risk of material civil liability on such Indemnitee or (y) such action, suit or proceeding will involve any material risk of the sale, forfeiture or loss of, or the creation of any Lien (other than a Permitted Lien) on, such Property or any part thereof unless, if requested by the applicable Indemnitee, the Lessee shall have posted a bond or other security reasonably satisfactory to the relevant Indemnitee in respect of such risk or (z) the control of such action, suit or proceeding would involve an actual or potential conflict of interest, (B) such proceeding involves Claims with respect to which the Lessee is not obligated to indemnify hereunder and the Lessee and the Indemnitee have been unable to sever such Claims from the indemnified Claim(s), or (C) a Lease Event of Default has occurred and is continuing. The Indemnitee will join in the Lessee's efforts to sever such action if applicable. The Indemnitee may participate in a reasonable manner at its own expense and with its own counsel in any proceeding conducted by the Lessee in accordance with the foregoing. The Lessee agrees to give the applicable Indemnitee prompt written notice of any Claim hereby indemnified against but the giving of any such notice shall not be a condition to the Lessee's obligations under this Section 12.1(a). An Indemnitee shall, after obtaining actual knowledge thereof, promptly notify Lessee of any Claim as to which indemnification is sought, *provided, however*, that the failure to give such notice shall not release Lessee from any of its obligations under this Section 12.1(a), except to the extent that failure to give notice of such Claim is shown to increase Lessee's liability under such Claim from that which would have existed if the failure to give notice had not occurred. The applicable Indemnitee and each Related Person thereto agrees, at the expense of the Lessee, to cooperate with the Lessee.

The Lessee may enter into any settlement or other compromise with respect to any Claim entitled to be indemnified under this Section 12.1 without the consent of the applicable Indemnitee or any other Person; provided, however, that, without the prior written consent of such Indemnitee, the Lessee shall not enter into any settlement or other compromise with respect to any Claim entitled to be indemnified under Section 12.1 that involves, would be deemed to be, or would have the effect of, an admission of liability by such Indemnitee or the obligation of such Indemnitee to act or refrain from acting in any way (other than the payment of money which the Lessee shall have acknowledged in writing to such Indemnitee is the Lessee's obligation pursuant to this Section 12.1 to pay); and provided, further, that the Lessee shall not enter into any settlement or other compromise with respect to any Claim entitled to be indemnified under Section 12.1 that causes a Lease Default or Lease Event of Default to occur. Unless a Lease Event of Default shall have occurred and be continuing, no Indemnitee shall enter into any settlement or other compromise with respect to any Claim against such Indemnitee

which is entitled to be indemnified under Section 12.1 without the prior written consent of the Lessee (which consent shall not be unreasonably withheld) unless such Indemnitee waives its right to be indemnified under Section 12.1 with respect to such Claim.

(b) Notwithstanding anything to the contrary herein or any other Operative Agreement, prior to Completion of a Construction Period Property, the Lessee shall not be obligated under any of the Operative Agreements to indemnify any Indemnitee with respect to a Claim relating to such Construction Period Property other than: (i) the Lessor Parties with respect to any costs arising from third-party damage Claims caused by, resulting from or constituting, a Fully Indemnifiable Event, and (ii) any Indemnitee with respect to a Claim described in clause (iii) of the definition of Fully Indemnifiable Event.

12.2 General Tax Indemnity. (a) Indemnification. (i) The Lessee shall pay and assume liability for, and does hereby agree to indemnify, protect and defend the Properties and all Indemnitees, and hold them harmless against, all Impositions on an After Tax Basis.

(ii) It is intended that all payments to or for the benefit of any Indemnitee under the Lease and/or the other Operative Agreements (including without limitation, payments of Supplemental Rent and Basic Rent under the Lease, payments of principal and interest under the Loans, and payments of Investor Yield and Investor Amount to the Investors), shall be made free and clear of and without deduction for any and all present or future Impositions. If the Lessee, any Indemnitee or any other Person ("Applicable Payor") shall be required by law to deduct any Impositions from or in respect of any amounts payable under the Lease or any other Operative Agreement to or for the benefit of the any Indemnitee ("Applicable Payee"), if such deductions are the result of a change in any U.S. treaty, law or regulation or occur for a reason described in Section 12.3(d), (A) the amounts payable by such Applicable Payor (as rent, interest or otherwise) shall be increased by the amount necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 12.2(a)(ii)) the Applicable Payee shall receive an amount equal to the sum it would have received had no such deductions been required, (B) the Applicable Payor shall make such deductions and (C) the Applicable Payor shall pay the full amount deducted to the relevant taxing authority or other Governmental Authority in accordance with all applicable laws and legal requirements. The Lessee will indemnify each Indemnitee on demand for the full amount of any sums required to be increased by such Applicable Payor pursuant to clause (C) of the second sentence of this Section 12.2(a)(ii) on an After Tax Basis and any liability the Indemnitee may incur or be required to pay.

(iii) Subject to the terms of Section 12.2(b), the Lessee shall pay or cause to be paid all Impositions directly to the taxing authorities where feasible and otherwise to the Indemnitee, as appropriate, and the Lessee shall at its own expense, upon such Indemnitee's reasonable request, furnish to such Indemnitee copies of official receipts or other satisfactory proof evidencing such payment.

(iv) In the case of Impositions for which no contest is conducted pursuant to Section 12.2(b) and which the Lessee pays directly to the taxing authorities, the Lessee shall pay such Impositions (together with any interest thereon) prior to the latest time



permitted by the relevant taxing authority for timely payment (other than in the case of withholding taxes, which shall be paid simultaneously with the payment under the Operative Agreement requiring such withholding). In the case of Impositions for which the Lessee reimburses an Indemnitee, the Lessee shall do so (together with any interest thereon) within twenty (20) days after receipt by the Lessee of written demand by such Indemnitee describing in reasonable detail the nature of the Impositions and the basis for the demand (including the computation of the amount payable and interest thereon), but in no event shall the Lessee be required to pay such reimbursement prior to five (5) Business Days before the latest time permitted by the relevant taxing authority for timely payment. In the case of Impositions for which a contest is conducted pursuant to Section 12.2(b), the Lessee shall pay such Impositions or reimburse such Indemnitee for such Impositions, to the extent not previously paid or reimbursed pursuant to subsection (i), prior to the latest time permitted by the relevant taxing authority for timely payment after conclusion of all contests under Section 12.2(b) unless payment shall be required before commencement of such contest, in which case the Lessee shall pay such Impositions or reimburse the Indemnitee for such Impositions prior to the latest time permitted by the relevant taxing authority for timely payment prior to commencement of such contest.

(v) Impositions imposed for a billing period during which the Lease expires or terminates (unless the Lessee has exercised the Purchase Option) shall be adjusted and prorated on a daily basis between the Lessee and the Lessor, whether or not such Imposition is imposed before or after such expiration or termination and each party shall pay or reimburse the other for each party's pro rata share thereof.

(vi) The determination of all Impositions to be paid or indemnified against by the Lessee under this Section 12.2(a) on an After Tax Basis shall first be made (in good faith) by the Indemnitee. Such determination shall state with reasonable clarity and detail the basis for such determination. At the Lessee's request, the amount of any indemnity payment by the Lessee pursuant to Section 12.2 or payment by an Indemnitee to the Lessee pursuant to Section 12.3(c) shall be verified and certified by an independent public accounting firm selected by the Lessee and reasonably acceptable to the Indemnitee. Unless such verification shall disclose an error in the Indemnitee's favor of 5% or more of the related indemnity payment, the costs of such verification shall be borne by the Lessee (but in no event shall RFC have any obligation to pay any such costs). In no event shall the Lessee have the right to review the Indemnitee's tax returns or receive any other confidential information from the Indemnitee in connection with such verification. The Indemnitee agrees to cooperate with the independent public accounting firm performing the verification and to supply such firm with all information reasonably necessary to permit such firm to accomplish such verification, provided that the information provided to such firm by such Indemnitee shall be for its confidential use. The parties agree that the sole responsibility of the independent public accounting firm shall be to verify the amount of the payment at issue pursuant to this Agreement and that matters of interpretation of this Agreement are not within the scope of the independent accounting firm's responsibilities.

(b) Contests. If any claim shall be made against any Indemnitee or if any proceeding shall be commenced against any Indemnitee (including a written notice of

such proceeding) for any Imposition as to which the Lessee may have an indemnity obligation pursuant to this Section 12.2, or if any Indemnitee shall determine that any Imposition to which the Lessee may have an indemnity obligation pursuant to this Section 12.2 may be payable, such Indemnitee shall, within thirty (30) days, notify the Lessee in writing (provided that failure to so notify the Lessee within thirty (30) days shall not alter such Indemnitee's rights under this Section 12.2 except to the extent such failure demonstrably materially adversely affects the ability to conduct a contest of any indemnified Taxes) and shall not take any action with respect to such claim, proceeding or Imposition without the written consent of the Lessee (such consent not to be unreasonably withheld or unreasonably delayed, such determination based solely on the merits of the claim at issue) for thirty (30) days after the receipt of such notice by the Lessee; *provided, however*, that in the case of any such claim or proceeding, if such Indemnitee shall be required by law or regulation to take action prior to the end of such 30-day period, such Indemnitee shall in such notice to the Lessee, so inform the Lessee, and such Indemnitee shall not take any action with respect to such claim, proceeding or Imposition without the consent of the Lessee (such consent not to be unreasonably withheld or unreasonably delayed based solely on the merits of the claim at issue) for ten (10) days after the receipt of such notice by the Lessee unless such Indemnitee shall be required by law or regulation to take action prior to the end of such 10-day period; further provided that the failure of the Indemnitee to give notice referred to in this sentence shall not diminish Lessee's obligations hereunder except to the extent that such failure precludes Lessee from contesting all or part of such Claim.

The Lessee shall be entitled for a period of sixty (60) days from receipt of such notice from such Indemnitee (or such shorter period as such Indemnitee has notified the Lessee is required by law or regulation for such Indemnitee to commence such contest), to request in writing that such Indemnitee contest the imposition of such Tax, at the Lessee's expense. If (x) such contest can be pursued in the name of the Lessee and independently from any other proceeding involving a Tax liability of such Indemnitee for which the Lessee has not agreed to indemnify such Indemnitee or (y) such Indemnitee so requests, then, provided no Default or Event of Default then exists, the Lessee shall be permitted to control the contest of such claim, provided, that by taking control of the contest, the Lessee acknowledges that it is responsible for the Impositions ultimately determined to be due by reason of such claim. In all other claims requested to be contested by the Lessee, such Indemnitee shall control the contest of such claim, acting through counsel reasonably acceptable to the Lessee. In no event shall the Lessee be permitted to contest (or such Indemnitee required to contest) any claim (A) if such Indemnitee provides the Lessee with a legal opinion of counsel reasonably acceptable to the Lessee that such action, suit or proceeding involves a risk of imposition of criminal liability or will involve a material risk of the sale, forfeiture or loss of, or the creation of any Lien (other than a Permitted Lien) on any Property or any part of any thereof unless the Lessee shall have posted and maintained a bond or other security satisfactory to the relevant Indemnitee in its sole discretion in respect to such risk, (B) if a Lease Event of Default has occurred and is continuing, unless the Lessee shall have posted and maintained a bond or other security satisfactory to the relevant Indemnitee in its sole discretion in respect of the Taxes subject to such claim and any and all expenses for which the Lessee is responsible hereunder is reasonably foreseeable in connection with

the contest of such claim, (C) unless the Lessee shall have agreed to pay and shall pay, to such Indemnitee on demand all reasonable out-of-pocket costs and expenses that such Indemnitee may incur in connection with contesting such Impositions including all reasonable legal, accounting and investigatory fees and disbursements, or (D) if such contest shall involve the payment of the Tax prior to the contest, unless the Lessee shall provide to such Indemnitee an interest-free advance in an amount equal to the Impositions that the Indemnitee is required to pay (with no additional net after-tax costs to such Indemnitee). In addition, for Indemnitee controlled contests and claims contested in the name of such Indemnitee, no contest shall be required: (A) unless the amount of the potential indemnity (taking into account all similar or logically related claims that have been or could be raised in any audit involving such Indemnitee with respect to any period for which the Lessee may be liable to pay an indemnity under this Section 12.2(b)) exceeds \$50,000, (B) unless, if requested by such Indemnitee, the Lessee shall have provided to such Indemnitee an opinion of counsel selected by the Lessee and reasonably acceptable to such Indemnitee (except, in the case of income taxes indemnified hereunder, in which case such opinion shall be an opinion of independent tax counsel selected by such Indemnitee and reasonably acceptable to the Lessee) that a reasonable basis exists to contest such claim (or, in the case of an appeal of an adverse determination, and opinion of such counsel to the effect that there is substantial authority for the position asserted in such appeal), and (C) unless Lessee shall have acknowledged in writing to the Indemnitee its obligation to pay the costs and expenses thereof and to indemnify such Indemnitee pursuant to this Section 12 for the Taxes subject to the proposed contest, if such contest is unsuccessful; provided that the acknowledgment with respect to Taxes (and not the costs of the contest) shall be of no force and effect if the final determination demonstrates that the contest was unsuccessful as the result of a non-indemnifiable event or circumstance. In no event shall an Indemnitee be required to appeal an adverse judicial determination to the United States Supreme Court (nor shall the Lessee be required to pay for the cost of such an appeal unless agreed by the Lessee in writing). In addition, an Indemnitee shall not be required to contest any claim in its name (or that of an Affiliate) if the subject matter thereof shall be of a continuing nature and shall have previously been decided adversely by a court of competent jurisdiction pursuant to the contest provisions of this Section 12.2(b), unless there shall have been a change in law (or interpretation thereof) and the Indemnitee shall have received, at the Lessee's expense, an opinion of independent tax counsel selected by the Lessee and reasonably acceptable to the Indemnitee stating that as a result of such change in law (or interpretation thereof), it is more likely than not that the Indemnitee will prevail in such contest.

The party conducting the contest shall consult in good faith with the other party and its counsel with respect to the contest of such claim for Taxes but the decisions regarding what actions to be taken shall be made by the controlling party in its sole judgment. In addition, the controlling party shall keep the non-controlling party reasonably informed as to the progress of the contest, and shall provide the non-controlling party with a copy of (or appropriate excerpts from) any reports or claims issued by the relevant auditing agents or taxing authority to the controlling party thereof, in connection with such claim or the contest thereof. The non-controlling party shall be

permitted to attend all conferences with the relevant auditing agents or taxing authority solely to the extent the discussion pertains to the claim at issue.

Each Indemnitee shall, at the Lessee's expense, supply the Lessee with such information and documents reasonably requested by the Lessee as are necessary or advisable for the Lessee to participate in any action, suit or proceeding to the extent permitted by this Section 12.2(b). Notwithstanding anything in this Section 12.2(b) to the contrary, no Indemnitee shall enter into any settlement or other compromise or fail to appeal an adverse ruling with respect to any claim which is entitled to be indemnified under this Section 12.2 (and with respect to which contest is required under this Section 12.2(b)) without the prior written consent of the Lessee, unless such Indemnitee waives its right to be indemnified under this Section 12.2 with respect to such claim. No settlement of any contest may be made by the Lessee without the Indemnitee's written consent, which consent shall not be unreasonably withheld such determination based solely upon the claim at issue.

Notwithstanding anything contained herein to the contrary, an Indemnitee will not be required to contest (and the Lessee shall not be permitted to contest) a claim with respect to the imposition of any Tax if such Indemnitee shall waive its right to indemnification under this Section 12.2 with respect to such claim (and any claim with respect to such year or any other taxable year the contest of which is materially adversely affected as a result of such waiver).

(c) Reports. The Lessee shall be responsible for preparing and filing any real and personal property or ad valorem tax returns in respect of the Properties. In case any other report or tax return shall be required to be made with respect to any obligations of the Lessee under or arising out of subsection (a) and of which the Lessee has knowledge, the Lessee, at its sole cost and expense, shall notify the relevant Indemnitee of such requirement and (except if such Indemnitee notifies the Lessee that such Indemnitee intends to file such report or return) (A) to the extent required or permitted by and consistent with Requirements of Law, make and file in its own name such return, statement or report; and (B) in the case of any other such return, statement or report required to be made in the name of such Indemnitee, advise such Indemnitee of such fact and prepare such return, statement or report for filing by such Indemnitee or, where such return, statement or report shall be required to reflect items in addition to any obligations of the Lessee under or arising out of subsection (a), provide such Indemnitee at the Lessee's expense with information sufficient to permit such return, statement or report to be properly made with respect to any obligations of the Lessee under or arising out of subsection (a). Such Indemnitee shall, upon the Lessee's request and at the Lessee's expense, provide any data regularly maintained by such Indemnitee (and not otherwise within the control of the Lessee) with respect to the Property, which the Lessee may reasonably require to prepare any required tax returns or reports.

(d) When and if a Participant actually receives any refund, credit or deduction from any taxing authority which such Participant can reasonably determine, in good faith, is fairly attributable to the payment by Lessee of any United States federal, state or local Tax, pursuant to Section 12.2, such Participant thereupon shall repay to Lessee an amount with respect to such refund, credit or deduction equal to any net reduction in Taxes actually obtained

by such Participant which is attributable to such refund, credit or deduction (but not in excess of the amount of all prior payments paid by Lessee to, or for, the Participant pursuant to this Section 12.2 (reduced by all prior payments under this Section 12.2(d)).

(e) Tax Shelter Registration. Each party hereto authorizes each other party hereto (and each party hereto which is deemed to be a promoter of the transaction which is the subject of the Operative Agreements hereby authorizes each offeree (and each employee, representative, or other agent of such offeree), all within the meaning of Treas. Reg. Sec. 301.6111-2T(c) and related Treasury Regulations) to disclose the structure and tax aspects of the transaction which is the subject of the Operative Agreements to any and all persons, without limitation of any kind on such disclosure. The Lessee agrees to indemnify, protect and defend each Indemnitee from, and hold them harmless against, any taxes (including penalties and interest) resulting from (i) the failure of the Lessee to register the transactions contemplated under the Operative Agreements with the Internal Revenue Service in accordance with the immediately preceding sentence, or (ii) the failure to properly so register.

(f) Survival. It is expressly understood and agreed that the indemnity provided for herein shall survive the expiration or termination of and shall be separate and independent from any remedy under the Lease or any other Operative Agreement.

12.3 Withholding Tax. (a) On the Initial Closing Date, or in the case of a Person that actually becomes a Participant after the Initial Closing Date at least thirty (30) Business Days prior to the first date on which any payment is due hereunder to such Participant, each Participant that is a Non-U.S. Person shall deliver to each of Lessee, RFC and the Trustee the Prescribed Forms. If any Participant that is a Non-U.S. Person is unable to so deliver the Prescribed Forms, Lessee and the Trustee or RFC shall be entitled to withhold from any payments to such Participant under this Agreement, the Loan Facility Agreement and the Liquidity Agreement as the case may be, such amounts of Tax as may be required by law to be so withheld, after taking into account any reduction in the rate of applicable withholding Tax to which such Participant may establish its eligibility by duly filing an IRS Form W-8BEN or W-8BCI (or successor form) with Lessee, RFC and the Trustee, and neither Lessee, RFC or the Trustee shall have any obligation to pay such Participant for any Taxes so withheld, except as provided in Section 12.3(b).

(b) If any change occurs after a Non-U.S. Person becomes a Participant which renders the Prescribed Forms previously delivered by such Participant inapplicable or, in the case of any Prescribed Form that is not, by its terms, effective for the Term, which would prevent such Person from duly completing and delivering any renewal, extension or continuation of a Prescribed Form previously filed by such Person, such Participant shall promptly (after obtaining actual knowledge of such change) advise Lessee, RFC and the Trustee that it is no longer capable of receiving payments without the withholding of United States Tax and that Lessee, RFC and the Trustee are obligated to withhold United States Tax from payments by them to such Participant. If any such change involves a change in a treaty, law or regulation, Lessee shall be obligated to pay such Participant, on an After-Tax Basis, for any United States Tax which must be withheld from payments made to such Participant under this Agreement, but only if and to the extent that the obligation to withhold such United States Tax arises solely by reason of a change

in treaty, law, or regulation which takes effect after the date on which such Participant became a Participant.

(c) Should a Participant ever receive any refund, credit or deduction from any taxing authority to which such Participant would not be entitled but for the payment by Lessee of any United States federal, state or local Tax, pursuant to Section 12.3(b), such Participant thereupon shall repay to Lessee an amount with respect to such refund, credit or deduction equal to any net reduction in Taxes actually obtained by such Participant which is attributable to such refund, credit or deduction (but not in excess of the amount of all prior payments paid by Lessee to, or for, the Participant pursuant to this Section 12.3(b) (reduced by all prior payments under this Section 12.3(b)).

(d) Notwithstanding anything herein to the contrary, Lessee shall indemnify any Indemnitee against any Taxes imposed by way of withholding by a jurisdiction outside of the United States as a result of (i) the payment by Lessee of any amount pursuant to this Agreement or the other Operative Agreements from, or (ii) the booking by Lessee of some or all of the transactions contemplated by the Operative Agreements in, such jurisdiction.

12.4 Increased Costs. (a) If (i) there shall be any increase in the cost to any Participant of agreeing to make or making, funding or maintaining any Loans or Investor Contributions (or in the case of RFC, the CP Issuer or any financial institution providing liquidity or credit support for the Commercial Paper) or (ii) any reduction in any amount receivable in respect thereof, and such increased cost or reduced amount receivable is due to either:

(x) the introduction of or any change in or in the interpretation of any law or regulation after the date hereof; or

(y) the compliance with any guideline or request made after the date hereof from any central bank or other Governmental Authority (whether or not having the force of law),

then (subject to the provisions of Section 12.9) the Lessee shall from time to time, within ten (10) days of receipt of such notice by such Participant pay such Participant additional amounts sufficient to compensate such Participant for such increased cost or reduced amount receivable. Notwithstanding the foregoing, the Lessee shall have no obligation to pay for any such additional amounts arising out of such event with respect to any period more than one hundred eight (180) days prior to the date of notice of such event to the Lessee.

(b) If any Participant shall have reasonably determined that (i) the applicability of any law, rule, regulation or guideline adopted after the date hereof pursuant to or arising out of the July 1988 paper of the Basle Committee on Banking Regulations and Supervisory Practices entitled "International Convergence of Capital Measurement and Capital Standards," or (ii) the adoption after the date hereof of any other law, rule, regulation or guideline regarding capital adequacy affecting such Participant, or (iii) any change arising after the date hereof in the foregoing or in the interpretation or administration of any of the foregoing by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration

thereof, or (iv) compliance by such Participant (or the Applicable Lending Office of such Participant), or any holding company for such Participant which is subject to any of the capital requirements described above, with any request or directive of general application issued after the date hereof regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on such Participant's capital or on the capital of any such holding company as a direct consequence of such Participant's obligations under the Operative Agreements to a level below that which such Participant or any such holding company could have achieved but for such adoption, change or compliance (taking into consideration such Participant's policies and the policies of such holding company with respect to capital adequacy) by an amount deemed by such Participant to be material, then (subject to the provisions of Section 12.9) from time to time such Participant may request the Lessee to pay to such Participant such additional amounts as will compensate such participant or any such holding company for any such reduction suffered, net of the savings (if any) which may be reasonably projected to be associated with such increased capital requirement. Any certificate as to such amounts which is delivered pursuant to Section 12.9(a) shall, in addition to any items required by Section 12.9(a), include the calculation of the savings (if any) which may be reasonably projected to be associated with such increased capital requirement.

(c) In the event that any Governmental Authority shall impose any Eurocurrency Reserve Requirements which increase the cost of any Participant of making or maintaining Eurodollar Loans, then (subject to the provisions of Section 12.9) the Lessee shall thereafter pay in respect of the Eurodollar Loans or Investor Contributions of such Participant a rate of interest based upon the Eurodollar Reserve Rate (rather than upon the Eurodollar Rate). From and after the delivery to the Lessee of the certificate required by Section 12.9(a), all references contained in this Agreement to the Eurodollar Rate shall be deemed to be references to the Eurodollar Reserve Rate with respect to each such affected Participant.

12.5 Illegality. (a) Notwithstanding any other provision of this Agreement, if the adoption of or any change in any Legal Requirement or in the interpretation or application thereof shall make it unlawful for any Participant or its Applicable Lending Office to honor its obligation to make or maintain Eurodollar Loans under the Loan Facility Agreement or to make or to maintain the Investor Contributions, then the Participant shall promptly notify Lessee thereof and such Participant's obligation to make Eurodollar Loans or to make or maintain its Investor Contributions, as the case may be, shall be suspended until such time as such Participant may again make and maintain Eurodollar Loans or Investor Contributions (in which case the provisions of Section 12.5(b) hereof shall be applicable).

(b) If the obligation of any Participant to make Eurodollar Loans or to make or maintain its Investor Contributions, as the case may be, shall be suspended pursuant to Section 12.5(a), all Loans and Investor Contributions which would otherwise have been made by such Participant as Eurodollar Loans or with reference to the Eurodollar Rate, respectively, shall be made instead as ABR Loans or with reference to ABR and, if an event referred to in Section 12.5(a) has occurred and such Participant has so requested by notice to Lessee, all Eurodollar Loans and Investor Contributions then outstanding shall be automatically converted into ABR Loans and bear Investor Yield with respect to ABR, respectively, on the date specified by such Participant in such notice. To the extent that Eurodollar Loans and Investor Contributions are

made (or converted into ABR Loans or the equivalent), all payments of principal which would otherwise be applied to such Participant's Eurodollar Loans and Eurodollar Rate Investor Contributions shall be applied instead to its ABR Loans and ABR Investor Contributions.

12.6 Compensation. Lessee shall pay, as Supplemental Rent under the Lease, to the Participants such amount or amounts as shall be shown by any Participant to be necessary to compensate it for any loss, cost or expense (which, in the case of RFC Loans, shall be CP Breakage Costs) attributable to: (a) any prepayment or conversion of a Eurodollar Loan or a Eurodollar Rate Investor Contribution on a date other than the last day of the Interest Period for such Loan or Investor Contribution; (b) any payment or prepayment of a RFC Loan other than a payment in full of the RFC Loans on the Maturity Date; (c) any failure for any reason of a Loan or an Investor Contribution to be continued as, or converted into, a Eurodollar Loan or a Eurodollar Rate Investor Contribution on the date for such continuation or conversion specified in the relevant notice given pursuant to the Loan Facility Agreement, this Agreement, or the Trust Agreement, as the case may be; or (d) default by the Lessor in making a prepayment after notice thereof has been given in accordance with the Operative Agreements.

12.7 Indemnity Payments in Addition to Lease Obligations. Lessee acknowledges and agrees that its obligations to make indemnity payments under this Section 12 are separate from, in addition to, and do not reduce, its obligation to pay Basic Rent or any other payment required hereunder or the Lease in accordance with the provisions hereof or thereof.

12.8 Indemnity from Lessor. To the extent that the Lessor is indemnified by the Lessee hereunder, the Lessor hereby assumes liability for, and agrees to defend, indemnify and hold harmless each Indemnified Person on an After Tax Basis from and against, any Claims which may be imposed on, incurred by or asserted against an Indemnitee under or pursuant to any Operative Agreement that would, but for the operation of Section 12.1(b), be payable by Lessee or Construction Agent. To the extent that neither the Lessor nor an Indemnitee is indemnified for a Claim as a result of the operation of Section 12.1(b), such amounts shall be payable solely from distributions of Unreimbursed Indemnity Amounts pursuant to Section 13 and Lessor shall have no indemnification obligation pursuant to this Section 12.8.

12.9 Notice of Amounts Payable: Relocation of Lending Office: Mandatory Assignment. (a) In the event that any Participant becomes aware that any amounts are or will be owed to it pursuant to subsection 12.3, 12.4, 12.5, or 12.6, then it shall promptly notify the Lessee thereof and, as soon as possible thereafter, such Participant shall submit to the Lessee a certificate indicating the amount owing to it and the calculation thereof. The amounts set forth in such certificate shall be prima facie evidence of the obligations of the Lessee hereunder; *provided, however,* that the failure of the Lessee to pay any amount owing to any Participant pursuant to subsection 12.3, 12.4, 12.5, or 12.6 shall not be deemed to constitute a Default or an Event of Default to the extent that the Lessee is contesting in good faith its obligation to pay such amount by ongoing discussions diligently pursued with such Participant or by appropriate proceedings.

(b) If a Participant claims any additional amounts payable pursuant to subsection 12.3, 12.4 or 12.5 or provides a notice under Section 12.5, it shall use its reasonable efforts (consistent with legal and regulatory restrictions) to avoid the need for paying such additional



amounts, including changing the jurisdiction of its Applicable Lending Office, provided that the taking of any such action would not, in the reasonable judgment of the Participant, be disadvantageous to such Participant.

(c) In the event that any Participant (other than RFC) delivers to the Lessee a certificate in accordance with subsection 12.9(a) (other than a certificate as to amounts payable pursuant to Section 12.6), or the Lessee is required to pay any additional amounts or other payments in accordance with Section 12.3, 12.4 or 12.5, the Lessee may, at its own expense and its sole discretion require such Participant to transfer or assign, in whole or in part, without recourse (in accordance with Section 11.3 and Section 3.5 of the Liquidity Agreement), all or part of its interests, rights and obligations under this Agreement to another Person (provided that the Lessee, with the full cooperation of such Participant, can identify a Person who is ready, willing and able to be an assignee with respect thereto) which shall assume such assigned obligations (which assignee may be another Lender or Investor, if such assignee Lender or Investor accepts such assignment); provided that (x) the Lessee or the assignee, as the case may be, shall have paid to such Participant in immediately available funds the principal of and interest or Investor Yield accrued to the date of such payment on the Loans or Investor Contributions made by it and (subject to Section 12.6) all other amounts owned to it under the Operative Agreements and (y) such assignment of the Backup Facility Loan, RFC Commitment, or Investor Contribution Commitment, as applicable, of such Participant and prepayment of Loans or Investor Contributions does not conflict with any law, rule or regulation or order of any court or Governmental Authority.

Notwithstanding anything to the contrary contained in Section 14.5, in the event that the Lessee requests that this Agreement or any other Operative Agreement be modified, amended, supplemented or waived in a manner which would require the unanimous consent of all of the Backup Facility Banks and the Investors and such modification or amendment is agreed to by Backup Facility Banks having Exposure Percentages aggregating more than 66 2/3% and Investors holding more than 66 2/3% of the face amount of the Certificates ("Supermajority Participants"), then with the consent of the Lessee and the Supermajority Participants, the Lessee and the Supermajority Participants shall be permitted to amend this Agreement without the consent of the Backup Facility Banks and/or Investors which did not agree to the modification or amendment requested by the Lessee (such Participants, collectively, the "Minority Participants") to provide for (w) the termination of the Backup Facility Loan Commitment and Investor Contribution Commitment of each of the Minority Participants (provided that such termination shall not terminate any Commitments of such Minority Participants under the Liquidity Agreement unless such Minority Bank's Commitment is replaced with an equal Commitment of a replacement bank in accordance with Section 3.5 of the Liquidity Agreement), (x) the addition to this Agreement of one or more other financial institutions in accordance with the provisions of Section 11.1 and 11.3 hereof and Section 3.5 of the Liquidity Agreement, or an increase in the Backup Facility Loan Commitment or Investor Contribution Commitment of one or more of the Supermajority Participants, so that the Backup Facility Loan Commitments, and Investor Contribution Commitments, after giving effect to such amendment, shall be in the same amount as the Backup Facility Loan Commitments and Investor Contribution Commitments immediately before giving effect to such amendment, (y) if any Backup Facility Loans or Investor Contributions are outstanding at the time of amendment referred to in clause (w) and (x) above, the making of such additional Backup Facility Loans and Investor Contributions by such new

financial institutions or Supermajority Participant, as the case may be, as may be necessary to repay in full the outstanding Backup Facility Loans and Investor Contributions of the Minority Participants immediately before giving effect to such amendment, and (z) subject to the consent of RFC as required under Section 14.5, such other modifications to this Agreement as may be appropriate.

### SECTION 13. DISTRIBUTIONS OF PAYMENTS AND GROSS PROCEEDS

In order to provide for the priority and allocation of payments received from Lessee, Gross Proceeds and the proceeds of the exercise of remedies by any of the Participants pursuant to the Lease and the Security Documents, the parties hereto agree as follows:

13.1 Agreement of Administrative Agent and Participants. Pursuant to the Loan Facility Agreement, the Pledge Agreement and the Assignment of Leases, all of the payments (other than the Excepted Payments) under the Lease, the Participation Agreement and the Loan Facility Agreement have been assigned by the Participants to the Administrative Agent for the ratable benefit of all of the Participants. Except as otherwise provided in Section 13.2 or Section 13.8, the Administrative Agent hereby agrees to deposit all such payments, receipts and other consideration of any kind whatsoever (other than Excepted Payments) received by the Administrative Agent pursuant to the Loan Facility Agreement and any other Security Document in the form received into the Funding Account other than any such payments received after the Expiration Date which shall be distributed by the Administrative Agent, upon receipt, in accordance with the requirements of the Operative Agreements. The Administrative Agent shall make withdrawals from the Funding Account pursuant to the requirements of the Operative Agreements and the provisions of the Loan Facility Agreement and the Pledge Agreement and distribute such amounts to each Participant or other Person entitled thereto (it being understood that any such payment received on a timely basis in accordance with the provisions of the Lease, this Agreement and the other Operative Agreements shall be distributed by the Administrative Agent by 3:00 P.M. New York City time on the same Business Day as received to the extent practicable).

13.2 Basic Rent. Subject to Section 13.8, each payment of Basic Rent (and any payment of interest on overdue installments of Basic Rent) shall be paid directly by Lessee to the Funding Account and shall be distributed from the Funding Account by the Administrative Agent on the days set forth below as follows:

first, to each Lender an amount equal to all interest then due and owing on each Settlement Date to each such Lender pursuant to the terms of the Loan Facility Agreement (provided that in the event that the amounts so distributed pursuant to this clause First are insufficient to pay such interest in full, such amounts shall be distributed to each Lender in accordance with such Lender's pro rata share thereof based on the amounts of interest then due and owing to each Lender),

second, to each Investor an amount equal to all accrued but unpaid Investor Yield on such Investor's Investor Contribution then due and owing on each Certificate Payment Date (together with any overdue interest thereon) (provided that in the event that the amounts so distributed pursuant to this clause Second are insufficient to pay such

Investor Yield (and interest thereon) in full, such amounts shall be distributed to each Investor in accordance with such Investor's Percentage Share).

**13.3 Purchase Payments by Lessee.** Subject to Section 13.8, any payment on any day (other than payments with respect to Excepted Payments) made by Lessee pursuant to the Lease as a result of Lessee's exercise of its Purchase Option (including the BI Purchase Option under Section 20.3 of the Lease), the Maturity Date Purchase Option, or pursuant to Section 16.2 of the Lease, shall be made by Lessee to the Funding Account, which amount may, at Lessee's option, be credited toward the purchase price for the Properties or the affected Property and shall be withdrawn from the Funding Account and distributed by the Administrative Agent in the following order of priority:

first, ratably to the payment of the principal of Tranche B Loans then outstanding in an amount not to exceed the product of (x) the Tranche A/B Property Cost in respect of such Property and (y) the Tranche B Percentage in respect of such Property and all interest (and breakage costs, including CP Breakage Costs, if any) due and payable on such amount,

second, ratably to the payment of the principal of Tranche A Loans then outstanding in an amount not to exceed the product of (x) the Tranche A/B Property Cost in respect of such Property and (y) the Tranche A Percentage in respect of such Property, and all interest (and breakage costs, including CP Breakage costs, if any) due and payable on such amount,

third, to the payment to the Investors of an amount not to exceed the outstanding Investor Property Cost in respect of such Property and the Investor Yield due and payable on such amount (and all breakage costs, if any), and

fourth, to the payment of any Unreimbursed Indemnity Amounts, if any, owing to the Participants in respect of such Property or Properties, and in the case that the amount to be so distributed shall be insufficient to pay in full as aforesaid, then such amount shall be distributed pro rata among the Participants (other than Lessee and its Affiliates to the extent of their respective interests, if any, in any Loans), without priority of one Participant over the other, in the proportion that each such Participant's Unreimbursed Indemnity Amount bears to the aggregate Unreimbursed Indemnity Amounts of all of such Participants.

**13.4 Maximum Residual Guaranty Amount.** The Maximum Residual Guaranty Amount paid by Lessee as Supplemental Rent pursuant to the Lease shall be made by Lessee to the Funding Account and withdrawn from the Funding Account and distributed by the Administrative Agent to the Lenders to pay in full the outstanding principal amount of the Tranche A Loans and accrued and unpaid interest thereon.

**13.5 Sales Proceeds.**

(a) Gross Proceeds. Any payments received by the Administrative Agent as Gross Proceeds from the sale of any Property shall be deposited into and withdrawn from the Funding Account upon the date such payment is due, and distributed by the Administrative Agent (simultaneously with the payment by the Administrative Agent out of the Funding

Account of the Maximum Residual Guarantee Amount pursuant to Section 13.4 and the Non-Completion Amount, if applicable) in the following order of priority:

first, in the case of Gross Proceeds, so much of such payment or amount as shall be required to reimburse Lessor, Trustee, Trust Company, the Administrative Agent, the Securities Intermediary, and any other Participant for any Remarketing Sale Expenses incurred by such Person in connection with such disposition and in the case of a Construction Period Property, such payment or amount as shall be required to reimburse the Administrative Agent, the Securities Intermediary, the Trustee, Trust Company, the Lenders, the Investors or Lessor for any tax, expense or other loss incurred by the Administrative Agent, the Securities Intermediary, Trustee, Trust Company, the Lenders, the Investors or Lessor incurred in connection with the collection of such amounts (to the extent not previously reimbursed) shall be distributed to the Administrative Agent, the Securities Intermediary, Trustee, Trust Company, the Lenders, the Investors or Lessor, as applicable (to be divided among such parties pro rata to the extent insufficient to satisfy all claims),

second, ratably to the payment of the principal of Tranche B Loans then outstanding in an amount not to exceed the product of (x) the Tranche A/B Property Cost in respect of such Property and (y) the Tranche B Percentage in respect of such Property, and all interest (and breakage costs, including CP Breakage Costs, if any) then due and payable on such amount,

third, to the payment to the Investors of an amount not to exceed the outstanding Investor Property Cost in respect of such Property (provided that if the amounts distributed pursuant to this clause third are insufficient to pay such amounts in full, such amounts shall be distributed to each Investor in accordance with such Investor's Percentage Share), and all Investor Yield (and breakage costs, if any) then due and payable on such amount,

fourth, to the payment to the Lessee of the Maximum Residual Guarantee Amount or Non-Completion Amount paid by the Lessee in respect of such Property,

fifth, to the payment of any Unreimbursed Indemnity Amounts, if any, owing to the Participants in respect of such Property or Properties, and in the case that the amount to be so distributed shall be insufficient to pay in full as aforesaid, then such amount shall be distributed pro rata among the Participants (other than Lessee and its Affiliates to the extent of their respective interests, if any, in any Loans), without priority of one Participant over the other, in the proportion that each such Participant's Unreimbursed Indemnity Amount bears to the aggregate Unreimbursed Indemnity Amounts of all of such Participants,

sixth, the remainder of such amount other than any amounts payable from a sale of a Property under the Agency Agreement ("Excess Sale Proceeds") shall be held in the Funding Account until the Maturity Date (or, if earlier, the date of an Acceleration) for application in accordance with Section 13.5(b) or 13.8, as the case may be, and the

remainder of such amount which was payable from a sale of a Property under the Agency Agreement shall be paid to Lessee.

(b) Excess Sales Proceeds. On the Maturity Date any Excess Sale Proceeds contained in the Funding Account shall be applied as follows:

first, ratably to the payment of the principal and interest on the Loans then outstanding,

second, to the Investors an amount not to exceed the aggregate Investor Property Cost with respect to all Properties (whether or not the Lease has terminated with respect to any such Property) and the Investor Yield due and payable on such amount (provided that if the amounts distributed pursuant to this clause second are insufficient to pay such amounts in full, such amounts shall be distributed to each Investor in accordance with such Investor's Percentage Share), and

third, to the extent money remains after application pursuant to clauses first and second above, in the manner specified in Section 13.8.

13.6 Supplemental Rent. Any payment of Supplemental Rent received by Administrative Agent for which no provision as to the application thereof is made elsewhere in this Section 13 shall be withdrawn from the Funding Account on the date such payment is due and distributed immediately by the Administrative Agent upon receipt thereof to the Persons entitled thereto pursuant to the Operative Agreements.

13.7 Excepted Payments. Notwithstanding any other provision of this Agreement or the Operative Agreements, any Excepted Payments received at any time by the Administrative Agent or any Participant shall be distributed promptly to the Person entitled to receive such Excepted Payment pursuant to the Operative Agreements.

13.8 Distribution of Payments After Event of Default: Remaining Amounts. Notwithstanding any other provision of this Section 13, (a) all payments (other than amounts distributable pursuant to Section 13.6 or 13.7) received and amounts realized by the Administrative Agent or Lessor after an Event of Default has occurred and is continuing, including Gross Proceeds from the sale of any Property or other collateral (other than a Construction Period Property), proceeds of any amounts from any insurer or any Governmental Authority in connection with any loss, casualty or condemnation, from Lessee as payment in accordance with the Lease or payments pursuant to or under the Structural Support Agreement, and (b) all moneys contained in the Funding Account on the date of an Acceleration or on the Maturity Date (excluding, in the case of any application made pursuant to this Section 13.8 on the Maturity Date, an amount equal to the aggregate amount of Excess Sale Proceeds or Maximum Residual Guarantee Amount deposited in the Funding Account on or prior to such date, which amounts shall instead be applied on the Maturity Date in accordance with clauses first and second of Section 13.5(b) (with any remaining Excess Sales Proceeds being paid as set forth below in this Section 13.8), and Section 13.4, respectively), or deposited in the Funding Account thereafter, shall be immediately paid to the Administrative Agent and shall be immediately distributed by the Administrative Agent (which shall forgo deposit of such

payments into the Funding Account if such amount is not already in the Funding Account), in the following order of priority:

first, so much of such payment or amount as shall be required to reimburse the Administrative Agent, the Securities Intermediary, the Trustee, Trust Company, the Lenders, the Investors or Lessor for any tax, expense or other loss incurred by the Administrative Agent, the Securities Intermediary, Trustee, Trust Company, the Lenders, the Investors or Lessor incurred in connection with the collection of such amounts (to the extent not previously reimbursed) shall be distributed to the Administrative Agent, the Securities Intermediary, Trustee, Trust Company, the Lenders, the Investors or Lessor, as applicable (to be divided among such parties pro rata to the extent insufficient to satisfy all claims),

second, to the Lenders to pay in full the accrued interest on and the principal of each Lender's Loans (and breakage costs, including CP Breakage Costs), and in the case that the amount to be so distributed shall be insufficient to pay in full as aforesaid, then such amount shall be distributed pro rata among the Lenders (other than Lessee and its Affiliates to the extent of their respective interests, if any, in any Loans) without priority of one Lender over the other in the proportion that each such Lender's Loans bear to the aggregate Loans of all of such Lenders,

third, the balance, if any, to be distributed to each Investor to pay in full the Investor Contributions and accrued Investor Yield thereon (and breakage costs, if any), provided that if the amounts distributed pursuant to this clause third are insufficient to pay such amounts in full, such amounts shall be distributed to each Investor in accordance with such Investor's Percentage Share,

fourth, to the payment of any Unreimbursed Indemnity Amounts, if any, owing to the Participants in respect of such Property or Properties, and in the case that the amount to be so distributed shall be insufficient to pay in full as aforesaid, then such amount shall be distributed pro rata among the Participants (other than Lessee and its Affiliates to the extent of their respective interests, if any, in any Loans), without priority of one Participant over the other, in the proportion that each such Participant's Unreimbursed Indemnity Amount bears to the aggregate Unreimbursed Indemnity Amounts of all of such Participants,

fifth, the balance, if any, of such payment or amounts remaining thereafter shall be promptly distributed to, or as directed by, Lessor to the Persons entitled thereto *pari passu* pursuant to the Operative Agreements, to pay all other obligations of Lessee under the Operative Agreements, and

sixth, the balance, if any, to be distributed to Lessee, to the extent permitted under Section 13.11.

13.9 Certain Lease Payments. Any payment made by the Lessee pursuant to Section 21.3 of the Lease shall be paid out of the Funding Account by the Administrative Agent promptly after receipt, and shall be applied, first, ratably to the payment of the principal of

Tranche B Loans then outstanding in an amount equal to the product of the Tranche B Percentage with respect to such Property and the Tranche A/B Property Cost with respect to such Property (in each case determined as of the date of sale of such Property pursuant to Section 21 of the Lease immediately prior to giving effect thereto) and all interest (and breakage costs, including CP Breakage Costs) due and payable on such amount, and second, the remainder of such amount shall be paid out of the Funding Account by the Administrative Agent to the Lessor.

13.10 Other Payments. (a) Except as otherwise provided in Sections 13.2, 13.3, 13.8 and clause (ii) below,

(i) any payment received by the Administrative Agent for which no provision as to the application thereof is made in the Operative Agreements or elsewhere in this Section 13, and

(ii) all payments and amounts received by the Administrative Agent under the Lease or otherwise with respect to any realization of any of the Collateral,

shall be withdrawn from the Funding Account and distributed forthwith by the Administrative Agent in the order of priority set forth in Section 13.3 (in the case of any payment described in clause (i) above) or in Section 13.8 hereof (in the case of any payment described in clause (ii) above).

(b) Except as otherwise provided in Sections 13.2, 13.3 and 13.8 hereof and except after a Lease Event of Default has occurred and is continuing, any payment received by the Administrative Agent for which provision as to the application thereof is made in an Operative Agreement but not elsewhere in this Section 13 shall be withdrawn from the Funding Account and distributed forthwith by the Administrative Agent to the Person and for the purpose for which such payment was made in accordance with the terms of such Operative Agreement.

13.11 Remaining Funds. Upon the permanent termination of the Backup Facility Commitments and the payment in full of (i) the Loans, the Investor Contributions and all accrued and unpaid interest and Investor Yield, and (ii) all other amounts owing by Lessee or Lessor to any Person under the Operative Agreements, all remaining moneys in the Funding Account shall be paid to Lessee, and Lessee shall not be entitled to receive any amounts from the Funding Account until such time, except as expressly provided in this Section 13.

13.12 Time of Payment. Except as otherwise provided in the Operative Agreements, each payment due from Lessee under the Operative Agreements shall be made in immediately available funds prior to 11:00 a.m., New York City time on the date when due in immediately available funds consisting of lawful currency of the United States of America, unless such date shall not be a Business Day, in which case payment shall be made on the next succeeding Business Day. Except as otherwise provided in the Operative Agreements, payments received after 11:00 a.m., New York City time shall be deemed received on the next succeeding Business Day.

13.13 Defaulting Backup Facility Bank. Notwithstanding anything to the contrary contained in this Section 13, any amounts which are otherwise distributable to a Defaulting Backup Facility Bank under this Section 13 shall first be applied to the payment of any amounts owed by such Defaulting Backup Facility Bank pursuant to Section 1.2(d) of the Liquidity Agreement.

13.14 Operating Rules for Distributions from Funding Account. If on any day there are funds deposited into the Funding Account from more than one source, distributions on such date shall be made taking into account the following rules, as well as the other provisions of the Operative Agreements, governing such distributions:

Distributions under Section 13.1 through Section 13.10 shall be made only to the extent funds in the Funding Account on such date are attributable to Rent, Maximum Residual Guaranty Amount, the purchase price paid by Lessee for any Property, insurance proceeds, condemnation awards or Gross Proceeds;

#### SECTION 14. MISCELLANEOUS

14.1 Survival of Agreements. The representations, warranties, covenants, indemnities and agreements of the parties provided for in the Operative Agreements, and the parties' obligations under any and all thereof, shall survive the execution and delivery of this Agreement, the transfer of each Property to the Lessor, the construction of any Construction Improvements, the making of any Modifications, any disposition of any interest of the Lessor in any Property or the Improvements or any interest of the Investor in the Lessor, the payment of the Loans and any disposition thereof and shall be and continue in effect notwithstanding any investigation made by any party and the fact that any party may waive compliance with any of the other terms, provisions or conditions of any of the Operative Agreements. Except as otherwise expressly set forth herein or in other Operative Agreements, the indemnities of the parties provided for in the Operative Agreements shall survive the expiration or termination of any thereof.

14.2 No Broker, etc. Each of the parties hereto represents to the others that it has not retained or employed any broker, finder or financial adviser to act on its behalf in connection with this Agreement or the transactions contemplated herein, nor has it authorized any broker, finder or financial adviser retained or employed by any other Person so to act, except for the Arranget, the fees of which shall be paid by the Lessee through Advances. Any party who is in breach of this representation shall indemnify and hold the other parties harmless from and against any liability arising out of such breach of this representation.

14.3 Notices. Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given to any Person shall be given in writing by nationally recognized courier service, by hand or, in the case of Requisitions by facsimile and any such notice shall become effective upon the applicable party's receipt thereof (or refusal to accept receipt), and shall be directed to the address of such Person as indicated on Schedule I, and, in the case of notice by facsimile, telephone or bank wire, when transmitted during business hours on a Business Day and, if not transmitted during business hours on a Business Day, the first



Business Day thereafter, addressed as provided on Schedule I, or to such other address as any of the parties hereto may designate by written notice. Copies of all notices given by facsimile or bank wire shall be contemporaneously sent by overnight courier. Notwithstanding any other provision of this Agreement or the Operative Agreements, if (x) Lessee is required to deliver notice or documents to the Investors, notice or delivery of such documents to the Investors or Required Investors shall be deemed to have been duly given by Lessee by delivering any such notice or documents to the Secured Investor (or to the Administrative Agent in accordance with the succeeding clause (y)); and (y) Lessee is required to deliver to one or more of the parties to the Operative Agreements (other than or in addition to the Administrative Agent), or one or more parties to the Operative Agreements (other than or in addition to the Administrative Agent) is entitled to receive notice or documents, notice or delivery of such documents to all such parties shall be deemed to have been duly given by Lessee by delivering any such notice or documents to the Administrative Agent, who shall in turn promptly deliver such notice or documents to the appropriate party hereto (which in the case of the Investors, shall be the Secured Investor). From time to time any party may designate a new address for purposes of notice hereunder by notice to each of the other parties hereto.

14.4 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

14.5 Amendments and Termination. Neither this Agreement, nor any other Operative Agreement (other than the Liquidity Agreement), nor any terms hereof or thereof, may be terminated, amended, supplemented or modified except in accordance with the provisions of this Section; *provided, however*, that no termination, amendment, supplement or modification to the Liquidity Agreement shall be effective without the consent of the Lessee if such termination, amendment, supplement or modification would materially adversely affect the Lessee. This Agreement and any other Operative Agreement (other than the Liquidity Agreement), including any terms hereof or thereof, may be terminated, amended, supplemented, waived or modified and shall be binding on Lessee, Lessor, Administrative Agent, all Investors and all Lenders:

(a) in the case of any ambiguity, defect or inconsistency in any Operative Agreement, or any amendment, supplement or waiver that would not have an adverse effect on the Lessor's, or any Lender's rights under the Loan Facility Agreement, with the written agreement or consent of the Administrative Agent and Lessee,

(b) regardless of whether the Participants, the Administrative Agent and the Lessor are parties thereto, in the case of a termination, amendment, supplement, waiver or modification with respect to any Operative Agreement, with the written agreement or consent of Lessee and the Required Participants,

(c) regardless of whether the Investors are parties thereto, in the case of a termination, amendment, supplement, waiver or modification with respect to any Operative Agreement, which adversely affects Investors in a materially different manner than the Back-up Facility Banks (and for this purpose the existing subordination of the rights of the Investors to the rights of the Lenders shall not, in and of itself, be considered a materially different manner), with the written consent of Lessee and the Required Investors, and

(d) in the case of any termination with respect to a Property, such termination is made (x) with respect to a Construction Period Property, in accordance with the provisions of the Agency Agreement, (y) with respect to any Property, upon payment in full of the Termination Value for such Property and all other amounts due and owing by Lessee under the Operative Agreements for such Property or (z) with respect to any Property, upon effective exercise and consummation of the sale of such Property in accordance with Section 21 of the Lease and payment in full of all amounts due in accordance therewith;

*provided, however, that:*

(i) no such termination, amendment, supplement, waiver or modification shall without written agreement or consent of each Participant and each other Person (other than Lessor) affected thereby:

(x) (A) modify any of the provisions of this Section 14.5, change the definition of "Majority Lenders," "Required Investors," "Majority Participants," or modify any provision of an Operative Agreement requiring action by Majority Lenders or Required Investors; (B) amend, modify, waive or supplement any of the provisions of Sections 6.5 or Article III of the Loan Facility Agreement or the representations of such Participant in Section 7 or the covenants in Section 9 of this Agreement; (C) reduce any fees or reduce or modify any indemnities in favor of any Participant, the Arranger, the Trustee or the Administrative Agent, including amounts payable pursuant to Section 8 (except that any Person may consent to any reduction, modification, amendment or waiver of any indemnity payable to it); (D) subject to Section 10.1(l), extend the Maturity Date, or (E) postpone, reduce or forgive, in whole or in part, any payment of Rent (other than pursuant to the terms of any Operative Agreement), any Loan or any portion of any Investor Contribution, the Termination Value, the Maximum Residual Guaranty Amount, amounts due pursuant to Sections 19, 20 and 21 of the Lease, interest or Investor Yield or, subject to clause (C) above, any other amount payable under the Lease or this Agreement, or modify the definition or method of calculation of Rent (other than pursuant to the terms of any Operative Agreement), any Loan or any Investor Contribution, the Termination Value, Maximum Residual Guaranty Amount, or any other definition which would affect the amounts to be advanced or which are payable under the Operative Agreements or any of the other matters set forth above; or

(y) have the effect of (A) consent to any assignment of the Lease, (B) releasing Lessee from its obligations in respect of the payment of Rent, the Termination Value and the other items set forth in clause (x)(E) above, or (C) changing the absolute and unconditional character of such obligations;

(ii) no termination, amendment, supplement, waiver or modification shall, without the written agreement or consent of each Participant (other than the Lessor) and Lessee, be made to Section 13 of this Agreement;

(iii) no termination, amendment, supplement, waiver or modification shall, without the written agreement or consent of the Administrative Agent, be made to Section 14 of this Agreement or any other provision of any Operative Agreement relating to the rights liabilities and obligations of the Administrative Agent;

(iv) any provisions relating to release of all or substantially all of the Collateral (other than any release of Collateral required or permitted under the terms of the Operative Agreements) may only be amended, waived or permitted or terminated with the prior written consent of all the Backup Facility Banks and RFC;

(v) each termination, amendment, supplement, waiver or modification of any Operative Agreement shall be subject to the consent rights of the Trust Company and Trustee as set forth in Section 9 of the Trust Agreement;

(vi) notwithstanding anything to the contrary contained herein or in any other Operative Agreement, no termination, amendment, supplement, waiver or modification adversely affecting Lessee shall, without the written consent of Lessee, be made to any Operative Agreement;

(vii) to the extent a definition contained in Annex A hereto is to be amended such amendment shall be accomplished by an amendment only to the Operative Agreements in which such defined term is used or otherwise incorporated in such Operative Agreement;

(viii) notwithstanding anything to the contrary contained herein or in any other Operative Agreement, no termination, amendment, supplement, waiver or modification of the Loan Facility Agreement, the Liquidity Agreement, or this Agreement shall be made without the prior written consent of RFC; and

(ix) Notwithstanding anything to the contrary contained herein or in any other Operative Agreement, without the prior written consent of the Required Investors:

(x) no termination, amendment, supplement, waiver or modification of this Agreement (including Annex A) shall terminate, amend, supplement, waive or modify any right granted to the Investors or the Lessor pursuant to this Agreement (including Annex A);

(y) prior to a Lease Event of Default, none of the terms of Sections 2.2, 10, 14, 15, 20, 21, 22 and 24 of the Lease may be terminated, amended, supplemented, waived or modified and no termination, amendment, supplement, waiver or modification of any other provision of the Lease shall impose or create any obligation on the part of Lessor thereunder; and

(z) prior to an Agency Agreement Event of Default, none of the terms of the Agency Agreement may be terminated, amended, supplemented, waived or modified;

provided, however, that with respect to clauses (y) and (z) above, following the occurrence and continuance of a Lease Event of Default or Agency Agreement Event of Default, the prior written consent of the Required Investors shall not be required in connection with a termination, amendment, supplement, waiver or modification of the Lease or the Agency Agreement, except to the extent that such termination, amendment, supplement, waiver or modification (A) relates to the return, maintenance, repair, insurance, use, replacement, modification or subleasing of any Property, the title or perfection of the interest of the Lessor, the discharge of Liens, the payment of Basic Rent, Termination Value and other amounts payable under the Lease and the other Operative Agreements; (B) imposes or creates any obligation on the part of the Lessor under such documents; or (C) extends or shortens the duration of the Term.

Notwithstanding the foregoing and without limiting the rights of the Lessee in the proviso to the first sentence of this Section 14.5, the Liquidity Agreement may only be amended in accordance with Section 3.1(b) thereof.

For so long as any Participant shall be a Defaulting Investor, Defaulting Backup Facility Bank or a Defaulting Bank, the Defaulting Investor, the Defaulting Bank or Defaulting Backup Facility Bank shall (unless the Lessee and the Required Participants, determined as if the Defaulting Investor, Defaulting Backup Facility Bank or a Defaulting Bank were not an "Equity Investor" or "Lender" shall otherwise consent in writing) be deemed for all purposes relating to terminations, amendments, supplements, waivers or modifications under the Operative Agreements to have no Investor Contributions, Investor Contribution Commitment, Loans or Exposure Percentage, shall not be treated as an "Equity Investor" or "Lender" when performing the computation of Required Investors, Majority Lenders or Required Participants, and shall have no rights under this Section 14.5; provided that any action taken pursuant to clause (i) and (ii) of the proviso immediately following Section 14.5(d) shall not be effective as against the Defaulting Investor, Defaulting Backup Facility Bank or Defaulting Bank, as applicable.

14.6 Parties in Interest. Except as expressly provided herein, none of the provisions of this Agreement are intended for the benefit of any Person except the parties hereto.

14.7 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

14.8 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

14.9 Rights of Lessee. Notwithstanding any provision of the Operative Agreements, if at any time all obligations (i) of the Lessor under the Loan Facility Agreement and the Security Documents and (ii) of the Lessee under the Operative Agreements have in each case been satisfied or discharged in full and all Commitments thereunder terminated, then the Lessee shall be entitled to (a) terminate the Lease (to the extent not previously terminated) and

(b) receive all amounts then held under the Operative Agreements and all proceeds with respect to the Properties. Upon the fulfillment of the obligations contained in clauses (i) and (ii) above, the Lessor shall transfer to the Lessee all of its right, title and interest in and to the Properties (to the extent not previously transferred to the Lessee in accordance with the Lease) and any amounts or proceeds referred to in the foregoing clause (b) shall be paid over to the Lessee.

14.10 Further Assurances. The parties hereto shall promptly cause to be taken, executed, acknowledged or delivered, at the sole expense of the Lessee, all such further acts, conveyances, documents and assurances as the other parties may from time to time reasonably request in order to carry out and effectuate the intent and purposes of this Agreement, the other Operative Agreements and the transactions contemplated hereby and thereby (including, without limitation, the preparation, execution and filing of any and all Uniform Commercial Code financing statements and other filings or registrations which the parties hereto may from time to time request to be filed or effected), *provided, however*, that the Lessee shall not be required to pay expenses of the Lessor, the Administrative Agent, any Lender or any Investor pursuant to this Section 14.10 to the extent arising from a breach or alleged breach by such Person of any agreement entered into in connection with the assignment or participation of any Loan or Investor Contribution. The Lessee, at its own expense, shall take such action as may be reasonably requested in order to maintain and protect all security interests provided for hereunder or under any other Operative Agreement.

14.11 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

14.12 No Representation or Warranty. Nothing contained herein, in any other Operative Agreement or in any other materials delivered to the Lessee in connection with the transactions contemplated hereby or thereby shall be deemed a representation or warranty by the Administrative Agent, the Lenders, the Arranger or any of their Affiliates as to the proper accounting treatment, legal treatment or tax treatment that should be afforded to the Lease and the Lessor's ownership of the Property and the Administrative Agent expressly disclaims any representation or warranty with respect to such matters.

14.13 Highest Lawful Rate. It is the intention of the parties hereto to conform strictly to applicable usury laws and, anything herein to the contrary notwithstanding, the obligations of the Lessee, the Lessor or the Investors or any other party under any Operative Agreement, shall be subject to the limitation that payments of interest or of other amounts constituting interest shall not be required to the extent that receipt thereof would be in excess of the Highest Lawful Rate, or otherwise contrary to provisions of law applicable to the recipient limiting rates of interest which may be charged or collected by the recipient. Accordingly, if the transactions or the amount paid or otherwise agreed to be paid for the use, forbearance or detention of money under this Agreement, the Lease and any other Operative Agreement would exceed the Highest Lawful Rate or otherwise be usurious with respect to the recipient of any such amount, then, in that event, notwithstanding anything to the contrary in this Agreement, the Lease or any other Operative Agreement, it is agreed as follows as to the recipient of any such amount:

(a) the provisions of this Section 14.13 shall govern and control over any other provision in this Agreement, the Lease and any other Operative Agreement and each provision set forth therein is hereby so limited;

(b) the aggregate of all consideration which constitutes interest that is contracted for, charged or received under this Agreement, the Lease, or any other Operative Agreement shall under no circumstances exceed the maximum amount of interest allowed by any Legal Requirements (such maximum lawful interest rate, if any, with respect to such recipient herein called the "Highest Lawful Rate"), and all amounts owed under this Agreement, the Lease and any other Operative Agreement shall be held subject to reduction and (i) the amount of interest which would otherwise be payable to the recipient hereunder and under the Lease, the Loan Documents and any other Operative Agreement, shall be automatically reduced to the amount allowed under any Legal Requirements and (ii) any unearned interest paid in excess of the Highest Lawful Rate shall be credited to the payor by the recipient (or, if such consideration shall have been paid in full, refunded to the payee);

(c) all sums paid, or agreed to be paid for the use, forbearance and detention of the money under this Agreement, the Lease, or any other Operative Agreement shall, to the extent permitted by any Legal Requirements, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate of interest is uniform throughout the full term thereof; and

(d) if at any time the interest, together with any other fees, late charges and other sums payable pursuant to or in connection with this Agreement, the Lease, and any other Operative Agreement executed in connection herewith or therewith, and deemed interest under any Legal Requirements exceeds that amount which would have accrued at the Highest Lawful Rate, the amount of interest and any such fees, charges and sums to accrue to the recipient of such interest, fees, charges and sums pursuant to the Operative Agreement shall be limited, notwithstanding anything to the contrary in the Operative Agreement to that amount which would have accrued at the Highest Lawful Rate for the recipient, but any subsequent reductions, as applicable, shall not reduce the interest to accrue pursuant to the Operative Agreement below the recipient's Highest Lawful Rate until the total amount of interest payable to the recipient (including all consideration which constitutes interest) equals the amount of interest which would have been payable to the recipient (including all consideration which constitutes interest), plus the amount of fees which would have been received but for the effect of this Section 14.13.

14.14 Appointment of the Administrative Agent. (a) Except as otherwise provided in Section 1.2(f) of the Liquidity Agreement, each Participant hereby irrevocably appoints the Administrative Agent as its agent hereunder and under the other Operative Agreements and hereby authorizes the Administrative Agent to take such action on its behalf and to exercise such rights, remedies, powers and privileges hereunder or thereunder as are specifically authorized to be exercised by the Administrative Agent by the terms hereof or thereof, together with such rights, remedies, powers and privileges as are reasonably incidental thereto (including the right with respect to fractional amounts of less than one U.S. cent to round up to the next whole cent). The Administrative Agent may execute any of its duties hereunder

and under the other Operative Agreements, by or through Administrative Agents or employees. The relationship between the Administrative Agent and each Participant is that of agent and principal only, and nothing herein shall be deemed to constitute the Administrative Agent a trustee for any Participant or impose on the Administrative Agent any obligations other than those for which express provision is made herein or in the other Operative Agreements.

(b) Except as required by the specific terms of the Operative Agreements, the Administrative Agent shall not have any duty to exercise any right, power, remedy or privilege granted or assigned to it thereby, or to take any affirmative action or exercise any discretion hereunder or thereunder, unless directed to do so by the Directing Party (and shall be fully protected in acting or refraining from acting pursuant to such directions which shall be binding upon the Participants), and shall not, without the prior approval of the Directing Party, consent to any material departure by Lessee or the Lessor from the terms of the Lease or any Security Document, waive any default on the part of any such party under any such agreement or instrument or amend, modify, supplement or terminate, or agree to any surrender of, any such agreement or instrument; *provided, however*, that the Administrative Agent shall not be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to this Agreement, the other Operative Agreements or any Legal Requirements.

(c) Neither the Administrative Agent nor any of its or their respective directors, officers, agents or employees shall be liable to any Participant, Lessee, or the Lessor, as the case may be, for any action taken or omitted to be taken by it or them hereunder, under the other Operative Agreements, or in connection herewith or therewith, except for its or their own gross negligence or willful misconduct; nor shall the Administrative Agent be responsible to any Participant for the validity, effectiveness, value, sufficiency or enforceability against Lessee, the Lessor, any Lender, or the Administrative Agent, of this Agreement, the other Operative Agreements, or any other document furnished pursuant hereto or thereto or in connection herewith or therewith. Without limitation of the generality of the foregoing, the Administrative Agent: (i) may consult with legal counsel (including counsel for Lessee or the Lessor), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (ii) makes no warranty or representation to any Participant and shall not be responsible to any Participant for any statements, warranties or representations made in or in connection with this Agreement, the other Operative Agreements, any other document furnished pursuant hereto or thereto or in connection herewith or therewith; (iii) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Operative Agreements, on the part of any party hereto or thereto or to inspect the Properties (including the books and records) of Lessee or the Lessor; (iv) shall not be responsible to any Participant for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, the other Operative Agreements or any other instrument or document furnished pursuant hereto or thereto; and (v) shall incur no liability under or in respect of the Operative Agreements by acting upon any notice, consent, certificate or other instrument or writing to the extent authorized herein or therein believed by it to be genuine and signed or sent by the proper party or parties.

(d) Each Participant (other than the Administrative Agent in its capacity as such and RFC) hereby severally agrees, in the ratio that the sum of such Participant's Investor

Contribution and Exposure Percentages bears to the sum of all Investor Contributions and Exposure Percentages, to indemnify and hold harmless the Administrative Agent, from and against any and all losses, liabilities (including liabilities for penalties), actions, suits, judgments, demands, damages, costs and expenses of any kind whatsoever (including, without limitation, reasonable fees and expenses of attorneys, accountants and experts) incurred or suffered by the Administrative Agent in its capacity as Administrative Agent hereunder as a result of any action taken or omitted to be taken by the Administrative Agent in such capacity or otherwise incurred or suffered by, made upon, or assessed against the Administrative Agent in such capacity; *provided, however*, that no Participant shall be liable for any portion of any such losses, liabilities (including liabilities for penalties), actions, suits, judgments, demands, damages, costs or expenses that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct on the part of the Administrative Agent. Without limiting the generality of the foregoing, each Participant (other than RFC) hereby agrees, in the ratio aforesaid, to reimburse the Administrative Agent promptly following its demand for any reasonable out-of-pocket expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by the Administrative Agent under the Operative Agreements, and not promptly reimbursed to the Administrative Agent by Lessee, or the Lessor. Each Participant's obligations under this paragraph shall survive the termination of the Operative Agreements and the discharge of Lessee's and the Lessor's obligations thereunder.

(e) The Participants agree that, with respect to their obligation to fund under the Operative Agreements and the Investor Contributions or Loans made by them, the Participant acting as the Administrative Agent shall have the same rights and powers hereunder as any other Participant and may exercise the same as though it were not performing the duties specified herein; and the terms "Participants," "Directing Party," or any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent and the Administrative Agent may accept deposits from, lend money to, and generally engage in any kind of banking, trust or other business with Lessee, the Lessor, or any of their respective affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from Lessee, the Lessor, any Lender, or any of their respective Affiliates for services in connection with the Operative Agreements and otherwise without having to account for the same to any Participant.

(f) The Administrative Agent may execute any of its duties under this Agreement and the other Operative Agreements by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

(g) The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Administrative Agent has actual knowledge or has received notice from a Lender, a Lessor Party or the Lessee referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall promptly give notice thereof to the Participants. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Participants (or, if so specified by this Agreement, all Participants) subject to



any Excepted Rights retained by the Lessor and the Investors; provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Participants.

(h) Each Lender expressly acknowledges that neither the Administrative Agent nor any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of the Lessee or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Lessee and its Affiliates and made its own decision to make its Loans hereunder and enter into this Agreement and the other Operative Agreements. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Operative Agreements, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Lessee and its Affiliates. Except for notices, reports and other documents expressly required to be furnished to the Participants by the Administrative Agent hereunder or under any other Operative Agreement, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of the Lessee or any of its Affiliates that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

**14.15 Resignation by the Administrative Agent.** (a) The Administrative Agent may resign as such at any time upon at least thirty (30) days' notice, in writing, to Lessee, the Lessor, and the Participants provided such resignation shall not be effective until a successor has been appointed pursuant to Section 14.15(b).

(b) In the event of such resignation, the Directing Party shall as promptly as practicable appoint a successor agent to replace the Administrative Agent, subject to the prior written consent of Lessee and RFC (provided that such consent shall not (x) with respect to Lessee, be required during the continuance of an Event of Default and (y) with respect to RFC and Lessee, in any event, be unreasonably withheld). If no successor Administrative Agent shall have been so appointed by the Directing Party, and shall have accepted such appointment, within thirty (30) days' after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent shall, on behalf of the Participants, petition a court of competent jurisdiction to appoint a successor Administrative Agent. Any successor Administrative Agent shall (1) be a commercial bank organized under the laws of the United States of America or of any State thereof having a combined capital and surplus of at least \$200,000,000, (2) have commercial paper ratings of A-1+ from S&P and P-1 from Moody's, and (3) have been approved

in writing by RFC and Lessee (provided that such approval shall not (x) with respect to Lessee, be required during the continuance of an Event of Default and the exercise of remedies under the Operative Agreements as a result thereof and (y) with respect to RFC and Lessee, in any event, be unreasonably withheld). Upon the appointment of a successor as Administrative Agent by such court, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. Notwithstanding the resignation of the Administrative Agent or any Administrative Agent hereunder, the provisions of Article 12 and Section 14.14 shall continue to inure to the benefit of the Administrative Agent in respect of any action taken or omitted to be taken by the Administrative Agent in its capacity as such while it was such under the Operative Agreements.

(c) In the event that, at the end of the term, Lessee desires to renew the term of the Lease and keep the Operative Agreements in effect and the Administrative Agent does not so agree (which no party to this Agreement has any obligation to do), Lessee shall have the right, with the consent of each Lender that would have any Loans outstanding after such renewal, to replace the Administrative Agent with a new agent reasonably acceptable to such Lenders.

14.16 Limitation of Liability of Trustee and Equity Investor. (a) It is expressly understood and agreed by the parties hereto that (i) except as specifically provided for in the Operative Agreements, each of the Operative Agreements executed by Wilmington Trust Company is executed and delivered by Wilmington Trust Company not individually or personally but solely as trustee of Lessor, in the exercise of the powers and authority conferred and vested in it, (ii) each of the representations, undertakings and agreements herein made on the part of Lessor is made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company but is made and intended for the purpose of binding only the Lessor, (iii) except as specifically provided for in the Operative Agreements nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto, and (iv) under no circumstances shall Wilmington Trust Company be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Lessor or Investors under the Operative Agreements; *provided, however,* that nothing in this Section 14.16 shall be construed to limit or expand the liability of the Trust Company in its individual capacity for the consequences of its own willful misconduct or gross negligence (or simple negligence in the handling of funds received by it) or breach of its representations, warranties, or covenants made in its individual capacity.

(b) No Participant shall have any obligation to any other Participant or party hereto with respect to transactions contemplated by the Operative Agreements, except those obligations of such Participant expressly set forth in the Operative Agreements or except as set forth in the instruments delivered in connection therewith, and no Participant shall be liable for performance by any other party hereto of such other party's obligations under the Operative Agreements except as otherwise so set forth.

(c) No Personal Liability of Equity Investor. The Equity Investor shall not in any way be liable or responsible or have any obligation in its individual capacity to the holders of the Notes for the validity, effectiveness, enforceability or payment thereof or to another Person for the payment or performance of any obligation of Lessor pursuant to any other Operative Agreement to which Lessor shall be a party. Except with respect to (i) Lessor Liens attributable to or arising by, through or under the Equity Investor, (ii) the breach of any representation, warranty or covenant made by the Equity Investor in any Operative Agreement, or (iii) any Claim resulting from the gross negligence, fraud or willful misconduct of the Equity Investor, no Person shall have any recourse to the personal assets of the Equity Investor, under any rule of law, statute or constitution or by the enforcement of any assessments or penalties or otherwise, for the payment of any amounts due pursuant to the Operative Agreements or for any claim based herein or otherwise in respect hereof against the Equity Investor, or any past, present or future officer, director, owner, shareholder or employee thereof, provided, however, that nothing herein shall prevent recourse to the Trust Estate.

14.17 SUBMISSION TO JURISDICTION. EACH PARTY HERETO HEREBY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER OPERATIVE AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

14.18 WAIVER OF JURY TRIAL. THE PARTIES HERETO VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY 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 OTHER OPERATIVE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY OF THE PARTIES HERETO. THE PARTIES HERETO HEREBY AGREE THAT THEY WILL NOT SEEK TO CONSOLIDATE ANY SUCH LITIGATION WITH ANY OTHER LITIGATION IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED. THE PROVISIONS OF THIS SECTION 14.19 HAVE BEEN FULLY NEGOTIATED BY THE PARTIES HERETO AND SHALL BE SUBJECT TO NO EXCEPTIONS. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER OPERATIVE AGREEMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF THE OTHER PARTIES ENTERING INTO THIS AGREEMENT AND EACH SUCH OTHER OPERATIVE AGREEMENT.

14.19 Entire Agreement. This Participation Agreement and the other Operative Agreements represent the entire agreement among the parties hereto and thereto with respect to the subject matter thereof.

14.20 Limited Recourse to RFC. Each of the parties hereto (other than RFC) hereby acknowledges and agrees that (i) all Purchases and any other transactions with RFC under the Operative Agreements shall be without recourse of any kind to RFC, and (ii) RFC shall have no obligation to pay any amounts owing under the Operative Agreements unless and until RFC has received such amounts pursuant to the Investment and such amounts are not required to pay obligations of RFC. In addition, each of the parties hereto agrees that RFC shall have no obligation to pay any of the parties hereto any amounts constituting commitment fees, a reimbursement for expenses or indemnities, (collectively, "Expense Claims") and such Expense Claims shall not constitute a claim against RFC (as defined in Section 101 of Title 11 of the United States Bankruptcy Code), unless or until RFC has received amounts pursuant to the Investment sufficient to pay such Expense Claims and such amounts are not required to pay obligations of RFC. The agreements set forth in this Section and the parties' respective obligations in this Section shall survive the termination of this Agreement and the Loan Facility Agreement.

14.21 Conflict With Liquidity Agreement. Notwithstanding anything contained in this Agreement to the contrary, to the extent of any conflict between the provisions hereof and the Liquidity Agreement, the provisions of the Liquidity Agreement shall govern and control, *provided, however*, that this provision shall not limit the obligations of the Backup Facility Banks to the Lessee under the Participation Agreement and the Loan Facility Agreement which obligations, for the avoidance of doubt, shall be subordinate to the obligations of the Backup Facility Banks to RFC under the Liquidity Agreement.

14.22 Confidentiality. (a) Wilmington Trust Company, Administrative Agent and each Participant acknowledge and agree that the Environmental Site Assessments and any other information relating to environmental conditions at any of the Properties (collectively, the "Environmental Information") shall be kept confidential by it and will not be discussed with or provided to any third party, other than (i) those employees, agents or advisors of Wilmington Trust Company, Administrative Agent or such Participant or of counsel to Wilmington Trust Company, Administrative Agent or such Participant who are essential to the transactions contemplated by the Operative Agreements, (ii) any applicable governmental bank regulatory agencies, and (iii) any Person who is entitled to such access by applicable law, court order or other governmental regulatory requirements (any Person under clause (i), (ii), (iii), and in the case of Section 14.22 (b) (but not Section 14.22 (a)) with respect to RFC, the Rating Agencies, is herein called a "Required Recipient"), unless the Lessee otherwise provides its prior written consent. Wilmington Trust Company, Administrative Agent and each Participant acknowledge and agree that they will inform their employees, agent, advisors or counsel of the confidential nature any Environmental Information delivered to them, and the Environmental Information provided to it or its employees, agent or counsel shall be promptly returned to the Lessee in the event that the transactions contemplated by the Operative Agreements are not consummated. The Lessee shall be entitled to obtain injunctive relief against any such Person if it fails to so deliver such information to the Lessee promptly after the Lessee requests in writing such delivery. Wilmington Trust Company, Administrative Agent and each Participant agree that any Person to

whom it provides access to the Environmental Information (other than a Required Recipient) shall sign an acknowledgment of confidentiality, in form and substance satisfactory to the Lessee, to the effect that such Person agrees for the benefit of the Lessee to keep confidential all Environmental Information and to promptly return all Environmental Information in accordance with the third sentence of this Section 14.22(a). Wilmington Trust Company, Administrative Agent and each Participant further agree to be responsible for any disclosure or use of any of the Environmental Information by each such Person (other than a Required Recipient referred to in clause (ii) and (iii) of the definition thereof) in violation of the provisions hereof. Wilmington Trust Company, Administrative Agent and each Participant agree not to disclose the Environmental Information to any person who is an officer or director of any organization which competes with Lessee or any of its Affiliates engaged in the manufacturing or assembling of vehicles. Notwithstanding the foregoing, Wilmington Trust Company, Administrative Agent and each Participant shall, except to the extent prohibited by applicable law, court order, or governmental regulatory requirement, notify the Lessee in writing and provide the Lessee with copies of all information that such Person so disclosed to a Required Recipient referred to in clause (ii) or (iii) of the definition thereof (other than in connection with a bank audit or review conducted in the course of business) within ten (10) Business Days after disclosing the same to such Required Recipient (or as earlier, including prior to disclosure, as is reasonably practicable). Each party to this Participation Agreement agrees that neither this Section nor the substance hereof shall be disclosed to any third party, except as expressly required herein, without each other party hereto providing its prior written consent. Wilmington Trust Company, Administrative Agent and each Participant acknowledge that the Lessee, and its Affiliates will be irreparably harmed if any Environmental Information is wrongfully disclosed and shall be entitled to equitable relief, including, but not limited to, injunctive relief, in addition to any rights at law to damages (including reasonable legal fees and other expenses) in respect of any harm arising from such wrongful disclosure.

(b) Wilmington Trust Company, Administrative Agent and each Participant acknowledge and agree that the Confidential Information (defined below) shall be kept confidential by it and will not be discussed with or provided to any third party, other than a Required Recipient, unless the Lessee otherwise provides its prior written consent. Wilmington Trust Company, Administrative Agent and each Participant acknowledge and agree that they will inform their employees, agent, advisors, counsel, and in the case of RFC, the Rating Agencies, of the confidential nature any Confidential Information delivered to them, and the Confidential Information provided to it or its employees, agent, advisor or counsel shall be promptly returned to the Lessee in the event that the transaction contemplated by the Operative Agreements are not consummated. The Lessee shall be entitled to obtain injunctive relief against any such Person if its fails to so deliver such Confidential Information to the Lessee promptly after the Lessee requires in writing such delivery. Wilmington Trust Company, Administrative Agent and each Participant agree that any Person to whom it provides access to the Confidential Information (other than a Required Recipient or any other Participant) shall sign an acknowledgment of confidentiality, in form and substance satisfactory to the Lessee, to the effect that such Person agrees for the benefit of the Lessee to keep confidential all Confidential Information and to promptly return all Confidential Information in accordance with the second sentence of this Section 14.22(b). Each of Wilmington Trust Company, Administrative Agent and each Participant further agrees to be responsible for any disclosure or use of any of the Confidential Information by each such Person (other than a Required Recipient referred to in clause (ii) and

(iii) of the definition thereof, and in the case of RFC, the Rating Agencies) in violation of the provisions hereof. Wilmington Trust Company, Administrative Agent and each Participant agree not to disclose the Confidential Information to any person who is an officer or director of any organization which competes with Lessee or any of its Affiliates engaged in the manufacturing or assembling of vehicles. Notwithstanding the foregoing, Wilmington Trust Company, Administrative Agent and each Participant shall, except to the extent prohibited by applicable law, court order, or governmental regulatory requirement, notify Lessee in writing and provide the Lessee with copies of all Confidential Information that such Person so disclosed to a Required Recipient (other than a Required Recipient referred to in clause (i) of the definition thereof) (other than in connection with a bank audit or review done in the normal course of business) within ten (10) Business Days after disclosing the same to such Required Recipient (or as earlier, including prior to disclosure, as is reasonably practicable). Notwithstanding the foregoing, RFC may disclose to RFC's commercial paper dealers or placement agents and to investors and prospective investors in such commercial paper, certain information concerning the transactions contemplated by the Operative Agreements (but not the identity of the Lessee or any of its Affiliates), as required by RFC's agreements with such dealers or placement agents and such dealers and placement agents shall not be required to sign an acknowledgment of confidentiality in connection therewith, provided, that RFC shall inform such parties of the confidential nature any such information that is delivered to them.

Each party to this Participation Agreement agrees that neither this Section nor the substance hereof shall be disclosed to any third party, except as expressly required herein, without each other party hereto providing its prior written consent. Wilmington Trust Company, Administrative Agent and each Participant acknowledge that the Lessee and its Affiliates will be irreparably harmed if any Confidential Information is wrongfully disclosed and shall be entitled to equitable relief, including, but not limited to, injunctive relief, in addition to any rights at law to damages (including reasonable legal fees and other expenses) in respect of any harm arising from such wrongful disclosure.

For the purposes of this Section 14.22(b), "Confidential Information" shall include the Operative Agreements (other than those recorded or filed in the public records), the Commitment Letter, the Fee Letter, any fee letter with the Trustee, and any and all information and material of any type, scope, or subject matter whatsoever concerning or relating to Lessee or any of its Affiliates, whether oral or written, and howsoever evidenced or embodied which Lessee has furnished to Wilmington Trust Company, Administrative Agent or any Participant pursuant to, or in connection with the transactions contemplated by, the Operative Agreements.

**14.23 Payments Prior to Completion.** Prior to Completion of any Construction Period Property, (a) any payments, costs, expenses and other amounts payable by Lessee pursuant to the Operative Agreements that relate solely to such Construction Period Property shall be paid out of Advances made with respect to such Construction Period Property, and (b) with respect to a Construction Period Property for which Completion has not yet occurred, the provisions of Section 5.4 of the Agency Agreement shall supersede any provisions of this Agreement or any other Operative Agreement that is inconsistent therewith. In the event that prior to Completion of any Construction Period Property there are any payments, costs, expenses or other amounts payable by Lessee pursuant to the Operative Agreements that do not relate solely to one or more of such Construction Period Properties, an amount equal to the Applicable

Amount shall be paid out of Advances made with respect to each such Construction Period Property and the balance shall be paid by Lessee. "Applicable Amount" means, with respect to any amounts payable by Lessee as set forth above, such amount multiplied by a fraction the numerator of which is the Property Cost of the Construction Period Property or Properties then subject to the Lease, and the denominator of which is the Property Cost of all Properties then subject to the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

By: *Maury Bus*  
Name: \_\_\_\_\_  
6.5/ Title: Director  
Worldwide Real Estate

THE CHASE MANHATTAN BANK, as  
Administrative Agent

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

WILMINGTON TRUST COMPANY, in its individual capacity, only to the extent expressly set forth herein

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



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor


By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

THE CHASE MANHATTAN BANK, as  
Administrative Agent

By:  \_\_\_\_\_  
Name:  
Title: RICHARD W. DUKER  
VICE-PRESIDENT

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

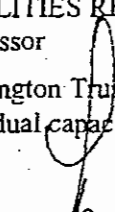
By: \_\_\_\_\_  
Name:  
Title:

RELATIONSHIP FUNDING COMPANY, LLC

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By:  Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

By: \_\_\_\_\_  
Name: **PATRICIA A. EVANS**  
Title: **Senior Financial Services Officer**

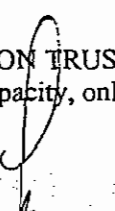
GENERAL MOTORS CORPORATION; as Lessee  
and Construction Agent

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

THE CHASE MANHATTAN BANK, as  
Administrative Agent

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

By:  \_\_\_\_\_  
Name: **PATRICIA A. EVANS**  
Title: **Senior Financial Services Officer**

RELATIONSHIP FUNDING COMPANY, LLC

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

THE CHASE MANHATTAN BANK, as  
Administrative Agent

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

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

RELATIONSHIP FUNDING COMPANY, LLC

By:                     *TJ*                      
Name:  
Title: **Thomas J. Irvin**  
**Manager**

BTM CAPITAL CORPORATION

By: Rory P. Laughna  
Name: Rory P. Laughna  
Title: Executive Vice President

JH EQUITY REALTY INVESTORS, INC.

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

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

THE CHASE MANHATTAN BANK, as a Backup Facility Bank

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

CITIBANK, N.A., as a Backup Facility Bank

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

BNP-PARIBAS, as a Backup Facility Bank

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

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

BTM CAPITAL CORPORATION

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

Name:

Title:

JH EQUITY REALTY INVESTORS, INC.

By: Karen Anne Granquist

Name: Karen A. Granquist

Title: Secretary

By: R. Douglas Donaldson

Name: R. Douglas Donaldson

Title: Treasurer

THE CHASE MANHATTAN BANK, as a Backup Facility Bank

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

Name:

Title:

CITIBANK, N.A., as a Backup Facility Bank

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

Name:

Title:

BNP PARIBAS, as a Backup Facility Bank

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

Name:

Title:

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

Name:

Title:

BTM CAPITAL CORPORATION

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

JH EQUITY REALTY INVESTORS, INC.

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

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

THE CHASE MANHATTAN BANK, as a Backup  
Facility Bank

By:  \_\_\_\_\_  
Name: RICHARD W. DUKER  
Title: VICE PRESIDENT

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

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

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

BTM CAPITAL CORPORATION

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

Name:

Title:

JH EQUITY REALTY INVESTORS, INC.

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

Name:

Title:

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

Name:

Title:

THE CHASE MANHATTAN BANK, as a Backup  
Facility Bank

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

Name:

Title:

CITIBANK, N.A. as a Backup Facility Bank

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

Name:

Title:

WAYNE BECKMANN  
Senior Banker  
Citibank, N.A.  
388 Greenwich Street - 23rd Fl  
212-816-5566

BNP PARIBAS, as a Backup Facility Bank

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

Name:

Title:

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

Name:

Title:

BTM CAPITAL CORPORATION

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

JH EQUITY REALTY INVESTORS, INC.

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

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

THE CHASE MANHATTAN BANK, as a Backup  
Facility Bank

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

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

By: \_\_\_\_\_  
Name:  
Title: **Arnaud Collin du Bocage**

By: \_\_\_\_\_  
Name: **WILLIAM VAN NOSTRAND**  
Title: **Director**



HSBC BANK USA, as a Backup Facility Bank

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

Name: Johan Sorensson  
Title: First Vice President

CREDIT SUISSE FIRST BOSTON, as a Backup  
Facility Bank

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

Name:  
Title:

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

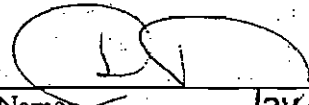
Name:  
Title:

HSBC BANK USA, as a Backup Facility Bank

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

CREDIT SUISSE FIRST BOSTON, as a Backup Facility Bank

By:  \_\_\_\_\_  
Name: DAVID W. KRATOVIL  
Title: DIRECTOR

By:  \_\_\_\_\_  
Name: Jay Chall  
Title: Director

SCHEDULE I  
to Participation Agreement

Addresses for Payment and Other Communications

(a) Lessee and Construction Agent

General Motors Corporation  
767 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telecopy: (212) 418-3632

with a copy to

General Motors Corporation  
World Wide Real Estate  
Mail code 482-B38-C96  
200 Renaissance Center  
Tower 200 - 38<sup>th</sup> floor  
Detroit, MI 48265  
Attention: Executive Director

(b) Lessor

Auto Facilities Real Estate Trust 2001-1  
c/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001

Attention: Corporate Trust Administration  
Telephone: 302-651-1000  
Facsimile: 302-651-8882

(c) Trust Company

Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, Delaware 19890-0001

Attention: Corporate Trust Administration  
Telephone: 302-651-1000  
Facsimile: 302-651-8882  
ABA No.: 0092

(d) RFC:

**REDACTED**

Relationship Funding Company, LLC  
227 West Monroe, Suite 4000  
Chicago, IL 60606

Attention: Ops Department  
Telephone: 312-977-4560  
Facsimile: 312-977-1967/1699

Domestic Lending Office: Same as above  
Name of Account: Lexington Parker Capital Company, LLC  
Re: Relationship Funding Company, LLC/General Motors  
Bank: Bankers Trust Company  
Account No.: 6-180  
Crediting Bank ABA No.: 1-033

**REDACTED**

(e) Administrative Agent

Administrative Agent

**The Chase Manhattan Bank**  
1 Chase Manhattan Plaza  
New York, New York 10081

Credit Contact:

Attention: Richard Duker, Vice President  
Telephone: 212-270-3057  
Facsimile: 212-270-5127

Administrative Contact:

Attention: Doris Mesa  
Telephone: 212-552-7265  
Facsimile: 212-552-5650

(f) Investors

(i) **BTM Capital Corporation**  
125 Summer Street  
Boston, Massachusetts, 02110

Credit Contact:

Attention: Michael Lewicki  
Telephone: 617-345-5145  
Facsimile: 617-345-5757

## Administrative/Operative Matters:

Attention: Ellen Henry  
 Telephone: 617-345-5718  
 Facsimile: 617-345-1444

Domestic Lending Office: Same as above

Eurodollar Lending Office: N/A

**REDACTED**

## Account Information:

c/o Bank of Boston, N.A.

Name of Account: BTM Capital Corporation  
 Re: GM  
 Attention: Connie Ko (617-345-5756)  
 Account No.: 235  
 ABA No.: 0-390

## (g) Backup Facility Banks:

- (i) The Chase Manhattan Bank  
 1 Chase Manhattan Plaza  
 New York, New York 10081

## Credit Contact:

Attention: Richard Duker, Vice President  
 Telephone: 212-270-3057  
 Facsimile: 212-270-5127

## Administrative Contact:

Attention: Doris Mesa  
 Telephone: 212-552-7265  
 Facsimile: 212-552-5650

Domestic Lending Office: Same as above

Eurodollar Lending Office: Same as above

## Account Information:

Name of Account: Auto Facilities Real Estate  
 Re: GM  
 Attention: Doris Mesa (212-552-7265)  
 Account No.: 5-799  
 ABA No.: 0-021

**REDACTED**

(ii) **Citibank, N.A.**  
2 Penns Way, Del 2-2  
New Castle, DE 19720

**Credit Contact:**  
Attention: Wayne Beckman  
Telephone: 212-816-5566  
Facsimile: TBD

**Administrative Contact:**  
Attention: Christine Kanicki  
Telephone: 302-894-6089  
Facsimile: 302-894-6120

**Domestic Lending Office:** Same as above

**Eurodollar Lending Office:** Same as above

**Account Information:**  
Name of Account: Motor Vehicle  
Re: GM  
Attention: Christine Kanicki  
Account No.: 4461  
ABA No.: 0-089

**REDACTED**

(iii) **BNP Paribas**  
787 Seventh Avenue  
New York, NY, 10019

**Credit Contact:**  
Attention: William Van Nostrand  
Telephone: 212-841-2786  
Facsimile: 212-841-3049

**Administrative Contact:**  
Attention: James Broadus  
Telephone: 212-471-6630  
Facsimile: 212-471-6696, 6695, 6697

**Domestic Lending Office:** Same as above

**Eurodollar Lending Office:** Same as above

**Account Information:**  
Name of Account: BNP Paribas New York

Re: GM Real Estate Trust 2001/Relationship Funding Corporation  
 Attention: Loan Servicing Clearing Account  
 Account No.: 1-03  
 ABA No.: 7-689

**REDACTED**

(iv) HSBC Bank USA  
 452 Fifth Avenue, 5<sup>th</sup> Floor  
 New York, NY, 10018

Credit Contact:

Attention: Mike Cutlip, Senior Vice President  
 Telephone: 212-575-2472  
 Facsimile: 212-575-2469

Administrative Contact:

Attention: Marie Bax  
 Telephone: 716-841-5668  
 Facsimile: 716-841-0269

Domestic Lending Office: Same as above

Eurodollar Lending Office: Same as above

Account Information:

Name of Account: Syndication & Asset Trading  
 Re: GM  
 Attention: Maria Bax  
 Account No.: 0503  
 ABA No.: 1-088

**REDACTED**

(v) Credit Suisse First Boston  
 11 Madison Avenue  
 New York, NY, 10010-3629

Credit Contact:

Attention: David W. Kratovil, Director  
 Telephone: 212-325-9155  
 Facsimile: 212-325-8615

Administrative Contact:

Attention: Edward Markowski  
 Telephone: 212-538-3380  
 Facsimile: 212-538-3477

Domestic Lending Office: Same as above

Eurodollar Lending Office: Same as above

Account Information:

c/o The Bank of New York

Name of Account: CSFB NY Loan Clearing

Re: GE Real Estate Trust 2001

Attention: N/A

Account No.: 9-262

ABA No.: 11-018

**REDACTED**



**SCHEDULE II**  
**to Participation Agreement**

**Investors and Commitments**

<b>Investor</b>	<b>Investor's Contribution Commitment</b>
<b>BTM Capital Corporation</b>	<b>\$10,269,000</b>
<b>JH Equity Realty Investors, Inc.</b>	<b>\$1,000</b>

# **EXHIBIT F**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
IN RE:

MOTORS LIQUIDATION COMPANY, Chapter 11  
et al., No. 09-50026  
(REG)

Debtors.

-----x  
OFFICIAL COMMITTEE OF UNSECURED Jointly  
CREDITORS OF MOTORS LIQUIDATION Administered  
COMPANY f/k/a GENERAL MOTORS  
CORPORATION,

Plaintiff,

-against-

Adv. Pro. No.  
09-50026

JP MORGAN CHASE BANK, N.A.,  
individually and as Administrative  
Agent for various lenders party to  
the Term Loan Agreement described  
herein, et al.,

Defendants.

-----x

February 4, 2010  
2:00 p.m.

Deposition of MARDI MERJIAN, taken by  
Plaintiff, pursuant to Subpoena, at the offices  
of Simpson, Thacher & Bartlett, LLP, 425  
Lexington Avenue, New York, New York, before  
SUZANNE PASTOR, a Shorthand Reporter and Notary  
Public within and for the State of New York.

1 break.

2                    Would you please describe your  
3 educational background.

4            A.        Going how far back?

5            Q.        Start from college.

6            A.        SUNY Binghamton, liberal arts  
7 degree. Fordham Law School, juris doctorate.

8            Q.        When did you earn your JD?

9            A.        '87. 1987 that is.

10           Q.        What's your employment history been  
11 since 1987?

12           A.        Simpson, Thacher & Bartlett.  
13 Actually since 1986 as a summer associate.

14           Q.        In 1987 what was your position with  
15 Simpson Thacher?

16           A.        Associate.

17           Q.        And today what's your position?

18           A.        Counsel.

19           Q.        Have you held any other positions  
20 at Simpson Thacher?

21           A.        No.

22           Q.        When did you become counsel?

23           A.        I couldn't tell you exactly when.  
24 I would say at least ten years ago.

25           Q.        Do you practice in any particular

1 area of law?

2 A. Real estate.

3 Q. Has that been the case since 1987?

4 A. Yes. With the exception of four  
5 months when I first started with the firm, I was  
6 in corporate and then I moved to real estate and  
7 stayed there for the rest of -- basically real  
8 estate lawyer for the whole time. I was here  
9 four months in the very beginning, but that, if  
10 you may recall, was Black Monday and there was  
11 no corporate law. So I moved to real estate and  
12 stayed there for the duration.

13 Q. Mr. Merjian, has your work in the  
14 real estate department at Simpson Thacher  
15 involved UCC filings from time to time?

16 A. From time to time, yes.

17 Q. In what respects does your practice  
18 involve UCC filings?

19 A. My practice largely focuses on the  
20 real estate finance aspects of corporate banking  
21 transactions. So the UCC part of my practice  
22 involves local fixture filings. I work with a  
23 team of banking lawyers on the deals that I do,  
24 and my job is to put mortgages in place on real  
25 estate and have fixture filings filed in the

1 Q. From 1987 until today, is it  
2 possible to say how many transactions you've  
3 done in which you were representing JPMorgan?

4 MS. RICE: By JPMorgan you mean  
5 JPMorgan and its corporate predecessors?  
6 Because since 1987 there have been a number of  
7 major changes.

8 MR. FISHER: Fair enough.

9 Q. I'm referring to JPMorgan and its  
10 predecessors.

11 A. I started out at Manufacturers  
12 Hanover. I couldn't tell you the number. It's  
13 significant.

14 Q. When you say it's significant, can  
15 you give me some sense of an order of magnitude?

16 MS. RICE: If you can answer  
17 without guessing, you could do that but you  
18 should not be guessing.

19 A. 40 percent of client work would be  
20 a fair figure, possibly a little more. It would  
21 vary from year to year. It's very hard to tell  
22 you precisely over a period what it is.

23 Q. For 2009 could you tell me  
24 approximately what percentage of your real  
25 estate practice involved representing JPMorgan?

1 lease transaction.

2 Q. When you refer to "this particular  
3 synthetic lease transaction," what transaction  
4 are you talking about?

5 A. The GM auto facilities' synthetic  
6 lease involving ten or so properties located in  
7 various states.

8 Q. Did you represent JPMorgan in  
9 connection with that transaction?

10 A. Yes. Yes, I did.

11 Q. What was JPMorgan's role in that  
12 transaction?

13 A. JPMorgan is the, call them a  
14 facilitator. They led the transaction, they put  
15 together the group of banks and equity investors  
16 that participated in the transaction. And they  
17 themselves were what is known as a backup  
18 facility bank in the transaction. So they had  
19 an interest themselves, among the other banks  
20 that they brought in.

21 Q. And in connection with the  
22 synthetic lease transaction, who did  
23 Ms. Proffitt represent? Who was her client?

24 A. General Motors.

25 Q. And were they the borrower under

1 they had previously purchased others and  
2 essentially terminate the transaction in its  
3 entirety.

4 Q. And over the course of October  
5 2008, is that in fact what happened?

6 A. Yes.

7 Q. And you represented JPMorgan in  
8 connection with closing out that synthetic  
9 lease?

10 A. I did.

11 Q. You can set that document aside.

12 MR. FISHER: I'm going to ask the  
13 court reporter to mark as Plaintiff's Exhibit 30  
14 an e-mail with the Bates number JPMCB 950.

15 (Plaintiff's Exhibit 30 for  
16 identification, Bates stamped JPMCB 950.)

17 Q. Mr. Merjian, first I wanted to ask  
18 you a few questions just about the people on  
19 these e-mail trails. Who is Richard Duker?

20 A. Richard Duker is a banker at  
21 JPMorgan.

22 Q. And was Mr. Duker involved in the  
23 closing out of the synthetic lease transaction?

24 A. Involved in what respect?

25 Q. Was he your client contact on the



1 transaction?

2 A. Yes.

3 Q. Do you remember anyone else from  
4 JPMorgan who served as a client contact with  
5 respect to the closing out of the synthetic  
6 lease transaction in October of 2008?

7 A. There may have been another person  
8 or two, but I don't recall.

9 Q. And who is Ryan Green?

10 A. He was the attorney I believe at  
11 Mayer Brown who I worked with. He represented  
12 General Motors.

13 Q. If you look down towards the last  
14 e-mail on this page there's a reference to  
15 Robert Gordon. Who is Robert Gordon?

16 A. At the time of the inception of the  
17 transaction he was the partner in charge that I  
18 worked with a lot. I imagine he still was, but  
19 I don't know at the time.

20 Q. And did you work with Mr. Gordon in  
21 connection with closing out the synthetic lease  
22 transaction?

23 A. No.

24 Q. Did you work with Mr. Green?

25 A. Yes.

1 on page 76 of this exhibit?

2 MR. CALLAGY: Objection to form.

3 A. Before the termination of the  
4 close.

5 Q. Let me ask that question again,  
6 you're right. Let me try to be more precise.

7 Before the closing on the payoff of  
8 the synthetic lease transaction, did you ask  
9 anyone any questions about the UCC financing  
10 statements listed in Section A here on page 76?

11 A. Not that I can recall.

12 MR. FISHER: I'm going to ask the  
13 court reporter to mark as Plaintiff's Exhibit 31  
14 a document numbered JPMCB 919 through 920.

15 (Plaintiff's Exhibit 31 for  
16 identification, Bates stamped JPMCB 919 through  
17 920 and Checklist.)

18 MR. FISHER: I'll just note for the  
19 record that the first page of this exhibit is  
20 numbered 919, and then there is a checklist that  
21 follows and every page of that checklist has the  
22 number 920 at the bottom of it.

23 Q. Mr. Merjian, did you send a copy of  
24 the closing checklist that Ryan Green sent to  
25 you in October 2008 on to Mr. Duker?

1 MR. CALLAGY: Object to the form.

2 MS. RICE: Object to the form.

3 A. I wouldn't know. I couldn't recall  
4 if I did or didn't.

5 Q. Does looking at this e-mail, the  
6 e-mail that appears at the top of the page in  
7 any way refresh your recollection as to whether  
8 you sent a copy of this closing checklist on to  
9 Mr. Duker?

10 MS. RICE: Object to the form.

11 A. It would appear that I did.

12 Q. Do you have an understanding as to  
13 why you sent it on to Mr. Duker?

14 A. To keep him in the loop of the  
15 progress of the transaction.

16 Q. And looking at the e-mail just  
17 below the one to Mr. Duker, the one from  
18 Mr. Green to you and to Glen, who is Glen?

19 MR. CALLAGY: I'm sorry, where are  
20 you reading from?

21 MR. FISHER: The second e-mail in  
22 the string is addressed to Mardi and Glen. And  
23 I'm asking who Glen is.

24 MR. CALLAGY: On 31?

25 MR. FISHER: Yes. Page 919.

1 statement of a UCC-1 filing to the Delaware  
2 Secretary of State.

3 Q. Was this draft termination  
4 statement prepared by Mayer Brown?

5 MS. RICE: Object to the form.

6 A. It was sent to me by Mayer Brown.  
7 I don't know who prepared it.

8 Q. Do you recall providing Mayer Brown  
9 with any comments on this draft termination  
10 statement?

11 A. I don't recall anything like that,  
12 no.

13 Q. Do you recall providing anyone with  
14 any comments on this draft termination  
15 statement?

16 A. I don't.

17 Q. Did you forward this draft  
18 termination statement to Mr. Duker?

19 MS. RICE: Object to the form.  
20 Just this draft termination statement?

21 Q. It could be among other documents,  
22 but I'm most interested in this termination  
23 statement.

24 A. Don't know.

25 MR. FISHER: I'm going to ask the

1           A.       I don't know what you mean by  
2 "properly listed."

3           Q.       Did anyone ever tell you that any  
4 of the three financing statements listed here on  
5 the escrow instructions did not belong there?

6           MR. CALLAGY:  Objection to form.

7           MS. RICE:  You mean at or prior to  
8 the closing of this?

9           MR. FISHER:  Yes.

10          Q.       That's a much better way to ask the  
11 question.  Let's focus on the period leading up  
12 to the closing of this transaction in October  
13 2008.

14                    In October 2008 did anyone ever  
15 tell you that any of the three financing  
16 statements listed there did not belong there?

17          MR. CALLAGY:  Object to the form.

18          A.       Not that I recall.

19          Q.       What was the purpose of having  
20 escrow instructions in connection with the  
21 closing of this transaction?

22          MR. CALLAGY:  Objection to the  
23 form.

24          A.       I can only speak for what I think  
25 the purpose was.  It was just to have the

1 documents in connection with the synthetic lease  
2 financing placed with one party so that they  
3 could be released at the appropriate time to the  
4 appropriate parties.

5 Q. And when you reviewed these  
6 draft -- did you review these draft escrow  
7 instructions?

8 MR. CALLAGY: Objection to form.

9 A. I'm sure I looked at them.

10 Q. When you reviewed them was it your  
11 understanding that the closing documents listed  
12 in the escrow instructions upon closing would be  
13 released to --

14 MR. CALLAGY: Would you hold on one  
15 second?

16 MR. FISHER: Let me start over.  
17 There was an interruption, let me ask that  
18 question again. Withdrawn.

19 Q. When you reviewed the escrow  
20 instructions, did you understand that the  
21 termination statements listed in the escrow  
22 instructions were documents that would be  
23 released to Mayer Brown upon the closing of the  
24 transaction?

25 MR. CALLAGY: Objection to the

1 form.

2 MS. RICE: Object to the form.

3 A. I'd have to read this. (The  
4 witness reads the document.)

5 Yes.

6 Q. You can set this exhibit aside.

7 MR. FISHER: I'm going to ask the  
8 court reporter to mark as Plaintiff's Exhibit 35  
9 a document numbered JPMCB 2042 through 2043.

10 (Plaintiff's Exhibit 35 for  
11 identification, Bates stamped JPMCB 2042 through  
12 2043.)

13 Q. Mr. Merjian, is the second page of  
14 Plaintiff's Exhibit 35 a copy of Simpson  
15 Thacher's invoice for services rendered in  
16 connection with the payoff of the synthetic  
17 lease?

18 MS. RICE: Object to the form of  
19 the question.

20 A. No. It's only in part that.  
21 That's the smallest part of this invoice.

22 Q. Is there some specific part of this  
23 invoice that relates to the payoff of the  
24 synthetic lease?

25 MS. RICE: Object to the form of

# **EXHIBIT G**



**From:** Silva, Ann B. <asilva@morganlewis.com> on behalf of  
Toder, Richard S. <rtoder@morganlewis.com>  
**Sent:** Friday, June 19, 2009 10:00 AM  
**To:** stephen.karotkin@weil.com; tmayer@kramerlevin.com; john.rapisardi@cwt.com  
**Cc:** Toder, Richard S. <rtoder@morganlewis.com>; Gottfried, Andrew D.  
<agottfried@morganlewis.com>  
**Subject:** GM - Mayer Brown Affidavit  
**Attach:** XScan001.pdf;exhs001.pdf

---

Message from Richard Toder  
and Andy Gottfried:

As we advised each of you yesterday, on October 30, 2008, an unauthorized UCC-3 termination statement was filed by Mayer Brown (acting as counsel for GM in an unrelated synthetic lease financing transaction in which JPMorgan Chase was Administrative Agent), with respect to the Delaware UCC-1 financing statement relating to the Term Loan Collateral. Attached herewith is an Affidavit executed by the Mayer Brown partner in charge of the synthetic lease transaction, which sets forth the circumstances under which the termination statement was filed, and makes clear that such action was unauthorized.

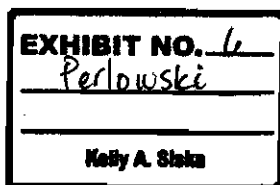
We received the Affidavit last night by e-mail and the exhibits were not affixed. We are attaching for your reference a set of the exhibits that we discussed with Mayer Brown as being the exhibits that will be attached to the original Affidavit, that we expect to receive either today or Monday via Federal Express.

We are hopeful that this clarifies the situation and removes any doubt that the termination statement was ineffective.

Morgan, Lewis & Bockius LLP  
101 Park Avenue | New York, NY 10178-0600  
Main: 212.309.6000 | Fax: 212.309.6001  
www.morganlewis.com

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
In re

Chapter 11  
Case No. 09-50026 (REG)

GENERAL MOTORS CORPORATION, et al.,

Debtors.  
-----x

STATE OF ILLINOIS        )  
                                  : ss.  
COUNTY OF COOK         )

Robert E. Gordon, being duly sworn, deposes and says:

1. I am a partner in the law firm Mayer Brown LLP (“Mayer Brown”). My practice concentrates in real estate and lease finance transactions.

2. Mayer Brown represented General Motors Corporation (“GM”) in a synthetic lease transaction (the “Transaction”) in 2001. I was responsible for the Transaction at Mayer Brown. That Transaction was set forth in a Participation Agreement dated October 31, 2001, among GM, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons name therein as Backup Facility Banks, Relationship Funding Company, LLC, and The Chase Manhattan Bank (now know as JPMorgan Chase Bank), as Administrative Agent.

3. The Transaction financed GM’s acquisition of certain real property (the “Properties”).

4. In accordance with the Transaction, UCC financing statements were filed, including a UCC-1 financing statement filed with the Secretary of State of Delaware listing GM as debtor and JPMorgan Chase Bank, as Administrative Agent, as secured party. A copy of this

UCC-1 financing statement filed in Delaware listing GM as debtor (the "GM Lease Financing Statement") is attached as Exhibit A.

5. On October 30, 2008, GM paid all outstanding amounts due under the Transaction and exercised the purchase option provided for therein. As part of the termination of the Transaction, the parties executed a Termination Agreement and Release of Operative Agreements dated October 30, 2008 (the "Termination Agreement"). A copy of the Termination Agreement is attached as Exhibit B.

6. Pursuant to the Termination Agreement, GM was "authorize[d] . . . to file a termination of any existing Financing Statement relating to the Properties" that were financed in the Transaction. See Exhibit B.

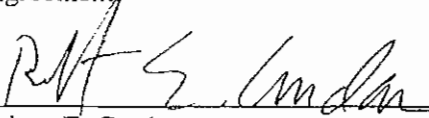
7. In accordance with the authority given to GM in the Termination Agreement, Mayer Brown, as counsel to GM, caused a UCC termination statement to be filed with respect to the GM Lease Financing Statement filed for the Transaction. A copy of this termination statement is attached as Exhibit C.

8. Unbeknownst to me, the paralegal tasked with filing the termination statement for the GM Leasing Financing Statement referred to above also caused a termination statement to be filed with respect to a UCC-1 financing statement that is entirely unrelated to the Transaction or the Properties (the "Unrelated Financing Statement"). A copy of this UCC termination statement (the "Unrelated Termination Statement") is attached as Exhibit D.

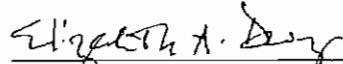
9. The Unrelated Financing Statement, attached as Exhibit E, lists GM as debtor and JPMorgan Chase Bank, N.A., as secured party, but the terms of the financing statement demonstrate that it relates to collateral pledged under a November 29, 2006 term loan agreement (the "Term Loan Agreement") and did not relate to the Transaction or the Properties.

Mayer Brown has never represented GM with respect to the Term Loan Agreement among GM and others and JPMorgan Chase Bank, N.A., as Administrative Agent.

10. GM was not authorized by the Termination Agreement to terminate any financing statement related to the Term Loan Agreement.

  
\_\_\_\_\_  
Robert E. Gordon

Sworn to before me this  
18<sup>th</sup> day of June, 2009

  
\_\_\_\_\_  
Notary Public

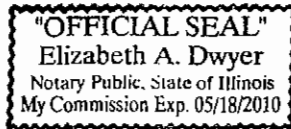


EXHIBIT A

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
Intercounty Clearance Corp 440 Ninth Avenue New York, NY 10001	
D.F., *Central/SOS* Secretary of State	

DELAWARE DEPARTMENT OF STATE  
U.C.C. FILING SECTION  
FILED 01:59 PM 04/12/2002  
INITIAL FILING NUM: 2092526 7  
AMENDMENT NUMBER: 0000000  
SRV: 020235671

P11463

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names										
1a. ORGANIZATION'S NAME <b>GENERAL MOTORS CORPORATION</b>										
OR										
1b. INDIVIDUAL'S LAST NAME			FIRST NAME		MIDDLE NAME		SUFFIX			
1c. MAILING ADDRESS 767 FIFTH AVENUE					CITY NEW YORK		STATE NY		POSTAL CODE 10153	COUNTRY USA
1d. TAX ID #: SSN OR EIN		ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION Corporation		1f. JURISDICTION OF ORGANIZATION Delaware		1g. ORGANIZATIONAL ID #, if any 0056825		<input type="checkbox"/> NONE	
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names										
2a. ORGANIZATION'S NAME										
OR										
2b. INDIVIDUAL'S LAST NAME			FIRST NAME		MIDDLE NAME		SUFFIX			
2c. MAILING ADDRESS					CITY		STATE		POSTAL CODE	COUNTRY
2d. TAX ID #: SSN OR EIN		ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION		2f. JURISDICTION OF ORGANIZATION		2g. ORGANIZATIONAL ID #, if any		<input type="checkbox"/> NONE	
3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR &P) - insert only one secured party name (3a or 3b)										
3a. ORGANIZATION'S NAME <b>JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT</b>										
OR										
3b. INDIVIDUAL'S LAST NAME			FIRST NAME		MIDDLE NAME		SUFFIX			
3c. MAILING ADDRESS 1 CHASE MANHATTAN PLAZA					CITY NEW YORK		STATE NY		POSTAL CODE 10081	COUNTRY

4. This FINANCING STATEMENT covers the following collateral:  
~~ALL ASSETS AND INTEREST THEREIN OF THE DEBTOR~~

To be filed with the Secretary of State of Delaware.

See Schedule I and Exhibit A attached hereto and made a part hereof.

5. ALTERNATIVE DESIGNATION (if applicable):		LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOC	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Address(es)			7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (if applicable):			ADDITIONAL FEE (optional):	
8. OPTIONAL FILER REFERENCE DATA 0000128694					No. Add. Sheets		

**UCC FINANCING STATEMENT ADDENDUM**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

1a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

1b. INDIVIDUAL'S LAST NAME      FIRST NAME      MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME      FIRST NAME      MIDDLE NAME      SUFFIX

11c. MAILING ADDRESS      CITY      STATE      POSTAL CODE      COUNTRY

11d. TAX ID #: SSN OR EIN      ADD'L INFO RE ORGANIZATION DEBTOR      11e. TYPE OF ORGANIZATION      11f. JURISDICTION OF ORGANIZATION      11g. ORGANIZATIONAL ID #, if any  NONE

12.  ADDITIONAL SECURED PARTY'S or  ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME  
**AUTO FACILITIES REAL ESTATE TRUST 2001-1**

OR

12b. INDIVIDUAL'S LAST NAME      FIRST NAME      MIDDLE NAME      SUFFIX

12c. MAILING ADDRESS      CITY      STATE      POSTAL CODE      COUNTRY

**C/O WILMINGTON TRUST COMPANY - 1100 NORTH MARKET SQUARE      WILMINGTON      DE      19809-0001      USA**

13. This FINANCING STATEMENT covers  timber to be cut or  oil-extracted collateral, or is filed as a  fixture filing

14. Description of real estate:

See Exhibit A attached hereto and incorporated herein by reference.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

**Auto Facilities Real Estate Trust  
 2001-1  
 c/o Wilmington Trust Company  
 1100 North Market St.  
 Wilmington, DE 19809-0001**

16. Additional collateral description:

17. Check only if applicable and check only one box.  
 Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufactured-Home Transaction -- effective 30 years  
 Filed in connection with a Public-Finance Transaction -- effective 30 years

FILING OFFICE COPY—NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 07/29/88)

0000128694

DE, \*Central/SOS\* Secretary of State

00773

Print/Layout by:  
 INTERCOUNTY CLEARANCE  
 440 9th Avenue, New York, NY  
 (212) 594-0020

SCHEDULE I  
TO  
UCC-1 FINANCING STATEMENT

DEBTOR: GENERAL MOTORS CORPORATION  
767 Fifth Avenue  
New York, New York 10153

SECURED PARTY: AUTO FACILITIES REAL ESTATE TRUST 2001-1  
c/o Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001

ASSIGNEE OF  
SECURED PARTY: JPMORGAN CHASE BANK, as Administrative Agent  
1 Chase Manhattan Plaza  
New York, New York 10081

This Financing Statement covers all of Debtor's right, title and interest in, to, and under the following property now owned or at any time hereafter acquired by Debtor, or in which Debtor may acquire any right, title or interest (all of which property being described below being hereafter collectively called the "Collateral"):

(A) the parcel of real property described on Exhibit A attached hereto (the "Land"), together with (i) the Improvements, (ii) all agreements, easements, rights of way or use, rights of ingress or egress, privileges, appurtenances, tenements, hereditaments and other rights and benefits at any time belonging or pertaining to the Land or the Improvements, including, without limitation, the use of any streets, ways, alleys, vaults or strips of land adjoining, abutting, adjacent or contiguous to the Land and all permits, licenses and rights, whether or not of record, appurtenant to the Land, and (iii) all fixtures relating to the Improvements, including all components thereof, located in or on such Improvements, together with all replacements, modifications, alterations and additions thereto, but specifically excluding trade fixtures and other personal property of any subtenant at the Property (the property and interests described in clauses (i), (ii) and (iii), together with the Land, are collectively referred to as the "Property");

(B) all the estate, right, title, claim or demand whatsoever of Debtor, in possession or expectancy, in and to the Property or any part thereof;

(C) all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water and riparian rights, development rights, air rights, mineral rights and all estates, rights, titles, interests, privileges, licenses, tenements, hereditaments and appurtenances belonging, relating or appertaining to the Property, and any

reversions, remainders, rents, issues, profits and revenue thereof and all land lying in the bed of any street, road or avenue, in front of or adjoining the Property to the center line thereof,

(D) all substitutes and replacements of, and all additions and improvements to, the Property, subsequently acquired by or released to Debtor or constructed, assembled or placed by Debtor on the Property, immediately upon such acquisition, release, construction, assembling or placement, including, without limitation, any and all building materials whether stored at the Property or offsite, and, in each such case, without any further mortgage, conveyance, assignment or other act by Debtor;

(E) all leases, subleases, underlettings, concession agreements, management agreements, licenses and other agreements relating to the use or occupancy of the Property or any part thereof, now existing or subsequently entered into by Debtor and whether written or oral and all guarantees of any of the foregoing with respect to the Property, as any of the foregoing may be amended, restated, extended, renewed or modified from time to time, and all rights of Debtor in respect of cash and securities deposited thereunder and the right to receive and collect the revenues, income, rents, issues and profits thereof, together with all other rents, royalties, issues, profits, revenue, income and other benefits arising from the use and enjoyment of the Collateral;

(F) all unearned premiums under insurance policies now or subsequently obtained by Debtor relating to the Property and Debtor's interest in and to all proceeds of any such insurance policies (including title insurance policies), including the right to collect and receive such proceeds; and all awards and other compensation, including the interest payable thereon and the right to collect and receive the same, made to the present or any subsequent owner of the Property for the taking by eminent domain, condemnation or otherwise, of all or any part of the Property or any easement or other right therein; and

(G) all amendments, modifications, substitutions, replacements and additions of any of the foregoing, all proceeds, both cash and noncash, of any of the foregoing.



For purposes hereof, the following terms shall have the meanings set forth below:

"Backup Facility Banks" is defined in the Preamble to the Participation Agreement.

"Backup Facility Loan" is any advance of funds made by a Backup Facility Bank under Section 2.2(a) of the Loan Facility Agreement and any portion of an RFC Loan which has been purchased by a Backup Facility Bank and converted pursuant to Section 2.3 of the Loan Facility Agreement.

"Improvements" shall mean the buildings, structures, and other improvements of every kind existing at any time and from time to time on or under the Land, together with any and all appurtenances to such buildings, structures or improvements, including sidewalks, curbs, gutters, flood controls, sanitary tie-ins, utility pipes, conduits and lines, parking areas and roadways, and including all additions to or changes in the Improvements at any time but excluding any additions or Improvements or other property in which Lessee retains ownership under the terms of the Lease, and all equipment, apparatus, furnishings, fittings and personal property of every kind and nature whatsoever purchased, leased or otherwise acquired by the Debtor using the proceeds of Loans or the Investor Contributions and now or subsequently attached to, contained in or used or usable in any way in connection with any operation or letting of the Land, including but without limiting the generality of the foregoing, all screens, awnings, shades, blinds, curtains, draperies, artwork, holiday decorations, bidets, toilets, carpets, rugs, storm doors and windows, shelving, furniture and furnishings, heating, electrical, and mechanical equipment, lighting, switchboards, plumbing, ventilation, air conditioning and air-cooling apparatus, refrigerating, and incinerating equipment, escalators, elevators, loading and unloading equipment and systems, stoves, ranges, laundry equipment, cleaning systems (including window cleaning apparatus), telephones, communication systems (including satellite dishes and antennae), televisions, computers, sprinkler systems and other fire prevention and extinguishing apparatus and materials, security systems, motors, engines, machinery, pipes, pumps, tanks, conduits, appliances, fittings and fixtures of every kind and description.

"Initial Closing Date" shall mean October 31, 2001.

"Investor Contribution" is defined in Section 1.2 of the Participation Agreement.

"Lease" means the Lease, dated as of the Initial Closing Date between Secured Party and Debtor, together with any Memoranda of Lease and Supplement.

"Liquidity Agreement" means that certain Liquidity Agreement dated as of the Initial Closing Date among RFC, the Backup Facility Banks, and The Chase Manhattan Bank (n/k/a JPMorgan Chase Bank).

"Loans" means the collective reference to Backup Facility Loans and RFC Loans.

"Loan Facility Agreement" means the Loan Facility Agreement dated as of the Initial Closing Date among RFC, the Backup Facility Banks, Secured Party, and The Chase Manhattan Bank (n/k/a JPMorgan Chase Bank).

**"Participation Agreement"** means the Participation Agreement dated as of the Initial Closing Date among Debtor, Secured Party, Wilmington Trust Company, the investors party thereto, RFC, the Backup Facility Banks, and The Chase Manhattan Bank (n/k/a JPMorgan Chase Bank).

**"RFC"** means Relationship Funding Company, LLC, a Delaware limited liability company.

**"RFC Loans"** means any advance of funds made by RFC pursuant to Section 2.1 of the Loan Facility Agreement, and the portion of any Backup Facility Loan, which is repurchased by RFC pursuant to Section 3.11 of the Liquidity Agreement.

Exhibit A

Land

509420-0198-08617-NY02.2173867.1

REVISION NUMBER : 2  
COMMITMENT NUMBER: 06016118-450

PARCEL I: (FEE)

A part of the Southwest Quarter of Section 3, Township 14 North, Range 02 East of the Second Principal Meridian, Decatur Township, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 3, Township 14 North, Range 02 East; thence on the South line of said quarter section, South  $89^{\circ} 58' 39''$  East 721.20 feet to the Southeast corner of land described in a deed to Richard S. and Carrie E. Edwards, recorded as Instrument Number 76-70011 in the Marion County Recorder's Office; thence on the East line of said Edwards and the prolongation thereof, North  $00^{\circ} 11' 13''$  East 472.92 feet to a point on the proposed northerly right-of-way line of Ameriplex Parkway (unrecorded), said point being the POINT OF BEGINNING of the herein described real estate; thence continuing on said line, North  $00^{\circ} 11' 13''$  East 625.66 feet to a point on the southeasterly line of land described in a deed to the Indianapolis Airport Authority, recorded as Instrument Number 95-01734; thence on said southeasterly line, North  $44^{\circ} 57' 32''$  East 929.24 feet to the northwesterly corner of land described in a deed to Decatur P.D.,LLC, recorded as Instrument Number 99-166351 in said Recorder's Office; thence on the westerly line of said land South  $27^{\circ} 04' 49''$  East 230.75 feet to a point on the North line of land described in a deed to Atlantis Limited, recorded as Instrument Number 77-71815 in said Recorder's Office; thence on said North line, North  $89^{\circ} 58' 39''$  West 125.00 feet to the Northwest corner of said land; thence on the West line of said land, South  $00^{\circ} 18' 43''$  West 1265.59 feet to a point on the aforesaid unrecorded right-of-way line of Ameriplex Parkway, said point being on a non-tangent curve, concave southerly, having a central angle of  $17^{\circ} 50' 46''$  and a radius of 2124.67 feet; thence westerly on said curve and unrecorded right-of-way line an arc distance of 661.79 feet (said arc being subtended by a chord which bears North  $73^{\circ} 26' 52''$  West 659.11 feet to the Point of Beginning), containing 15.187 acres, more or less.

PARCEL II: (FEE)

A part of the Southwest Quarter of Section 3, Township 14 North, Range 02 East of the Second Principal Meridian, Decatur Township, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 3, Township 14 North, Range 02 East; thence on the South line of said Quarter Section, South  $89^{\circ} 58' 39''$  East 721.20 feet to the Southeast corner of land described in a deed to Richard S. and Carrie E. Edwards, recorded as Instrument Number 76-70011 in the Marion County Recorder's Office; thence on the East line of said Edwards and the prolongation thereof, North  $00^{\circ} 11' 13''$  East 472.92 feet to a point on the proposed northerly right-of-way line Ameriplex Parkway (unrecorded), said point being the POINT OF BEGINNING of the herein described real estate; thence continuing on said

line, North  $00^{\circ}11'13''$  East 625.66 feet to a point on the southeasterly line of land described in a deed to the Indianapolis Airport Authority, recorded as Instrument Number 95-01734; thence on said southeasterly line, North  $44^{\circ}57'32''$  East 929.24 feet to the northwesterly corner of land described in a deed to Decatur P.D., LLC, recorded as Instrument Number 99-166351 in said Recorder's Office; thence on the westerly line of said land and also the westerly line of land also described in a deed to Decatur P.D., LLC, recorded as Instrument Number 99-166352, the following two (2) courses: 1) South  $27^{\circ}04'49''$  East 755.96 feet; 2) South  $44^{\circ}01'47''$  East 845.73 feet to a point on the northerly right-of-way line of Decatur Boulevard, the Grant of Right-of-Way of which is recorded as Instrument Number 99-25069 in said Recorder's Office, said point being on a non-tangent curve, concave southerly, having a central angle of  $11^{\circ}51'28''$  and a radius of 646.96 feet; thence southwesterly on said curve and right-of-way line an arc distance of 133.89 feet (said arc being subtended by a chord which bears South  $60^{\circ}37'31''$  West 133.65 feet); thence North  $6^{\circ}12'36''$  East 51.15 feet; thence North  $44^{\circ}01'47''$  West 354.67 feet; thence North  $89^{\circ}32'06''$  West 56.07 feet; thence South  $44^{\circ}57'34''$  West 662.94 feet to a point on the aforesaid unrecorded right-of-way line of Ameriplex Parkway, said point being on a non-tangent curve, concave southerly, having a central angle of  $20^{\circ}09'52''$  and a radius of 2124.67 feet; thence westerly on said curve and unrecorded right-of-way line an arc distance of 747.75 feet (said arc being subtended by a chord which bears North  $72^{\circ}17'23''$  West 743.90 feet to the Point of Beginning.

REVISION NUMBER: 2  
COMMITMENT NO. 06016118-450

EXCEPTING THEREFROM the following described real estate:

As part of the Southwest Quarter of Section 3, Township 14 North, Range 02 East of the Second Principal Meridian, Decatur Township, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 3, Township 14, Range 02 East; thence on the South line of said quarter section, South  $89^{\circ}58'39''$  East 721.20 feet to the Southeast corner of land described in a deed to Richard S. and Carrie E. Edwards, recorded as Instrument Number 76-70011 in the Marion County Recorder's Office; thence on the East line of said Edwards and the prolongation thereof, North  $00^{\circ}11'13''$  East 472.92 feet to a point on the proposed northerly right-of-way line of AmeriPLEX Parkway (unrecorded), said point being the POINT OF BEGINNING of the herein described real estate; thence continuing on said line, North  $00^{\circ}11'13''$  East 625.66 feet to a point on the southeasterly line of land described in a deed to the Indianapolis Airport Authority, recorded as Instrument Number 95-01734; thence on said southeasterly line, North  $44^{\circ}57'32''$  East 929.24 feet to the northwesterly corner of land described in a deed to Decatur P.D., LLC, recorded as Instrument Number 99-166351 in said Recorder's Office; thence on the westerly line of said land South  $27^{\circ}04'49''$  East 230.75 feet to a point on the North line of land described in a deed to Atlantis Limited, recorded as Instrument Number 77-71815 in said Recorder's Office; thence on said North line, North  $89^{\circ}58'39''$  West 125.00 feet to the Northwest corner of said land; thence on the West line of said land, South  $00^{\circ}18'43''$  West 1265.59 feet to a point on the aforesaid unrecorded right-of-way line of AmeriPLEX Parkway, said point being on a non-tangent curve, concave southerly, having a central angle of  $17^{\circ}50'46''$  and a radius of 2124.67 feet; thence westerly on said curve and unrecorded right-of-way line an arc distance of 661.79 feet (said arc being subtended by a chord which bears North  $73^{\circ}26'52''$  West 659.11 feet to the Point of Beginning, containing 15.187 acres, more or less.

PARCELS I and II, when combined are the same as the following perimeter description:

A part of the Southwest Quarter of Section 3, Township 14, Range 02 East of the Second Principal Meridian, Decatur Township, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 3, Township 14 North, Range 02 East; thence on the South line of said quarter section, South  $89^{\circ}58'39''$  East 721.20 feet to the Southeast corner of land described in a deed to Richard S. and Carrie E. Edwards, recorded as Instrument Number 76-70011 in the Marion County Recorder's Office; thence on the East line of said Edwards and the prolongation thereof, North  $00^{\circ}11'13''$  East 472.92 feet to a

point on the proposed northerly right-of-way line Ameriplex Parkway (unrecorded), said point being the POINT OF BEGINNING of the herein described real estate; thence continuing on said line, North  $00^{\circ}11'13''$  East 625.66 feet to a point on the southeasterly line of land described in a deed to the Indianapolis Airport Authority, recorded as Instrument Number 95-01734; thence on said southeasterly line North  $44^{\circ}57'32''$  East 929.24 feet to the northwesterly corner of land described in a deed to Decatur P.D., LLC, recorded as Instrument Number 99-166351 in said Recorder's Office; thence on the westerly line of said land and also the westerly line of land also described in a deed to Decatur P.D., LLC, recorded as Instrument Number 99-166352, the following two (2) courses: 1) South  $27^{\circ}04'49''$  East 755.96 feet; 2) South  $44^{\circ}01'47''$  East 845.73 feet to a point on the northerly right of way line of Decatur Boulevard, the Grant of Right-of-Way of which is recorded as Instrument Number 99-25069 in said Recorder's Office, said point being on a non-tangent curve, concave southerly, having a central angle of  $11^{\circ}51'28''$  and a radius of 646.96 feet, thence southwesterly on said curve and right-of-way line an arc distance of 133.89 feet (said arc being subtended by a chord which bears South  $60^{\circ}37'31''$  West 133.65 feet); thence North  $6^{\circ}12'36''$  East 51.15 feet; thence North  $44^{\circ}01'47''$  West 354.67 feet, thence north  $89^{\circ}32'06''$  West 56.07 feet; thence South  $44^{\circ}57'34''$  West 662.94 feet to a point on the aforesaid unrecorded right-of-way line of Ameriplex Parkway, said point being on a non-tangent curve, concave southerly, having a central angle of  $20^{\circ}09'52''$  and a radius of 2124.67 feet thence westerly on said curve and unrecorded right-of-way line an arc distance of 747.75 feet (said arc being subtended by a chord which bears North  $72^{\circ}17'23''$  West 743.90 feet to the Point of Beginning, containing 26.497 acres, more or less.

#### PARCEL III: (DRAINAGE)

Non-exclusive Temporary Drainage Easement dated January 12, 2000 and recorded January 19, 2000 as Instrument No. 2000-8126 to be created upon and over the following described land:

A strip of land, 30 feet in width, over a part of the Southwest Quarter of Section 3, Township 14 North, Range 02 East of the Second Principal Meridian, lying 15 feet on each side of the following described centerline:

Commencing at the Southwest corner of the Southwest Quarter of Section 3, Township 14 North, Range 02 East, thence on the South line thereof, South 89 degrees 58 minutes 39 seconds East 736.17 feet; thence North 00 degrees 11 minutes 13 seconds East 20.00 feet to a point on the North right-of-way line of Milhouse Road, being the POINT OF BEGINNING of the herein described centerline; thence continuing North 00 degrees 11 minutes 13 seconds East 450.86 feet to a point on the northerly right-of-way line of future Ameriplex Parkway (unrecorded), and there terminating; the side lines of said strip to be lengthened or shortened to begin at the North right-of-way line of Milhouse Road and end at the northerly right-of-way of future Ameriplex Parkway, containing 0.310 acres, more or less.

LOT 3 IN CARLOW CORPORATE CENTER SOUTH UNIT 1, A PART OF THE SOUTHEAST  
1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL  
MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 10, 2001 AS  
DOCUMENT R2001-104725 IN WILL COUNTY, ILLINOIS.

**Property Address:**  
1355 Remington Blvd.  
Bolingbrook, Illinois 60440

**P.I.N.:**  
12-02-30-403-001-0000



# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)	8006335778
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
UCC DIRECT SERVICES	
2727 ALLEN PARKWAY	
SUITE 1000	
HOUSTON TX 77019	

DELAWARE DEPARTMENT OF STATE  
U.C.C. FILING SECTION  
FILED 01:34 PM 03/05/2007  
INITIAL FILING # 2092526 7  
AMENDMENT # 2007 0812718  
SRV: 070278695

1a. INITIAL FINANCING STATEMENT FILE # 2092526 7

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME				
OR	6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME				
OR	7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
---------------------	------	-------	-------------	---------

7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION
--------------------------	----------------------------------

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. NAME of SECURED PARTY of RECORD AUTHORIZING THIS AMENDMENT

JPMorgan Chase Bank, as Administrative Agent

10. OPTIONAL FILER REFERENCE DATA

DE-0-23995124-509420/0198 General Motors 000000

EXHIBIT B

TERMINATION AGREEMENT AND RELEASE  
OF OPERATIVE AGREEMENTS

October 30, 2008

The parties to this Termination Agreement and Release of Operative Agreements (this "Termination and Release") acknowledge that the Lessee is exercising the Maturity Date Purchase Option pursuant to Section 20.2 of the Lease.

In consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby confessed and acknowledged, the undersigned, each of which is a party to one or more of the agreements identified as the Operative Agreements, hereby agree that (i) each of such Operative Agreements and any Commitment thereunder is hereby terminated and is discharged and of no further force or effect as of the date hereof, and (ii) the Administrative Agent and the Lessor do hereby (x) release all of their Liens and Lessor Liens against the Properties created by the Operative Agreements, (y) acknowledge that such Liens and Lessor Liens are forever released, satisfied and discharged and (x) authorize Lessee to file a termination of any existing Financing Statement relating to the Properties. The foregoing notwithstanding, the following provisions shall survive the termination hereby (A) any provision of the Operative Agreements which survives termination by its express terms, (B) the indemnification obligations set forth in Sections 12.1 (General Indemnity) and 12.2 (General Tax Indemnity) of the Participation Agreement (as defined herein), and (C) the obligations of the Lessee to pay Transaction Expenses pursuant to Section 8.2(iii) of the Participation Agreement.

All capitalized terms not otherwise defined herein shall have the meanings set forth in Annex A to that certain Participation Agreement dated as of October 31, 2001, among General Motors Corporation, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank, as Administrative Agent, as amended (the "Participation Agreement").

This Termination and Release may be executed in counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall be deemed to be a single document.

This Termination and Release shall be governed by, and construed and interpreted in accordance with, the internal laws of the State of New York, without regard to conflicts of law principles (other than Title 14 of Article 5 of the New York General Obligations Law), except to the extent the application of laws of another jurisdiction are mandatory.

[ *The remainder of this page is intentionally left blank.* ]

*Termination Agreement and  
Release of Operative Agreements*

The undersigned have executed this Termination and Release as of the date first above here written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

By: M. McCarthy  
Name: Michael B. McCarthy  
Title: Vice President

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth in the Participation Agreement

By: M. McCarthy  
Name: Michael B. McCarthy  
Title: Vice President

RELATIONSHIP FUNDING COMPANY, LLC

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

The undersigned have executed this Termination and Release as of the date first above here written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

EXECUTION RECOMMENDED  
WORLDWIDE REAL ESTATE  
BY: \_\_\_\_\_

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

By: Debra H. Hoge  
Name: **DEBRA HOMIC HOGE**  
Title: **DIRECTOR**  
**WORLDWIDE REAL ESTATE**

JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth in the Participation Agreement

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

RELATIONSHIP FUNDING COMPANY, LLC

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

The undersigned have executed this Termination and Release as of the date first above here written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank

By:  \_\_\_\_\_  
Name:  
Title: **RICHARD W. DUKER**  
**MANAGING DIRECTOR**

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth in the Participation Agreement

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

RELATIONSHIP FUNDING COMPANY, LLC

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

The undersigned have executed this Termination and Release as of the date first above here written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

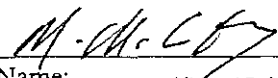
GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth in the Participation Agreement

By:  \_\_\_\_\_  
Name: Michael B. McCarthy  
Title: Vice President

RELATIONSHIP FUNDING COMPANY, LLC

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

The undersigned have executed this Termination and Release as of the date first above here written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

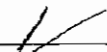
JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank

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

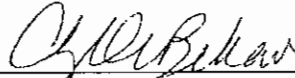
WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth in the Participation Agreement

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

RELATIONSHIP FUNDING COMPANY, LLC

By:  \_\_\_\_\_  
Name: Thomas J. Irvin  
Title: Manager

BTMU CAPITAL CORPORATION, as Secured  
Investor

By:   
Name: Cheryl A. Behan  
Title: Senior Vice President

JH EQUITY REALTY INVESTORS, INC., as  
Equity Investor

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

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

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

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

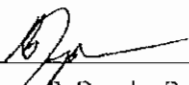
*Termination Agreement and  
Release of Operative Agreements*

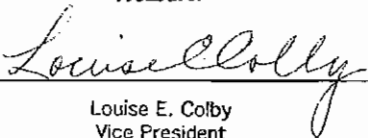


BTMU CAPITAL CORPORATION, as Secured  
Investor

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

JH EQUITY REALTY INVESTORS, INC., as  
Equity Investor

By:  \_\_\_\_\_  
Name: R. Douglas Donaldson  
Title: Treasurer

By:  \_\_\_\_\_  
Name: Louise E. Colby  
Title: Vice President

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

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

*Termination Agreement and  
Release of Operative Agreements*

BTMU CAPITAL CORPORATION, as Secured Investor

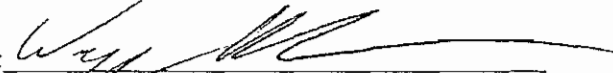
By: \_\_\_\_\_  
Name:  
Title:

JH EQUITY REALTY INVESTORS, INC., as Equity Investor

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

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

CITIBANK, N.A., as a Backup Facility Bank

By:   
Name: Wayne Beckmann  
Title: Managing Director

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

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

*Termination Agreement and  
Release of Operative Agreements*

BTMU CAPITAL CORPORATION, as Secured  
Investor

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

JH EQUITY REALTY INVESTORS, INC., as  
Equity Investor

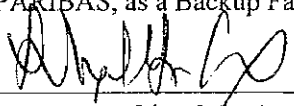
By: \_\_\_\_\_  
Name:  
Title:

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

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

By:  \_\_\_\_\_  
Name: Lloyd G. Cox  
Title: Managing Director

By:  \_\_\_\_\_  
Name: Barry Mendelsohn  
Title: Director

HSBC BANK USA, as a Backup Facility Bank

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

*Termination Agreement and  
Release of Operative Agreements*

HSBC BANK USA, N.A., as a Backup Facility  
Bank

By: Paul L. Hatton  
Name: Paul L. Hatton  
Title: Managing Director

*(formerly)* CREDIT SUISSE, CAYMAN ISLANDS BRANCH  
CREDIT SUISSE FIRST BOSTON, as a Backup  
Facility Bank

By: 

Name: Mark Gleason  
Title: Managing Director

By: 

Name: Shaheen Malik  
Title: Associate

EXHIBIT C

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

DELAWARE DEPARTMENT OF STATE  
U.C.C. FILING SECTION  
FILED 07:18 PM 10/30/2008  
INITIAL FILING # 2092526 7  
AMENDMENT # 2008 3661426  
SRV: 081081587

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Bryan Kluever  
CT  
208 South LaSalle Street  
Suite 814  
Chicago, IL 60604

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
2092526 7 on 4.12.02

1b. This FINANCING STATEMENT AMENDMENT is to be filed (or recorded) (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in Item 7a or 7b and address of assignee in Item 7c; and also give name of assignor in Item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes. Also check one of the following three boxes and provide appropriate information in Items 6 and/or 7.

CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in Item 6a or 6b.  ADD name: Complete Item 7a or 7b, and also Item 7c; also complete Items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR 6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. BUSINESS INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box. Describe collateral  deleted or  added, or give entire  related collateral description, or describe collateral  assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

OR JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA

File with DE SOS [Matter No. 00652500-14] [General] [Doc. No. 1457980] BK 740184650-1 152

Exhibit D

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

DELAWARE DEPARTMENT OF STATE
U.C.C. FILING SECTION
FILED 07:22 PM 10/30/2008
INITIAL FILING # 6416808 4
AMENDMENT # 2008 3551491
SRV: 081081602

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. SEND ACKNOWLEDGMENT TO: (Name and Address)
Bryan Kluever
CT
208 South LaSalle Street
Suite 814
Chicago, IL 60604

THE ABOVE SPACE IS FOR FILING OFFICES ONLY

1a. INITIAL FINANCING STATEMENT FILE #
6416808 4 on 11.30.06
1b. THIS FINANCING STATEMENT AMENDMENT IS
to be filed (see record) (or recorded) in the
REAL ESTATE RECORD.

2. [X] TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3. [ ] CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. [ ] ASSIGNMENT (full or partial): Give name of assignee in Item 7a or 7b and address of assignee in Item 7c; and also give name of assignor in Item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects [ ] Debtor or [ ] Secured Party of record. Check only ONE of these two boxes.
Also check ONE of the following three boxes and provide appropriate information in Item 6 and/or 7.
[ ] CHANGE name and/or address: Please refer to the attached instructions in respect to changes to the record(s) of this DEBT.
[ ] DELETE name: Give record name to be deleted in Item 8a or 8b.
[ ] ADD name: Complete Item 7a or 7b, and also Item 7c; also complete Item 7d-7f (if applicable).

6. CURRENT RECORD INFORMATION:
6a. ORGANIZATION'S NAME
GENERAL MOTORS CORPORATION
OR
6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:
7a. ORGANIZATION'S NAME
OR
7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX
7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SECURED PARTY ADDL. INFO. ORGANIZATION DEBTOR
7e. TYPE OF ORGANIZATION
7f. JURISDICTION OF ORGANIZATION
7g. ORGANIZATIONAL ID #, if any [ ] NONE

8. AMENDMENT (COLLATERAL CHANGE): check only ONE box.
Describe collateral [ ] deleted or [ ] added, or give entire [ ] revised collateral description, or describe collateral [ ] assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here [ ] and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME
IPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT
OR
9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA
File with DE SOS [Matter No. 00652500] [General-13] [Doc. No. 1457978] BE 74018460-5 log

FILING OFFICE COPY - UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

EXHIBIT 2

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)  
 UCC Filings 800-828-0938

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

National Corporate Research  
 41 State Street  
 Suite 600  
 Albany, NY 12207  
 melissa@nationalcorp.com

DELAWARE DEPARTMENT OF STATE  
 U.C.C. FILING SECTION  
 FILED 03:23 PM 11/30/2006  
 INITIAL FILING NUM: 6416808 4  
 AMENDMENT NUMBER: 0000000  
 SRV: 061094538

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**300 RENAISSANCE CENTER DETROIT MI 48265-3000 USA**

1d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any

Corporation Delaware  NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any

NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR, 8/7) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT**

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**P.O. BOX 2558 HOUSTON TX 77252 USA**

4. This FINANCING STATEMENT covers the following collateral:

THE ASSETS DESCRIBED ON ANNEX I ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.

5. ALTERNATIVE DESIGNATION (if applicable)  LESSOR  CONSIGNEE/CONSIGNOR  BAILEE/BAILOC  SELLER/BUYER  AG. LIEN  NON-UCC FILING

6.  THIS FINANCING STATEMENT is to be filed for record; for record in the REAL ESTATE RECORDS. Attach Addendum.  7. Check to REQUEST SEARCH REPORT(s) on Debtor(s) if applicable. ADDITIONAL FEE:  All Debtors  Debtor 1  Debtor 2

8. OPTIONAL FILER REFERENCE DATA  
 6701-619 - DE - Secretary of State F#176913 A#274606

FILING OFFICE COPY - UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)



This Annex I  
consists of 4 pages

ANNEX I  
TO  
UCC-1 FINANCING STATEMENT

Debtor: General Motors Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000  
(the "Debtor")

Secured Party: JPMorgan Chase Bank, N.A., as Administrative Agent  
P.O. Box 2558  
Houston, TX 77252  
(the "Agent")

The financing statement to which this Annex I is attached covers all of the following property of the Debtor now owned or at any time hereafter acquired (collectively, the "Collateral"):

- (1) all Equipment and all Fixtures, other than Excluded Equipment and Fixtures;
- (2) all Documents and General Intangibles attributable solely to Equipment or Fixtures, other than Excluded Equipment and Fixtures;
- (3) all books and records pertaining solely to Equipment or Fixtures (or Proceeds or products of Equipment or Fixtures), in each case, other than Excluded Equipment and Fixtures (or Proceeds or products thereof); and
- (4) to the extent not otherwise included in the foregoing clauses, all Proceeds and products of any and all of the foregoing.

As used herein, the following terms shall have the following meanings:

"Collateral Agreement": the collateral agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Credit Agreement": the term loan agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Documents": all "Documents" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

[2060674]

**"Equipment"**: all "Equipment" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Excluded Equipment and Fixtures"**: all Equipment and Fixtures, now owned or at any time hereafter acquired by the Debtor, which are not located at U.S. Manufacturing Facilities; provided, that no Equipment or Fixtures now owned or at any time hereafter acquired by the Debtor (a) located at a U.S. Manufacturing Facility or (b) transferred to a Non-U.S. Manufacturing Property other than (i) in the ordinary course of business or (ii) for a business purpose of the Debtor and its Subsidiaries (as determined in good faith by the Debtor) and not primarily for the purpose of (1) reducing the security for the Obligations or (2) making such Equipment and Fixtures available to other creditors, shall constitute Excluded Equipment and Fixtures.

**"Fixtures"**: all "Fixtures" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"General Intangible"**: a "General intangible" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Governmental Authority"**: any nation or government, any state, province, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of government including the European Central Bank.

**"Grantors"**: a collective reference to the Debtor and Saturn Corporation, and each other direct or indirect wholly-owned domestic Subsidiary of the Debtor that at the option of the Debtor becomes a party to the Collateral Agreement, the Credit Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

**"Lender"**: each Lender party to the Credit Agreement.

**"Lien"**: any mortgage, pledge, lien, security interest, charge, statutory deemed trust, conditional sale or other title retention agreement or other similar encumbrance.

**"Loan"**: a loan made by a Lender to the Debtor pursuant to the Credit Agreement.

**"Loan Documents"**: the Credit Agreement, the Security Documents, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

**"Non-U.S. Manufacturing Property"**: any real property of a Grantor that is not part of a U.S. Manufacturing Facility.

**"Note"**: a promissory note, executed and delivered by the Debtor with respect to the Loans, substantially in the form of Exhibit B to the Credit Agreement.

**"Obligations"**: all obligations of any Grantor in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest

accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Grantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Grantor to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with the Credit Agreement, any other Loan Document or any other document made, delivered or given in connection therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

**"Person"**: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

**"Proceeds"**: all "Proceeds" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Secured Parties"**: the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

**"Security Documents"**: the Collateral Agreement and all other security documents delivered to the Agent granting or purporting to grant a Lien on any property of any Person to secure the Obligations, including financing statements or financing change statements under the applicable Uniform Commercial Code.

**"Subsidiary"**: as to any Person (the "parent"), any other Person of which at least a majority of the outstanding stock or other equity interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or comparable governing body of such Person (irrespective of whether or not at the time stock or other equity interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time owned by the parent, or by one or more Subsidiaries, or by the parent and one or more Subsidiaries.

**"UCC"**: the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

**"U.S. Manufacturing Facility"**: (a) any plant or facility of a Grantor listed on Schedule I hereto, including all related or appurtenant land, buildings, Equipment and Fixtures, and (b) any plant or facility of a Grantor, including all related or appurtenant land, buildings, Equipment and Fixtures, acquired or leased by a Grantor after the date hereof which is located within the continental United States of America and at which manufacturing, production, assembly or processing activities are conducted.

{7560674}

**Schedule 1**  
**to Annex 1 to UCC-1 Financing Statement**

Num	Facility	City	State
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	KY
3	GM ASSEMBLY DETROIT HAMTRAMCK	DETROIT	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	KS
5	GM ASSEMBLY FLINT	FLINT	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	OH
11	GM ASSEMBLY MORAINE	DAYTON	OH
12	GM ASSEMBLY ORION	LAKE ORION	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	MO
17	GM MFD AMT (SAMCO)	NEW HUDSON	MI
18	GM MFD FLINT	FLINT	MI
19	GM MFD FLINT TOOL & DIE	FLINT	MI
20	GM MFD GRAND BLANC	GRAND BLANC	MI
21	GM MFD GRAND RAPIDS	WYOMING	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	MI
24	GM MFD LORDSTOWN	LORDSTOWN	OH
25	GM MFD MANSFIELD	MANSFIELD	OH
26	GM MFD MARION	MARION	IN
27	GM MFD PARMA	PARMA	OH
28	GM MFD PONTIAC	PONTIAC	MI
29	GM MFD SHREVEPORT	SHREVEPORT	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	MI
36	GM POWERTRAIN MASSENA	MASSENA	NY
37	GM POWERTRAIN PARMA	PARMA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	MI

[25606741]

# **EXHIBIT H**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re ) Chapter 11  
) )  
MOTORS LIQUIDATION COMPANY, )  
et al., ) Case No. 09-50026(REG)  
) )  
Debtors. )  
) (Jointly Administered)  
) )  
\_\_\_\_\_) )  
OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF MOTORS )  
LIQUIDATION COMPANY f/k/a )  
GENERAL MOTORS CORPORATION, )  
) )  
Plaintiff, )  
) )  
-against- )  
) )  
JPMORGAN CHASE BANK, N.A., )  
individually and as )  
Administrator Agent for )  
various lenders party to the )  
Term Loan agreement described )  
herein, et al., )  
) )  
Defendants. )

STATE OF ILLINOIS )  
) ) SS.  
COUNTY OF COOK )

The deposition of RYAN GREEN taken before  
Kelly A. Siska, Certified Shorthand Reporter,  
Certified LiveNote Reporter, and Notary Public, at  
71 South Wacker Drive, Chicago, Illinois, commencing  
at 10:00 a.m. on the 27th day of January, A.D., 2010.

1 (Witness sworn.)

2 WHEREUPON:

3 RYAN GREEN,

4 called as a witness herein, having been first duly  
5 sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. FISHER:

8 Q. Good morning Mr. Green.

9 A. Good morning.

10 Q. My name is Eric Fisher and I'm here with my  
11 colleague Katie Cooperman, and we are special counsel  
12 to the official creditors committee in the GM  
13 bankruptcy proceedings. I'm going to be asking you a  
14 number of questions and if my question's not clear or  
15 you don't understand it, please let me know and I'll  
16 be happy to rephrase.

17 A. Okay.

18 Q. It's important that you answer audibly  
19 because our court reporter today is taking down your  
20 answers to my questions.

21 A. Okay.

22 Q. What is your educational background?

23 A. I completed law school, so I also completed  
24 college.

25 Q. When did you complete law school?

1 A. In 2005.

2 Q. And did you begin working as lawyer after  
3 you graduated?

4 A. Yes. In September of 2005.

5 Q. And where did you begin working?

6 A. I began at Winston & Strawn here in  
7 Chicago.

8 Q. And how long were you at Winston?

9 A. I was there until May of 2007.

10 Q. And then where did you go in May of 2007?

11 A. On June 2007 I started at Mayer Brown.

12 Q. And you've been here since June 2007?

13 A. That's correct.

14 Q. And at Winston & Strawn, in what areas did  
15 you practice?

16 A. I practiced in the real estate group  
17 there.

18 Q. And since coming to Mayer Brown, what has  
19 your practice area been?

20 A. I practice in the real estate group here.

21 MR. FISHER: I'm going to ask the court reporter  
22 to mark as plaintiff's Exhibit 7 a document that  
23 begins with the No. MB2461 and goes through 2463.

24 (Deposition Exhibit No. 7 was so  
25 marked.)



1 Q. Who did you represent in connection with  
2 that transaction?

3 A. General Motors. And when you asked that  
4 transaction, I was referring to my work starting on  
5 the releases.

6 Q. When did that work on the releases begin?

7 A. It began in the fall of 2008.

8 Q. And when you refer to your work on the  
9 releases, what do you mean?

10 A. I met with Bob Gordon and we talked about  
11 the unwind. So my role was getting the documents  
12 together to, you know, document the unwind. The  
13 various release documents for the security.

14 Q. And looking at Plaintiff's Exhibit 7,  
15 Mr. Gordon writes, quote, Please put together this  
16 checklist draft, close quote. Do you understand what  
17 he's referring to when he asks for a checklist draft?

18 A. Uh-huh.

19 Q. What is he referring to?

20 A. He's referring to a document that will list  
21 all of the documents necessary to complete the  
22 transaction.

23 Q. And you will have the benefit of documents  
24 as we go, but to the best of your recollection, what  
25 are the kinds of documents that were necessary to

1 complete the transaction you're describing?

2 A. Well, I'm not going to be able to list them  
3 all, but we needed generally a termination agreement  
4 for the facility and then we needed release documents  
5 for the security. So it would include mortgages --  
6 that's what I can think of off the top of my head.

7 Q. Drilling down just on the topic on the  
8 category of release documents for the security, what  
9 kinds of documents does that category include?

10 A. I'm not sure I understand what kinds of  
11 documents. Releases. Termination documents.

12 Q. After Mr. Gordon requested that you prepare  
13 this checklist, is that what you proceeded to do?

14 A. Yes.

15 Q. How did you go about preparing the  
16 checklist?

17 A. I looked through a copy of the  
18 participation agreement. That's the main document for  
19 the synthetic lease and it contained a description of  
20 how to unwind and the relevant documents.

21 Q. Aside from yourself and Mr. Gordon, who  
22 else worked on the, to use your word, unwinding of the  
23 release transaction?

24 A. A paralegal. His name was Stewart  
25 Gonshorek.

1 transactions that involved the release of security  
2 interests?

3 A. Yes.

4 Q. How many times before?

5 A. A number of times before. I was  
6 representing a -- yeah, a number of times. That's the  
7 answer to the question.

8 Q. And in the previous occasions where you  
9 handled a matter that involved the release security  
10 interest, were you representing the borrower or the  
11 lending partner party or some other party?

12 A. Usually the borrower.

13 Q. And in connection with the transaction that  
14 is referred to in Plaintiff's Exhibit 7, the lease  
15 transaction or the termination of the lease  
16 transaction?

17 MS. BOMCHILL: The unwinding, as you said.

18 BY MR. FISHER:

19 Q. The unwinding of the lease transaction.

20 Were you representing GM as borrower?

21 A. Yes.

22 Q. And is it typical in your experience for  
23 borrower's counsel to prepare the documents for the  
24 release of the lender's security interest?

25 MS. BOMCHILL: Object to the form of the

1 question.

2 BY THE WITNESS:

3 A. You know, I don't know.

4 Q. The other -- the transactions before the  
5 one at issue here where you had represented the  
6 borrower and were involved in releasing the security  
7 interest, was it the borrower in that transaction the  
8 one that prepared release documents?

9 A. I don't remember. Perhaps.

10 Q. Did you consider anything about  
11 Mr. Gordon's request that you should prepare the  
12 checklist unusual?

13 A. No.

14 MR. FISHER: I'll ask the court reporter to mark  
15 as Plaintiff's Exhibit 8 a document that begins MB4228  
16 and concludes at MB4234.

17 (Deposition Exhibit No. 8 was so  
18 marked.)

19 BY MR. FISHER:

20 Q. Mr. Green, take a moment to review this  
21 exhibit and let me know whether you recognize it?

22 A. I recognize it.

23 Q. And what is it?

24 A. It's a draft of the closing checklist.

25 Q. And who prepared the draft checklist?

1           A.       The draft was prepared by myself and  
2       Stewart Gonshorek.

3           MS. BOMCHILL: I'd like to say for the record  
4       when we printed these out, that's why there's date of  
5       11-24-09 because we printed this out in response to  
6       your subpoena.

7           MR. FISHER: Thank you for clarifying that.

8       BY MR. FISHER:

9           Q.       Looking at the first page of this exhibit,  
10       you're sending it onto Ms. Braybrook who you mentioned  
11       a moment ago. What was her involvement?

12          A.       She helped with the preparation of the  
13       documents to some extent. I don't remember exactly.

14          Q.       And when you say you prepared this  
15       checklist with Mr. Gonshorek, who actually input the  
16       data into the checklist?

17          A.       That would depend on which item. So I did,  
18       I input some of the data. He also inputted some of  
19       the data.

20          Q.       And was this document prepared in Excel?

21          A.       Yes.

22          Q.       And the subject line of your e-mail in  
23       parentheses it says, 106 REG comments. Does REG refer  
24       to you?

25          A.       No.

1 Q. Does REG refer -- who does REG refer to?

2 A. Bob Gordon. It's his initials. Those are  
3 his initials.

4 Q. And what does that notation in the subject  
5 line indicate to you?

6 A. I would have put that notation in after  
7 incorporating some comments that Bob gave me.

8 Q. Did Bob Gordon review this checklist on,  
9 the draft checklist at some point prior to this  
10 October 6, 2008 e-mail?

11 A. I don't remember that specifically.

12 Q. Looking at the document, do you believe  
13 that to be true?

14 A. If my notes are -- if the reason that I  
15 would usually put that sort of a note in is the case,  
16 then yes. It would indicate that he did and he gave  
17 me comments, yeah.

18 MR. CALLAGY: And he gave me what?

19 MR. PANARELLA: Comments.

20 BY MR. FISHER:

21 Q. Do you recall what Mr. Gordon's comments  
22 were on the checklist at this relatively early stage?

23 A. No.

24 Q. Would you turn, please, to page MB4233 of  
25 this exhibit?

1 the transaction. So I'm not exactly sure who, but I  
2 circulated it by e-mail.

3 Q. Did you circulate a copy of this checklist  
4 to counsel for JPMorgan?

5 MR. CALLAGY: This checklist, you're talking  
6 about Exhibit 8?

7 MR. FISHER: Yes.

8 BY THE WITNESS:

9 A. I did circulate a draft of the checklist to  
10 counsel for JPMorgan. I don't know if it was the  
11 exact version that's here, but.

12 Q. And who was counsel for JPMorgan on this  
13 transaction?

14 A. Mardi Merjian.

15 Q. What firm is he with?

16 A. Simpson Thacher, I think.

17 Q. Why did you circulate a version of this  
18 checklist to Mr. Merjian?

19 A. I wanted to be sure -- we wanted to be sure  
20 we were on the same page about what needed to be done  
21 for closing and who was doing what.

22 Q. You said earlier that it's in the  
23 borrower's interest to release security interests in  
24 connection with a closing such as this; is that right?

25 A. I think I said that.

1 e-mail that you authored?

2 A. Yes.

3 Q. And to whom did you send it?

4 A. I sent this e-mail to a Arun Sundaram and  
5 Timothy (inaudible).

6 Q. In who are they?

7 A. They're both with GM.

8 Q. And what did you send them?

9 A. It says I sent -- you know, I attached a  
10 checklist.

11 Q. Why did you send it to them?

12 A. I sent them the checklist so that they were  
13 aware of how the transaction was progressing to keep  
14 them in the loop.

15 Q. Were they your primary client contacts at  
16 GM on this transaction?

17 A. Yes. They were. They were among the  
18 primary contacts.

19 Q. Do you recall ever receiving any  
20 corrections from them to the checklist that you, the  
21 closing checklist that you circulated?

22 A. No.

23 MR. FISHER: I'll ask the court reporter to  
24 please mark as Plaintiff's Exhibit 11 a document  
25 numbered MB5602.



1 circulate drafts of the documents to Mardi Merjian to  
2 review.

3 Q. And if Mr. Merjian had said, Don't file a  
4 reference to a termination statement on the closing  
5 checklist, could you as GM's counsel proceed to,  
6 nonetheless, file that?

7 MR. CALLAGY: Objection to form.

8 BY THE WITNESS:

9 A. I don't know. I'd have to review the  
10 underlying documents.

11 Q. No one -- did anyone ever tell you don't  
12 file a termination for financing statement file  
13 6416808 4?

14 A. I don't remember anyone telling me not to  
15 file the termination related to 61 -- 6416808 4.

16 MS. BOMCHILL: Just let the record reflect that  
17 he's reading the number off the document.

18 BY MR. FISHER:

19 Q. This Plaintiff's Exhibit 17 is copied to  
20 Mr. Gordon. What was Mr. Gordon's role in unwinding  
21 the lease?

22 MS. BOMCHILL: Object to the form.

23 BY THE WITNESS:

24 A. Bob Gordon was the partner that I was  
25 working with in representing GM to accomplish the

1 unwind.

2 Q. And what was your understanding of what his  
3 responsibilities were with respect to that  
4 transaction?

5 A. I understood that he was supervising me  
6 as -- you know, supervising me in the preparation of  
7 documents related to the unwind.

8 Q. And were there tasks in connection with the  
9 unwind that were performed by Mr. Gordon?

10 A. I don't remember Bob performing any  
11 specific tasks.

12 MR. FISHER: I'll ask the court reporter to mark  
13 as Plaintiff's Exhibit 18 a one-page document numbered  
14 MB4295.

15 (Deposition Exhibit No. 18 was so  
16 marked.)

17 BY MR. FISHER:

18 Q. Mr. Green, you will see that the second  
19 e-mail in this string is an e-mail from Ms. Romick to  
20 you dated October 23, 2008. And it states, quote,  
21 Hi, are you working on this? Thanks, close quote.  
22 Does this refer to the unwinding of the synthetic  
23 lease?

24 A. Based on my review of this e-mail string,  
25 it looks like I understood, you know, Jamie's e-mail

1 that's been marked as Plaintiff's Exhibit 5?

2 A. Yes, I think so.

3 Q. And is that the -- is that the draft  
4 termination statement that appears at page 206 as  
5 what's been marked as Plaintiff's Exhibit 15?

6 A. Based on my review of Exhibit 15 and page  
7 206, it looks like it is.

8 Q. Thank you, you can put that aside. Did  
9 there come a point in time when you learned that  
10 Plaintiff's Exhibit 5 was filed by mistake?

11 MR. CALLAGY: Objection to form.

12 BY THE WITNESS:

13 A. Yes. That point in time came.

14 Q. When was it that you first learned that  
15 Plaintiff's Exhibit 5 was filed by mistake?

16 A. Sometime in June.

17 Q. June of 2009?

18 A. Yes.

19 Q. I guess that's the only June since the  
20 transaction closed?

21 A. Uh-huh.

22 Q. How did that first come to your attention?

23 A. I first knew that there was a concern about  
24 the UCC filing -- did you say how? I'm sorry.

25 Q. Yeah. How did it first come to your

1 attention?

2 A. By getting a call from Bob Gordon.

3 Q. What did Mr. Gordon tell you?

4 A. I don't remember exactly.

5 Q. In substance as best you can what did he  
6 tell you?

7 A. He told me that he had gotten a call from  
8 someone with a concern about the UCC and asked me to  
9 gather my files for a meeting.

10 Q. And at the time of this conversation --  
11 forget that whole prelude to my question.

12 Who did Mr. Gordon tell you had called him  
13 about this UCC filing?

14 A. I don't remember.

15 Q. What did Mr. Gordon tell you about what the  
16 expressed concern was about this UCC filing?

17 MS. BOMCHILL: Again, you're limiting your  
18 question to that telephone call; right?

19 MR. FISHER: Yes.

20 BY MR. FISHER:

21 Q. Was it a telephone call with Mr. Gordon or  
22 an in-person meeting when he first told you that there  
23 was concerns about this UCC filing? And when I say  
24 this UCC filing, we're referring to what's been marked  
25 as Plaintiff's Exhibit 5?

1 A. It was a telephone call, yeah.

2 Q. What else did he tell you?

3 A. He told me that. What I remember him  
4 telling me was that he got a call, you know, it was  
5 related to GM. There's a UCC filing that there was  
6 concern about, you know, whether -- about the  
7 termination that we filed related to the unwind and he  
8 wanted me to look further into it and get my  
9 documents.

10 Q. Is that what you proceeded to do?

11 A. Yeah.

12 Q. Did you then -- what did you review when  
13 Mr. Gordon -- when Mr. Gordon asked you to look into  
14 this UCC filing and you said you went back and you  
15 proceeded to review documents, what did you review?

16 MS. BOMCHILL: Let's just be clear. You're  
17 asking about documents that he may have reviewed prior  
18 to consulting counsel?

19 MR. FISHER: Yes.

20 BY MR. FISHER:

21 Q. Specifically documents that you reviewed in  
22 response to Mr. Gordon's initial query of you?

23 MS. BOMCHILL: If any.

24 BY THE WITNESS:

25 A. Well, in response to Bob Gordon's request,

1 able to identify in the checklist and in the escrow  
2 instructions which financing statement was causing the  
3 concern.

4 Q. And it was Plaintiff's Exhibit 5 that was  
5 causing the concern?

6 A. Yeah. I think so. Yep.

7 Q. And, again, before meeting with counsel,  
8 did you report back to Mr. Gordon?

9 A. I did have an in-person meeting with  
10 Mr. Gordon before meeting with counsel.

11 Q. What happened during that meeting?

12 A. We discussed -- Well, first I let him know  
13 that the UCC causing the concern was referenced on the  
14 checklist and in the escrow instructions. I think  
15 that was primarily what we discussed. I don't  
16 remember a lot of, you know, other details except I  
17 remember discussing that. I mean, I remember having  
18 an exchange about, like, this being an important  
19 issue. An important -- but no details about --  
20 because I hadn't seen the actual UCC at that point.  
21 It was just this was -- it was a big concern.

22 Q. And, again, not based on conversations with  
23 counsel but based on what you may have learned in  
24 conversations with others and from documents you  
25 reviewed, what was your understanding as to why it was

1 UCC to the extent that I could, you know, determine  
2 whether it was on, you know, the -- if it was  
3 involved. So I went to the escrow instructions and  
4 the checklist and showed those to Bob so that he could  
5 see, you know, that it was on, within the universe of  
6 documents involved in the unwind.

7 Q. I'm going to try to restate that and tell  
8 me if I'm restating it fairly or not. You reported  
9 that to Mr. Gordon because you wanted him to know that  
10 the UCC that was now being called into question was  
11 identified on the closing checklist and was identified  
12 in the escrow instructions?

13 A. Yes. I wanted to show him that the UCC was  
14 on the checklist and in the closing escrow  
15 instructions.

16 Q. Did you tell Mr. Gordon that the checklist  
17 and the -- did you tell Mr. Gordon that the checklist  
18 had been sent to Mr. Merjian?

19 A. I don't remember if I told him that.

20 Q. Do you remember that subject coming up?

21 A. I remember him --

22 MS. BOMCHILL: Again, we're talking about only in  
23 your conversations with Mr. Gordon.

24 BY THE WITNESS:

25 A. I remember telling Bob that I had

1 MR. FISHER: Can I ask the court reporter to  
2 mark as Plaintiff's Exhibit 24 a document numbered  
3 MB3.

4 (Deposition Exhibit No. 24 was so  
5 marked.)

6 (A short break was had.)

7 BY MR. FISHER:

8 Q. Mr. Green, I've given you what's been  
9 marked as Plaintiff's Exhibit 24 which has the number  
10 MB3. Who is Mary Swanger?

11 A. She is a paralegal here.

12 Q. And looking down at her signature block,  
13 she appears to have the title of supervisor of UCC  
14 compliance?

15 A. Uh-huh.

16 Q. What is your understanding of Ms. Swanger's  
17 responsibilities?

18 A. We have a UCC compliance team here at Mayer  
19 Brown so, you know, prior to seeing this signature I  
20 didn't realize that she had a title of just -- you  
21 know, of supervisor of UCC compliance. But I guess  
22 that she's the supervisor of the team.

23 Q. What does the UCC compliance team do?

24 A. They review draft UCC statements before and  
25 raise any issues that they can tell before they're



1 filed.

2 Q. And does the firm have a policy about  
3 having the UCC compliance team review UCC filings  
4 before they're filed?

5 MS. BOMCHILL: Object to the form.

6 BY THE WITNESS:

7 A. I don't know what the exact firm policy is  
8 or if there is one, but I know that it's recommended  
9 at least to send the draft UCCs to the compliance  
10 team.

11 Q. With respect to the UCC filings in  
12 connection with the closing on the synthetic lease or  
13 the unwinding of the synthetic lease, do you know  
14 whether or not any of those UCC filings were reviewed  
15 by the UCC compliance team?

16 A. I think so.

17 Q. And what do you base that opinion on?

18 MS. BOMCHILL: You may answer to the extent that  
19 you don't reveal anything that would be protected from  
20 disclosure under the attorney-client privilege.

21 BY THE WITNESS:

22 A. I don't remember.

23 Q. You think they reviewed it, though?

24 A. I think so.

25 Q. Why do you think they reviewed it?

# **EXHIBIT I**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE:	)	
	)	
MOTORS LIQUIDATION COMPANY,	)	Chapter 11
et al.,	)	No. 09-50026 (REG)
	)	
Debtors.	)	
	)	
-----	)	Jointly Administered
OFFICIAL COMMITTEE OF	)	
UNSECURED CREDITORS OF	)	
MOTORS LIQUIDATION COMPANY	)	
f/k/a GENERAL MOTORS	)	
CORPORATION,	)	
	)	
Plaintiff,	)	
	)	Adversary Proceeding
vs.	)	No. 09-50026 (REG)
	)	
JP MORGAN CHASE BANK, N.A.,	)	
Individually and as	)	
Administrative Agent for	)	
various lenders party to the	)	
Term Loan Agreement	)	
described herein, et al.,	)	
	)	
Defendants.	)	

The deposition of ROBERT GORDON, called by the Plaintiff for examination, taken pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Jennifer D. Riemer, Certified Shorthand Reporter, Registered Professional Reporter, and Certified Realtime Reporter, at 71 South Wacker Drive, Suite 3200, Chicago, Illinois, commencing at 1:54 p.m. on the 28th day of January, A.D., 2010.

1 WHEREUPON:

2 ROBERT GORDON,  
3 called as a witness herein, having been first duly  
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. FISHER:

7 Q. Good afternoon, Mr. Gordon. My name is Eric  
8 Fisher, and I'm here with my colleague, Katie Cooperman,  
9 and we are special counsel to the Official Committee of  
10 Unsecured Creditors in the GM bankruptcy proceedings.

11 I'm going to ask you a number of questions  
12 this afternoon. If you don't understand a question,  
13 please let me know, and I will try to rephrase it.  
14 Okay? It's important that you answer questions audibly  
15 so that the court reporter can take down both my  
16 questions and your answers.

17 A. Okay.

18 Q. Would you describe briefly your educational  
19 background.

20 A. I graduated law school from the School of Law  
21 of Northwestern University in 1979.

22 Q. And following law school would you please  
23 describe generally your employment history.

24 A. I started at Mayer Brown in June of 1979, and  
25 I've been at Mayer Brown since.

1 Q. And during that period of time, from 1979 up  
2 until today, in what area of law did you practice or do  
3 you practice?

4 A. I'm in the real estate group, and I practice  
5 real estate finance law.

6 Q. And that was the case for your entire period  
7 of time here?

8 A. Yes.

9 Q. And are you a partner?

10 A. Yes.

11 Q. When did you become a partner?

12 A. I believe in 1986.

13 Q. Mr. Gordon, I'm handing you what's previously  
14 been marked as Plaintiff's Exhibit No. 7. Looking at  
15 the first page of this exhibit, the top portion of the  
16 page, is that an e-mail that you sent to Mr. Green?

17 A. Reading this, it is an e-mail I sent to  
18 Ryan Green.

19 Q. And what was the purpose of the e-mail?

20 A. It was to ask Ryan to put together a checklist  
21 for the payoff of the GM synthetic lease.

22 Q. And what did you mean by -- when you asked him  
23 to prepare a checklist?

24 A. I asked him to put together a checklist of the  
25 documents required to pay off the GM Chase synthetic

1 that's been prepared in error," that you would have  
2 taken some step to determine whether what he was saying  
3 was true or not?

4 MR. CALLAGY: Objection to form.

5 BY THE WITNESS:

6 A. I would hope that I would look into it.

7 Q. Did there come a point in time when you  
8 learned that the termination statement that's at issue  
9 in this case was mistaken?

10 A. Was mistaken? Your meaning of "mistaken"?

11 Q. Yes. Did there come a point in time that you  
12 learned that one of the termination statements filed at  
13 Mayer Brown's request was filed in error?

14 A. Yes.

15 Q. When did you first learn that?

16 A. In June of 2009.

17 Q. Who first brought that to your attention?

18 A. I received a call from counsel to  
19 JPMorgan Chase.

20 Q. Who was that individual?

21 A. I don't remember his name.

22 Q. What firm was he with?

23 A. I don't recall.

24 Q. What did he say?

25 A. Something to the effect of, "Why did you

1 terminate the JPMorgan -- file a termination of the  
2 JPMorgan financing statement?"

3 Q. What did you say?

4 A. I didn't know what he was referring to. I  
5 would look into it.

6 Q. Anything else you can remember about that  
7 conversation?

8 A. No.

9 Q. What did you do next with respect to the  
10 question he had asked you?

11 A. I tried to contact Ryan Green and talk with  
12 him about the question.

13 Q. And did you get in touch with Mr. Green?

14 A. I ultimately did get in touch with him.

15 Q. It took a while?

16 A. A short while.

17 Q. And your first discussion with Mr. Green about  
18 this query that you had gotten from counsel to JPMorgan,  
19 was that by telephone or in person?

20 A. I believe the first was by telephone.

21 Q. And what did you say?

22 A. I believe that I recited to him the call that  
23 I had gotten and asked him to look into what they were  
24 referring to and to provide me with information.

25 Q. What did Mr. Green say to you?

1 statement had been listed on the closing checklist?

2 A. I believe I did, yes.

3 Q. And did you learn that it had been referenced  
4 in the escrow instructions?

5 A. At some point I learned that.

6 Q. Did you ask Mr. Green whether the closing  
7 checklist had been shared with counsel for JPMorgan on  
8 that transaction?

9 A. No.

10 Q. Did you ask Mr. Green whether counsel for  
11 JPMorgan had ever expressed any concerns about the  
12 termination statement before it was filed?

13 A. Not that I recall.

14 Q. In your initial discussion with Mr. Toder, was  
15 there any discussion about who was at fault?

16 MR. CALLAGY: Objection, form.

17 BY THE WITNESS:

18 A. There was no discussion about fault.

19 Q. Did there come a time when you prepared an  
20 affidavit describing the circumstances under which the  
21 termination statement came to be filed?

22 A. I reviewed an affidavit.

23 Q. You didn't prepare it?

24 A. I prepared revisions to an affidavit form.

25 Q. Who prepared the first draft of the affidavit



1 you're referring to?

2 A. I believe Morgan Lewis did.

3 Q. Whose idea was it to have you sign an  
4 affidavit relating to this matter?

5 A. I believe it was our idea.

6 Q. Why did Morgan Lewis prepare the first draft  
7 of your affidavit?

8 A. I don't know.

9 Q. Did you ever have any discussions with Morgan  
10 Lewis about your affidavit?

11 A. No.

12 Q. Aside from Ms. Bomchill, have you ever had any  
13 discussions with anyone about your affidavit?

14 A. No.

15 Q. Did you review the initial draft of your  
16 affidavit which was prepared by Morgan Lewis?

17 A. Yes.

18 Q. Did you make revisions to it?

19 A. Yes.

20 MR. FISHER: I'm going to ask the court reporter to  
21 please mark as Plaintiff's Exhibit 26 a document  
22 numbered JPM-CB112 through 115.

23 (Plaintiff's Deposition Exhibit  
24 No. 26 marked as requested.)

25 BY MR. FISHER:

1 A. To prepare an affidavit?

2 Q. Yes.

3 A. I thought I was testifying that it was -- I  
4 thought that it was our idea to provide an affidavit.

5 Q. Okay. Then I -- That is what I intended to  
6 ask. Do you stand by that testimony? It was your idea  
7 to provide an affidavit?

8 MR. CALLAGY: Objection, form.

9 BY THE WITNESS:

10 A. I believe it was.

11 Q. And why did you decide to prepare an  
12 affidavit?

13 A. In order to assist JPMorgan Chase in  
14 establishing that the financing statement that -- the  
15 termination statement that was filed that related to the  
16 financing statement that wasn't related to the GM/Chase  
17 synthetic lease properties was erroneously filed.

18 Q. Why did you wish to assist JPMorgan in that  
19 regard?

20 A. In order to confirm that the statement that  
21 was filed did not relate to the GM/Chase synthetic  
22 lease.

23 Q. And at the point in time that you reviewed  
24 your affidavit, were you at that point in time aware  
25 that the mistaken termination statement related to a --

1           A.    In my affidavit the paralegal is Stewart  
2   Gonshorek.

3           Q.    Did you speak with Mr. Gonshorek in connection  
4   with preparing your affidavit?

5           A.    No.

6           Q.    Did you review any of Mr. Gonshorek's e-mails  
7   or files in connection with preparing your affidavit?

8           A.    I did.

9           Q.    What did you review?

10          A.    I don't recall the specific papers.

11          Q.    Do you recall generally what you looked at?

12          A.    I believe I looked at papers that showed that  
13   he had transmitted this termination statement for  
14   filing.

15          Q.    In paragraph 9 the last sentence -- And I'm  
16   referring now to Plaintiff's Exhibit 26, which is the  
17   draft version of your affidavit.  The last sentence  
18   reads, "The paralegal unfortunately terminated this  
19   financing statement without my direction and without  
20   authority."

21                 And, again, I will represent to you, but you  
22   should confirm to your satisfaction, that that sentence  
23   does not appear in the final version of your affidavit.  
24   And my question is, who proposed that change to your  
25   affidavit?

1 A. I believe I did.

2 Q. Why did you propose that change?

3 A. Because my understanding was that the  
4 paralegal filed a termination statement, but that wasn't  
5 the same as saying he terminated this financing  
6 statement.

7 Q. Is it accurate to say that Mr. Gonshorek filed  
8 the termination statement without your direction?

9 A. Yes.

10 Q. Before Mr. Gonshorek filed the termination  
11 statement --

12 MS. BOMCHILL: Caused.

13 BY MR. FISHER:

14 Q. Before Mr. Gonshorek caused the termination  
15 statement to be filed, you had received a draft copy of  
16 the termination statement?

17 MR. CALLAGY: Objection to form.

18 BY THE WITNESS:

19 A. I think we earlier saw e-mails that show a  
20 copy of the termination statement being distributed, and  
21 I was copied on those. I don't recall seeing the  
22 termination statement.

23 Q. And before the termination statement was  
24 filed, you received a copy of a closing checklist that  
25 made reference to the termination statement?

1 were you aware that, prior to the closing on the  
2 synthetic lease transaction, you had received a copy of  
3 a checklist that referenced the termination statement at  
4 issue?

5 MS. BOMCHILL: Object to the form of the question.

6 BY THE WITNESS:

7 A. Repeat this again.

8 Q. Okay. I'm going to try again.

9 A. Because we're talking about different times.

10 Q. I understand. And I do want the question to  
11 be clear.

12 When did you execute your affidavit?

13 A. In June of 2009.

14 Q. Did you execute it on June 18th, 2009?

15 A. Yes.

16 Q. On June 18th, 2009, when you signed your  
17 affidavit, were you aware that you had received a copy  
18 of a closing checklist in October 2008?

19 A. Yes.

20 Q. And were you aware that that closing checklist  
21 referenced the termination statement that is the subject  
22 of your affidavit?

23 A. Yes.

24 Q. And when you signed your affidavit on June 18,  
25 2009, were you aware that you had received a draft of

1 the termination statement that is the subject of your  
2 affidavit?

3 A. Yes.

4 Q. When you signed your affidavit in June 2009,  
5 were you aware that you had received escrow instructions  
6 referencing the termination statement that is the  
7 subject of your affidavit?

8 A. I don't recall.

9 Q. With respect to the two documents that you've  
10 testified that you do recall -- so that's the closing  
11 checklist and the draft termination statement --

12 MR. CALLAGY: Objection to the form.

13 BY MR. FISHER:

14 Q. -- when you executed your affidavit on  
15 June 18, 2009, were you aware that you had received  
16 copies of those two documents in October 2008?

17 MS. BOMCHILL: Asked and answered. If you're  
18 making a distinction, I don't understand it.

19 MR. FISHER: I'm asking the question only because I  
20 actually think my prior questions didn't specify the  
21 October 2008 point, so I'd like that clarified.

22 MS. BOMCHILL: So it's the same question, only he's  
23 adding October 2008.

24 BY THE WITNESS:

25 A. Okay. Let's start over then.

1 the financing statements, the form of the financing  
2 statements.

3 Q. In June of 2009 you learned that the UCC  
4 compliance team at Mayer Brown had reviewed the draft  
5 termination statements in October 2008?

6 A. Yes.

7 Q. Would you turn back to Plaintiff's Exhibit 26,  
8 which is the e-mail attaching a draft version of your  
9 affidavit.

10 And in particular I want to focus on the last  
11 sentence of this draft affidavit. It says,  
12 "Accordingly, Mayer Brown was not authorized to  
13 terminate any financing statement related to the term  
14 loan agreement."

15 And I'm going to ask you to compare that last  
16 sentence to the last sentence that appears in your  
17 executed affidavit, which is, "GM was not authorized by  
18 the termination agreement to terminate any financing  
19 statement related to the term loan agreement."

20 Whose idea was it to add the language "by the  
21 termination agreement" to that last sentence of your  
22 affidavit?

23 MS. BOMCHILL: Object to the form of the question.

24 BY THE WITNESS:

25 A. I don't recall.

# **EXHIBIT J**



**Berlin, Linda F.**

---

**From:** Gordon, Robert E.  
**Sent:** Wednesday, October 01, 2008 8:46 AM  
**To:** Green, Ryan  
**Subject:** FW: Chase Synthetic Lease

Ryan:

Please put together this checklist draft. You should try to locate the document checklist from another recent release from this synthetic lease. Also, please break out the checklist to have separate sections for the different properties, as well as sections for general documents. Make sure to include required directions to the trustee.

Robert

---

**Robert E. Gordon**  
Mayer Brown LLP

Tel: 312 701 7153  
rgordon@mayerbrown.com  
Fax: 312 701 7711

71 S. Wacker Drive  
Chicago, IL: 60606  
www.mayerbrown.com

Please consider the environment before printing this e-mail.

---

**From:** Gordon, Robert E.  
**Sent:** Wednesday, October 01, 2008 8:44 AM  
**To:** 'arun.sundaram@gm.com'  
**Cc:** jeffrey.holy@gm.com; Green, Ryan; timothy.conder@gm.com  
**Subject:** RE: Chase Synthetic Lease

Arun:

We will put together an initial draft of a brief checklist of required documents for the release and transfer.

Robert

---

**Robert E. Gordon**  
Mayer Brown LLP

Tel: 312 701 7153  
rgordon@mayerbrown.com  
Fax: 312 701 7711

<b>EXHIBIT NO.</b> <u>7</u>
<u>Green</u>
<b>Kelly A. Siska</b>

71 S. Wacker Drive  
Chicago, IL 60606  
www.mayerbrown.com

Please consider the environment before printing this e-mail.

---

**From:** arun.sundaram@gm.com [mailto:arun.sundaram@gm.com]  
**Sent:** Tuesday, September 30, 2008 5:12 PM  
**To:** Gordon, Robert E.  
**Cc:** jeffrey.holy@gm.com; Green, Ryan; timothy.conder@gm.com  
**Subject:** Re: Chase Synthetic Lease

Bob,

Thanks for the note below. We will be taking Option 1 i.e. buy back the properties. Can you please advise what paper work we should do between now and Oct 31. Plan to reach out to banks to let them know about the approach tomorrow.

Regards,  
Arun

General Motors Corporation  
New York Treasurers Office | Structured Finance  
Office: +1 212 418 6219  
Home: +1 212 418 6419  
Email: arun.sundaram@gm.com

"Gordon, Robert E." <RGordon@mayerbrown.com>

09/23/2008 06:14 PM

To: <jeffrey.holy@gm.com>, <arun.sundaram@gm.com>, <timothy.conder@gm.com>  
cc: "Green, Ryan" <Ryan.Green@mayerbrown.com>  
Subject: Chase Synthetic Lease

Pursuant to Section 20 of the Lease (copy attached), GM has the following options with respect to the upcoming maturity of the JP Morgan Chase Synthetic Lease (the Maturity Date is October 31, 2008):

1. GM can purchase the remaining properties from Lessor. Absent notice otherwise, GM is obligated to proceed with this option.
2. GM can elect to have its designee purchase the remaining properties. This option requires notice to the Lessor pursuant to the general notice provision of the Lease. Question: Please let us know if you would like to discuss proceeding with this option.

If GM chooses options (1) or (2) above, the properties will be transferred in accordance with Section 19.1(a) (attached for your reference) and the closing date will be the Maturity Date (or earlier upon 30 days' notice).

GM can purchase all of the beneficial interests in the lessor Trust. This option requires notice to Lessor pursuant to both Section 20.4 and the general notice provision of the Lease. Question: Please let us know if you would like to discuss proceeding with this option.

4. GM can elect to have its designee purchase all of the beneficial interests in the lessor Trust. This option requires notice to Lessor pursuant to both Section 20.4 and the general notice provision of the Lease. Question: Please let us know if you would like to discuss proceeding with this option.

GM chooses options (3) or (4) above, such interests will be transferred in accordance with Section 19.1(b) (attached for your reference) and the closing date must occur before the Maturity Date.

Please note the following other considerations:

1. The Lease allows GM, upon giving Lessor at least 12 months' prior written notice, the right to remarket the remaining properties at the end of the Lease in lieu of purchasing the remaining properties. We presume that GM did not elect to remarket and did not provide such notice on before October 31, 2007. Please confirm.
2. The Lease sets forth an early purchase option which would allow GM to purchase any or all of the remaining properties before the Maturity Date. Exercising this early purchase option may require 30 days prior written notice. We presume that GM does not wish to exercise this early termination purchase option.

Please let us know if you would like to discuss the options mentioned above.

Robert

<<XScan001.PDF>>

Robert E. Gordon  
Mayer Brown LLP

Tel: 312 701 7153  
rgordon@mayerbrown.com  
Fax: 312 701 7711

71 S. Wacker Drive  
Chicago, IL 60606  
[www.mayerbrown.com](http://www.mayerbrown.com)

 Please consider the environment before printing this e-mail.

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# **EXHIBIT K**

**Manning, Melissa**

---

**From:** Green, Ryan  
**Sent:** Monday, October 06, 2008 6:00 PM  
**To:** Braybrook, Stacey L.  
**Subject:** GM Checklist - Release of Properties from JPM Chase Synthetic Lease - (10/6 REG comments).XLS



GM Checklist -  
Release of Prop...

---

**Ryan C. Green**  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
[ryan.green@mayerbrown.com](mailto:ryan.green@mayerbrown.com)



CLOSING CHECKLIST  
 General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

24-Nov-09

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
1	Letter of Direction	SI	MB	5225216.3	MB preparing
2	SPO Headquarters, Grand Blanc, MI				
A	Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i> <i>Recorded 1/10/03, Instrument No.</i> <i>200301100004378</i>	Agent	MB	1457570.1	MB preparing
B	Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i> <i>Recorded 1/10/03, Instrument No.</i> <i>200301100004379</i>	Agent	MB	1457572.1	MB preparing
C	Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i> <i>Recorded 1/10/03, Instrument No.</i> <i>200301100004374</i>	GM, Trust	MB	1457574.1	MB preparing
D	Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing
E	Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225459.2	MB preparing
F	Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>Financing statement recorded 8/25/04,</i> <i>Instrument No. 200408250089800</i>	N/A	MB		MB preparing
				1457962.1	MB preparing

CLOSING CHECKLIST  
 General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Financing statement recorded 8/25/04, Instrument No. 200408250089803, Amendment recorded in Instrument No. 200706010047290</i>			1457963.1	MB preparing	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Received	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>3 Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB	1457937.1	MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i>	Agent	MB	1457938.1	MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i>	GM, Trust	MB	1457939.1	MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225468.1	MB preparing	

CLOSING CHECKLIST  
 General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>file number 2007 1919660, file date 5/21/07</i> <i>[DE SOS]</i>	N/A	MB	1457972.1	MB preparing	
<i>UCC filed on _____, as</i> <i>Instrument No. [Wayne County]</i>			1457964.1		
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>4 GM Powertrain L6 Engine Plant, Flint, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i> <i>Mortgage recorded on _____, 2003 as</i> <i>Instrument No. 200305160068995</i>	Agent	MB	1457949.1	MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i> <i>ALR recorded on _____, 2003 as</i> <i>Instrument No. 200305160068996</i>	Agent	MB	1457950.1	MB preparing	
C Release of Short Form Memorandum of Lease (record)	GM, Trust	MB	1457951.1	MB preparing	



## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Lease §19.1(a)(i)(C)</i> <i>Memo of Lease recorded on _____, 2003</i> <i>as Instrument No. 200305160068994</i>					
D Release of Memorandum of Ground Lease (record) <i>Lease §19.1(a)(i)(C)</i> <i>Memo of Ground Lease recorded on _____, 2003 as Instrument No. 200305160068993</i>	GM, Trust	MB	1457953.3	MB preparing	
E Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
F Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225467.1	MB preparing	
G Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>UCC recorded on _____, as Instrument No. 200408250089802</i> <i>UCC recorded on _____, as Instrument No. 200408250089803</i> <i>UCC recorded on _____, as Instrument No. 200408250089804</i>	N/A	MB		MB preparing	
			1457965.1		
			1457966.1		
			1457967.1		
H Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
I Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
J Title Policy	TC	TC	N/A	At closing	
K Payoff Letter	Agent	Agent		Open	

## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
5	<b>General Documentation</b>				
A	Termination of UCCs (central, DE filings) <i>Blanket-type financing statements as to real property and related collateral located in Marion County, Indiana:</i>				
	<i>Financing statement recorded on 4.12.02 as File Number 2092532 5</i>	N/A	MB	1457981.1	MB preparing
	<i>Financing statement recorded on 4.12.02 as File Number 2092526 7</i>	N/A	MB	1457980.1	MB preparing
	<i>Financing statement as to equipment, fixtures and related collateral located at certain U.S. manufacturing facilities recorded on 11.30.06 as File Number 6416808 4</i>	N/A	MB	1457978.1	MB preparing
B	Termination of Operative Agreements				
	GM, Trust, Agent, RFC, SI, EI, Backup Facility Banks		MB	9191785.2	MB preparing
	<i>Participation Agreement §14.10</i>				
C	IRS Form W-9				
	US Participants	US Participants		N/A	
D	IRS Form W-8BEN				
	Non-US Participants	Non-US Participants		N/A	
E	FIRPTA Affidavit <i>Lease §19.1(a)(ii)</i>				
	Trust		MB	5225470.1	MB preparing
F	Certificate of Trust				
	Trust		MB	5225546.1	MB preparing

## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
G Certificate regarding the absence of liens  <i>Lease §19.1(a)(iv)</i>	Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9197777.2	MB preparing	

# **EXHIBIT L**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re ) Chapter 11  
) )  
MOTORS LIQUIDATION COMPANY, )  
et al., ) Case No. 09-50026(REG)  
) )  
Debtors. )  
) (Jointly Administered)  
) )  
\_\_\_\_\_) )  
OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF MOTORS )  
LIQUIDATION COMPANY f/k/a )  
GENERAL MOTORS CORPORATION, )  
) )  
Plaintiff, )  
) )  
-against- )  
) )  
JPMORGAN CHASE BANK, N.A., )  
individually and as )  
Administrator Agent for )  
various lenders party to the )  
Term Loan agreement described )  
herein, et al., )  
) )  
Defendants. )

STATE OF ILLINOIS )  
) ) SS.  
COUNTY OF COOK )

The deposition of MICHAEL PERLOWSKI taken before Kelly A. Siska, Certified Shorthand Reporter, Certified LiveNote Reporter, and Notary Public, at 71 South Wacker Drive, Chicago, Illinois, commencing at 10:00 a.m. on the 27th day of January, A.D., 2010.

1 everything but the dissertation in American history  
2 for my Ph.D., and that's as far as I went.

3 Q. When did you complete those studies?

4 A. About 1982 or '3, something like that, at  
5 the U of I.

6 Q. University of Illinois?

7 A. Correct.

8 Q. And after you left school in 1982 or 1983,  
9 would you please just briefly describe your employment  
10 history?

11 A. I took a job as a proofreader at  
12 Sonnenschein, Nath & Rosenthal here in Chicago and I  
13 was there for maybe three or four years. And then I  
14 came here to Mayer Brown and I supervised the  
15 proofreading department here for three or four years.  
16 And then I became a paralegal in 1987 and I've been a  
17 paralegal here at Mayer Brown since 1987.

18 Q. Are you assigned to any particular  
19 department here at Mayer Brown?

20 A. Yes, I am.

21 Q. What department is that?

22 A. I work under the direction and supervision  
23 for, primarily in the corporate securities group.

24 Q. And has that been consistent since 1987?

25 A. Yes, it has.

1 that?

2 A. That he was going to review whatever I  
3 obtained for him and then he was going to determine --  
4 I think what he was doing was just telling me what he  
5 needed these things for. And I was going to obtain  
6 them and give them to him.

7 Q. And did you in fact perform the UCC search  
8 he requested?

9 A. I performed a UCC search. It was  
10 impossible to do the search that specific, that  
11 specific kind of search that he requested.

12 Q. Explain why it was impossible to perform  
13 the search that he requested in this e-mail?

14 A. Because the records in the Secretary of  
15 State's office aren't going to be indexed according  
16 to -- you just can't go the Secretary of State's  
17 office and say, Give me all the filings against this  
18 company in favor of this specific entity. The filings  
19 are indexed only by debtor name.

20 MR. CALLAGY: I'm sorry. What?

21 THE WITNESS: The debtor. The name of the  
22 target.

23 BY MR. FISHER:

24 Q. So with regard to this specific request,  
25 the filings would have been indexed by the name

# **EXHIBIT M**



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: )  
) )  
MOTORS LIQUIDATION COMPANY, ) Chapter 11  
et al., ) No. 09-50026 (REG)  
) )  
Debtors. )  
) )  
----- ) Jointly Adminstered  
OFFICIAL COMMITTEE OF )  
UNSECURED CREDITORS OF MOTORS )  
LIQUIDATION COMPANY f/k/a )  
GENERAL MOTORS CORPORATION, )  
) )  
Plaintiff, )  
) Adversary Proceeding  
-against- ) No. 09-50026 (REG)  
) )  
JP MORGAN CHASE BANK, N.A., )  
Individually and as )  
Administrative Agent for )  
various lenders party to the )  
Term Loan Agreement described )  
herein, et al., )  
) )  
Defendants. )

STATE OF ILLINOIS )  
) ) SS.  
COUNTY OF COOK )

The deposition of STEWART GONSHOREK, taken  
before Jennifer D. Riemer, Certified Realtime Reporter,  
at 71 South Wacker Drive, Suite 3200, Chicago, Illinois,  
commencing at 10:40 a.m. on the 28th day of January,

A.D., 2010.

1 Q. Do you have an understanding as to why  
2 Mr. Green cc'd you on this e-mail?

3 A. Because I was working on the real estate -- on  
4 this transaction, doing title, survey, and whatever else  
5 needed to get done.

6 Q. And looking at the last sentence of this  
7 e-mail, Mr. Green's request of Mr. Perlowski says,  
8 "Would like a list of the UCCs that need to be  
9 terminated."

10 Do you know whether such a list was prepared?

11 MS. BOMCHILL: Object to the form of the question.

12 BY THE WITNESS:

13 A. There was not necessarily a list. There was a  
14 review. The searches were reviewed, and it was  
15 determined which UCCs should be -- should have  
16 termination statements filed in connection with.

17 Q. Who performed that search?

18 A. "The search" being the review of the UCC  
19 search results?

20 Q. Yes.

21 A. I reviewed it. I believe Mike and Ryan  
22 reviewed it. And I remember discussing the results with  
23 both of them to confirm which termination statements  
24 should be prepared.

25 Q. How many discussions did you have with

1 A. I believe -- Could you repeat the question.

2 Q. Sure. I'll ask it again.

3 As a result of the conversations among you,  
4 Mr. Green, and Mr. Perlowski, did you come to a  
5 conclusion about what UCC filings should be terminated  
6 as part of this transaction?

7 MS. BOMCHILL: Object to the form and misstates the  
8 witness's testimony.

9 BY THE WITNESS:

10 A. I was under the impression we came to a  
11 conclusion as to which UCCs needed termination  
12 statements prepared for.

13 Q. Do you remember how many UCCs required the  
14 preparation of termination statements?

15 A. Do I remember independently of what has  
16 transpired over the last six -- Do I know now?

17 Q. Do you know now?

18 A. Yes. There were four.

19 Q. Was there any disagreement among the three of  
20 you about which UCCs required termination statements?

21 MR. CALLAGY: Object to the form.

22 MS. BOMCHILL: Same objection.

23 BY THE WITNESS:

24 A. I don't recall. I believe we all agreed on  
25 which ones.

1 needed to be physically filed?

2 Q. Yes.

3 A. One more time.

4 Q. You want me to repeat the question?

5 A. Yes, please.

6 Q. I'll ask a different question. Who told you  
7 to file the termination statement?

8 MR. CALLAGY: Objection to form.

9 MS. BOMCHILL: Same objection.

10 BY THE WITNESS:

11 A. I recall -- Most likely it was Ryan told me  
12 once -- at the closing of the deal.

13 Q. Were you present at the closing?

14 A. No.

15 Q. So when you say "at the closing," you're  
16 referring to a point in time, not a location?

17 A. Correct.

18 Q. And once you were told to go ahead and file  
19 the termination statement, what did you do next?

20 A. I don't remember specifically. I did this a  
21 lot. I would have sent -- e-mailed the termination  
22 statements to CT Corp.

23 Q. And was CT Corp, then, the entity that  
24 physically filed the termination statement?

25 A. I don't know. I asked my representative at

# **EXHIBIT N**

**Berlin, Linda F.**

---

**From:** Green, Ryan  
**Sent:** Wednesday, October 15, 2008 9:47 AM  
**To:** arun.sundaram@GM.COM; timothy.conder@gm.com  
**Subject:** GM/JPMorgan Chase Synthetic Lease Releases (Auto Facilities Real Estate Trust 2001-1)

Arun and Tim,

Attached find a checklist for the above-referenced transaction. I plan on sending draft documents to counsel for the Trustee and the Administrative Agent shortly.

Please let me know if you have any questions or comments.

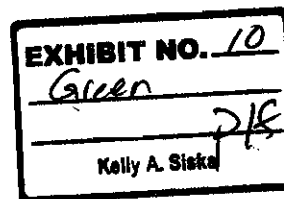
Thanks,  
Ryan

---

**Ryan C. Green**  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
[ryan.green@mayerbrown.com](mailto:ryan.green@mayerbrown.com)



GM Checklist -  
Release of Prop...



## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

16-Nov-09

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
1 Letter of Direction	SI	MB	5225216.2	MB preparing	
2 SPO Headquarters, Grand Blanc, MI					
A Release of Mortgage (record) Lease §19.1(a)(i)(C), 19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004378	Agent	MB	1457570.1	MB preparing	
B Release of Assignment of Leases (record) Lease §19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004379	Agent	MB	1457572.1	MB preparing	
C Release of Short Form Memorandum of Lease (record) Lease §19.1(a)(i)(C) Recorded 1/10/03, Instrument No. 200301100004374	Trust	MB	1457574.1	MB preparing	
D Quitclaim Deed (record) Lease §19.1(a)(i)(A)	Trust	MB		MB preparing	
E Bill of Sale and Assignment Lease §19.1(a)(i)(B)	Trust	MB	5225459.2	MB preparing	
F Termination of UCCs Lease §19.1(a)(vi) Financing statement recorded 8/25/04, Instrument No. 200408250089800	Agent	MB		MB preparing	

## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

17-Nov-09

## PARTIES AND COUNSEL

Lessee/Purchaser	General Motors Corporation ("GM")  Tim Conder (313) 665-6606 <a href="mailto:Timothy.Conder@gm.com">Timothy.Conder@gm.com</a>  Gordon Ing  <a href="mailto:Gordon.M.Ing@gm.com">Gordon.M.Ing@gm.com</a>  Arun Sundaram (212) 418-6219 <a href="mailto:Arun.Sundaram@gm.com">Arun.Sundaram@gm.com</a>
Counsel to Lessee/Purchaser	Mayer Brown LLP ("MB") 71 S. Wacker Drive Chicago, IL 60606  Robert Gordon (312) 701- 7153 <a href="mailto:rgordon@mayerbrown.com">rgordon@mayerbrown.com</a>  Ryan Green (312) 701- 8032 <a href="mailto:ryan.green@mayerbrown.com">ryan.green@mayerbrown.com</a>
Lessor/Seller	Auto Facilities Real Estate Trust 2001-1
Trustee	Wilmington Trust Company 1100 North Market Street Wilmington, Delaware 19890-0001
Counsel to Trustee	Richards, Layton & Finger Glenn Kenton
Administrative Agent	JPMorgan Chase Bank ("Agent")  Richard Duker (Credit Contact) (212) 270-3057 (phone) (212) 270-5127 (fax)



CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

Doris Mesa (Administrative Contact)  
(212) 552-7265 (phone)  
(212) 552-5650 (fax)

Counsel to Administrative Agent

Simpson Thatcher & Bartlett  
Mardi Merjian

Title Company

LandAmerica Commonwealth ("TC")  
William Wineman  
248-816-3820 (Phone)  
248-649-1626 (Fax)  
1050 Wilshire Drive, Suite 310  
Troy, MI 48081  
wwineman@landam.com

Conduit

Relationship Funding Company, LLC ("RFC")

Secured Investor

BTM Capital Corporation ("SI")

Equity Investor

JH Equity Realty Investors ("EI")

Backup Facility Banks

JPMorgan Chase Bank  
Citibank, N.A.  
BNP Paribas  
HSBC Bank USA  
Credit Suisse First Boston

Properties

SPO Headquarters Building, Grand Blanc, MI  
Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI  
GM Powertrain L6 Engine Plant, Flint, MI

## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Financing statement recorded 8/25/04, Instrument No. 200408250089803, Amendment recorded in Instrument No. 200706010047290</i>					
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Received	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>3 Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB		MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i>	Trust	MB		MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225468.1	MB preparing	

CLOSING CHECKLIST  
 General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>file number 2007 1919660, file date 5/21/07</i>	Agent	MB		MB preparing	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>4 GM Powertrain L6 Engine Plant, Flint, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB		MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i>	Trust	MB		MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225467.1	MB preparing	

## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Termination of UCCs <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>5 General Documentation</b>					
A Termination of UCCs (central, DE filings) <i>Blanket-type financing statements as to real property and related collateral located in Marion County, Indiana (file number 2092532 5, file date 4/12/02 and file number 2092526 7, file date 4/12/02)) financing statement as to equipment, fixtures and related collateral located at certain U.S. manufacturing facilities (file number 6416808 4, file date 11/30/06)</i>	Agent	MB		MB preparing	
B Termination of Operative Agreements  <i>Participation Agreement §14.10</i>	GM, Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9191785.2	MB preparing	
C IRS Form W-9	US Participants	US Participants	N/A		

CLOSING CHECKLIST  
 General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
D IRS Form W-8BEN	Non-US Participants	Non-US Participants	N/A		
E FIRPTA Affidavit <i>Lease §19.1(a)(ii)</i>	Trust	MB	5225470.1	MB preparing	
F Authority and Organizational Documents required by TC	Trust	MB	5225546.1	MB preparing	
G Representation and Warranty regarding the absence of liens  <i>Lease §19.1(a)(iv)</i>	Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9197777.2	MB preparing	

# **EXHIBIT O**

arun.sundaram@gm.com To: RICHARD.DUKER@jpmorgan.com  
cc: timothy.conder@gm.com; jeffrey.holy@gm.com, "Green, Ryan"  
<Ryan.Green@mayerbrown.com>  
10/15/2008 11:47 AM Subject: Re: Auto Facilities Real Estate Trust

Rick,

Our lawyers (Mayer Brown) might be reaching out to you (Agent) and the Trustee to discuss the closing process. In any case, attached is the check-list developed by Mayer Brown. Please let us know if you have any questions.

Regards,  
Arun

General Motors Corporation  
New York Treasurers Office | Structured Finance  
Office: +1 212 418 6219  
Fax: +1 212 418 6419  
Email: arun.sundaram@gm.com

RICHARD.DUKER@jpmorgan.com

To "Arun Sundaram" <arun.sundaram@gm.com>

cc

09/09/2008 05:39 PM

Subject Auto Facilities Real Estate Trust

Arun,

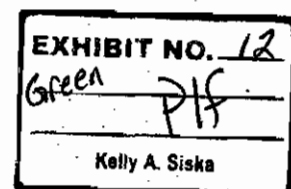
With the facility expiring in October, I wanted to confirm your plans/timing for the repurchase of the remaining properties.

Thanks

Rick

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**GM Checklist - Release of Properties from  
JPM Chase Synthetic Lease.XLS**

**Type: application/vnd.ms-excel  
Name: GM Checklist - Release of Properties from JPM  
Chase Synthetic Lease.XLS**



CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

17-Dec-09

**PARTIES AND COUNSEL**

Lessee/Purchaser

General Motors Corporation ("GM")

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Gordon Ing

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Arun.Sundaram@gm.com

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Chicago, IL 60606

Robert Gordon  
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rgordon@mayerbrown.com

Ryan Green  
(312) 701- 8032  
ryan.green@mayerbrown.com

Lessor/Seller

Auto Facilities Real Estate Trust 2001-1

Trustee

Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001

Counsel to Trustee

Richards, Layton & Finger  
Glenn Kenton

Administrative Agent

JPMorgan Chase Bank ("Agent")

Richard Duker (Credit Contact)  
(212) 270-3057 (phone)  
(212) 270-5127 (fax)

**CLOSING CHECKLIST**  
General Motors: Release of Properties with JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

Doris Mesa (Administrative Contact)  
(212) 552-7265 (phone)  
(212) 552-5650 (fax)

**Counsel to Administrative Agent**

Simpson Thatcher & Bartlett  
Mardi Merjian

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LandAmerica Commonwealth ("TC")  
William Wineman  
248-816-3820 (Phone)  
248-649-1626 (Fax)  
1050 Wilshire Drive, Suite 310  
Troy, MI 48081  
wwineman@landam.com

**Conduit**

Relationship Funding Company, LLC ("RFC")

**Secured Investor**

BTM Capital Corporation ("SI")

**Equity Investor**

JH Equity Realty Investors ("EI")

**Backup Facility Banks**

JPMorgan Chase Bank  
Citibank, N.A.  
BNP Paribas  
HSBC Bank USA  
Credit Suisse First Boston

**Properties**

SPO Headquarters Building, Grand Blanc, MI  
Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI  
GM Powertrain L6 Engine Plant, Flint, MI

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

17-Dec-09

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
1 Letter of Direction	SI	MB	5225216.2	MB preparing	
2 SPO Headquarters, Grand Blanc, MI					
A Release of Mortgage (record) Lease §19.1(a)(i)(C), 19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004378	Agent	MB	1457570.1	MB preparing	
B Release of Assignment of Leases (record) Lease §19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004379	Agent	MB	1457572.1	MB preparing	
C Release of Short Form Memorandum of Lease (record) Lease §19.1(a)(i)(C) Recorded 1/10/03, Instrument No. 200301100004374	Trust	MB	1457574.1	MB preparing	
D Quitclaim Deed (record) Lease §19.1(a)(i)(A)	Trust	MB		MB preparing	
E Bill of Sale and Assignment Lease §19.1(a)(i)(B)	Trust	MB	5225459.2	MB preparing	
F Termination of UCCs Lease §19.1(a)(vi) Financing statement recorded 8/25/04, Instrument No. 200408250089800	Agent	MB		MB preparing	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008.

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Financing statement recorded 8/25/04, Instrument No. 200408250089803, Amendment recorded in Instrument No. 200706010047290</i>					
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Received	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>3 Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB		MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i>	Trust	MB		MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225468.1	MB preparing	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>file number 2007 1919660, file date 5/21/07</i>	Agent	MB		MB preparing	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>4 GM Powertrain L6 Engine Plant, Flint, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB		MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i>	Trust	MB		MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225467.1	MB preparing	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Termination of UCCs <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>5 General Documentation</b>					
A Termination of UCCs (central, DE filings) <i>Blanket-type financing statements as to real property and related collateral located in Marion County, Indiana (file number 2092532 5, file date 4/12/02 and file number 2092526 7, file date 4/12/02)) financing statement as to equipment, fixtures and related collateral located at certain U.S. manufacturing facilities (file number 6416808 4, file date 11/30/06)</i>	Agent	MB		MB preparing	
B Termination of Operative Agreements  <i>Participation Agreement §14.10</i>	GM, Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9191785.2	MB preparing	
C IRS Form W-9	US Participants	US Participants	N/A		



# **EXHIBIT P**



---

**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 12:48 PM  
**To:** Merjian, Mardi R; Kenton@rlf.com  
**Subject:** GM/JPMorgan Chase Synthetic Lease Property Releases (Auto Facilities Real Estate Trust 2001-1)  
**Attachments:** GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS

Mardi and Glenn,

Attached find a draft of the checklist for the above-referenced transaction. I expect to send draft documents later today.

Best,  
Ryan

---

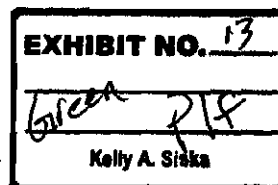
**Ryan C. Green**  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
ryan.green@mayerbrown.com

<<GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS>>

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CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

CUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<b>Letter of Direction</b>	SI	MB	5225216.3	MB preparing	
<b>SPO Headquarters, Grand Blanc, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i> <i>Recorded 1/10/03, Instrument No.</i> <i>200301100004378</i>	Agent	MB	1457570.1	MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i> <i>Recorded 1/10/03, Instrument No.</i> <i>200301100004379</i>	Agent	MB	1457572.1	MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i> <i>Recorded 1/10/03, Instrument No.</i> <i>200301100004374</i>	Trust	MB	1457574.1	MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225459.2	MB preparing	
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>Financing statement recorded 8/25/04,</i> <i>Instrument No. 200408250089800</i>	Agent	MB		MB preparing	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

CUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Financing statement recorded 8/25/04,                      Instrument No. 200408250089803,                      Amendment recorded in Instrument No.                      200706010047290</i>					
G Affidavit for Title Company re: no liens Lease §19.1(a)(vi)	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Received	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>Franklin Parking Deck, Vacant Parcel 6/C                      and River East Parking Deck, Detroit, MI</b>					
A Release of Mortgage (record) Lease §19.1(a)(i)(C), 19.1(a)(vi)	Agent	MB		MB preparing	
B Release of Assignment of Leases (record) Lease §19.1(a)(vi)	Agent	MB		MB preparing	
C Release of Short Form Memorandum of Lease (record) Lease §19.1(a)(i)(C)	Trust	MB		MB preparing	
D Quitclaim Deed (record) Lease §19.1(a)(i)(A)	Trust	MB		MB preparing	
E Bill of Sale and Assignment Lease §19.1(a)(i)(B)	Trust	MB	5225468.1	MB preparing	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>file number 2007 1919660, file date 5/21/07</i>	Agent	MB		MB preparing	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>GM Powertrain L6 Engine Plant, Flint, MI</b>					
A Release of Mortgage (record) <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB		MB preparing	
B Release of Assignment of Leases (record) <i>Lease §19.1(a)(vi)</i>	Agent	MB		MB preparing	
C Release of Short Form Memorandum of Lease (record) <i>Lease §19.1(a)(i)(C)</i>	Trust	MB		MB preparing	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225467.1	MB preparing	





# **EXHIBIT Q**

"Merjian, Mardi R" To: <RICHARD.DUKER@jpmorgan.com>  
<mmerjian@stblaw.com> cc:  
Subject: FW: GM/JPMorgan Chase Synthetic Lease Property Releases  
(Auto Facilities Real Estate Trust 2001-1)  
10/15/2008 12:54 PM

fyi

---

From: Green, Ryan [mailto:Ryan.Green@mayerbrown.com]  
Sent: Wednesday, October 15, 2008 12:48 PM  
To: Merjian, Mardi R; Kenton@rlf.com  
Subject: GM/JPMorgan Chase Synthetic Lease Property Releases (Auto Facilities Real Estate Trust 2001-1)

Mardi and Glenn,

Attached find a draft of the checklist for the above-referenced transaction. I expect to send draft documents later today.

Best,  
Ryan

---


Ryan C. Green  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
ryan.green@mayerbrown.com

<<GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS>>

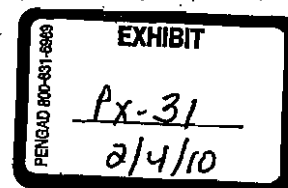
---

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 GM Checklist - Release of Properties from  
JPM Chase Synthetic Lease.XLS

Type: application/vnd.ms-excel  
Name: GM Checklist - Release of Properties from JPM  
Chase Synthetic Lease.XLS



JPMCB - 00000919



17-Dec-09

**PARTIES AND COUNSEL**

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Ryan Green  
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Lessor/Seller

Auto Facilities Real Estate Trust 2001-1

Trustee

Wilmington Trust Company  
1100 North Market Street  
Wilmington, Delaware 19890-0001

Counsel to Trustee

Richards, Layton & Flinger  
Glenn Kenton

Administrative Agent

JPMorgan Chase Bank ("Agent")

Richard Duker (Credit Contact)  
(212) 270-3087 (phone)  
(212) 270-5127 (fax)

**CLOSING CHECKLIST**  
General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

Doris Meese (Administrative Contact)  
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(212) 552-5650 (fax)

Simpson, Thatcher & Bartlett  
Mandi Merjian

LandAmerica Commonwealth ("TC")  
William Wineham  
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248-649-1626 (Fax)  
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Troy, MI 48061  
wwineham@landam.com

Relationship Funding Company, LLC ("RFC")

BTM Capital Corporation ("S")

JH Equity Realty Investors ("EI")

JPMorgan Chase Bank  
Citibank, N.A.  
BNP Paribas  
HSBC Bank USA  
Credit Suisse First Boston

SPO Headquarters Building, Grand Blanc, MI  
Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI  
GM Powertrain LE Engine Plant, Flint, MI

Counsel to Administrative Agent

Title Company

Conduit

Secured Investor

Equity Investor

Backup Facility Banks

Properties

**CLOSING CHECKLIST**

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

17-Dec-09

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
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1	Letter of Direction	SI	MB	5225216.3	MB preparing
2	SPO Headquarters, Grand Blanc, MI.				
	A Release of Mortgage (record) Lease §19.1(a)(i)(C), 19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004378	Agent	MB	1457570.1	MB preparing
	B Release of Assignment of Leases (record) Lease §19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004379	Agent	MB	1457572.1	MB preparing
	C Release of Short Form Memorandum of Lease (record) Lease §19.1(a)(i)(C) Recorded 1/10/03, Instrument No. 200301100004374	Trust	MB	1457574.1	MB preparing
	D Quitclaim Deed (record) Lease §19.1(a)(i)(A)	Trust	MB		MB preparing
	E Bill of Sale and Assignment Lease §19.1(a)(i)(B)	Trust	MB	5225459.2	MB preparing
	F Termination of UCCs Lease §19.1(a)(vi) Financing statement recorded 8/25/04, Instrument No. 200408250089800	Agent	MB		MB preparing

**CLOSING SKLIST**

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
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Financing statement recorded 8/25/04,  
Instrument No. 200408250089803,  
Amendment recorded in Instrument No.  
200706010047290

G	Affidavit for Title Company re: no liens Lease §19.1(a)(vi)	Trust	MB		MB preparing
H	Title Commitment/Underlying Documents	TC	TC	N/A	Received
I	Title Policy	TC	TC	N/A	At closing
J	Payoff Letter	Agent	Agent		Open

**3 Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI**

A	Release of Mortgage (record) Lease §19.1(a)(i)(C), 19.1(a)(vi)	Agent	MB		MB preparing
B	Release of Assignment of Leases (record) Lease §19.1(a)(vi)	Agent	MB		MB preparing
C	Release of Short Form Memorandum of Lease (record) Lease §19.1(a)(i)(C)	Trust	MB		MB preparing
D	Quitclaim Deed (record) Lease §19.1(a)(i)(A)	Trust	MB		MB preparing
E	Bill of Sale and Assignment Lease §19.1(a)(i)(B)	Trust	MB	5225468.1	MB preparing

**CLOSING CHECKLIST**

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

**DOCUMENT**      **SIGNED BY**      **RESPONSIBLE PARTY**      **DOC. #**      **STATUS**      **COMMENTS**

F	Termination of UCCs Lease §19.1(a)(vi) file number 2007-1919660, file date 5/21/07	Agent	MB		MB preparing
G	Affidavit for Title Company re: no liens Lease §19.1(a)(vi)	Trust	MB		MB preparing
H	Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting
I	Title Policy	TC	TC	N/A	At closing
J	Payoff Letter	Agent	Agent		Open
4	GM Powertrain L6 Engine Plant, Flint, MI				
A	Release of Mortgage (record) Lease §19.1(a)(C), 19.1(a)(vi)	Agent	MB		MB preparing
B	Release of Assignment of Leases (record) Lease §19.1(a)(vi)	Agent	MB		MB preparing
C	Release of Short Form Memorandum of Lease (record) Lease §19.1(a)(C)	Trust	MB		MB preparing
D	Quitclaim Deed (record) Lease §19.1(a)(A)	Trust	MB		MB preparing
E	Bill of Sale and Assignment Lease §19.1(a)(B)	Trust	MB	\$225467.1	MB preparing

**CLOSING CHECKLIST**

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
----------	-----------	-------------------	--------	--------	----------

F Termination of UCCs  
Lease §19.1(a)(vi) Agent MB MB preparing

G Affidavit for Title Company re: no liens  
Lease §19.1(a)(vi) Trust MB MB preparing

H Title Commitment/Underlying Documents TC N/A Awaiting

I Title Policy TC N/A At closing

J Payoff Letter Agent Agent Open

5 General Documentation

A Termination of UCCs (central, DE filings)  
*Blanket-type financing statements as to real property and related collateral located in Marion County, Indiana (file number 2092532 5, file date 4/12/02 and file number 2092526 7, file date 4/12/02) financing statement as to equipment, fixtures and related collateral located at certain U.S. manufacturing facilities (file number 6416808 4, file date 1/30/06)* Agent MB MB preparing

B Termination of Operative Agreements GM, Trust, Agent, RFC, SI, EI, Backup Facility Banks MB 9191785.2 MB preparing

*Participation Agreement §14.10*

C IRS Form W-9 US Participants US Participants N/A

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
----------	-----------	-------------------	--------	--------	----------

D	IRS Form W-8BEN	Non-US Participants	N/A		
E	FIRPTA Affidavit Lease §19.1(a)(ii)	Trust	MB	5225470.1	MB preparing
F	Certificate of Trust	Trust	MB	5225546.1	MB preparing
G	Certificate regarding the absence of liens Lease §19.1(a)(iv)	Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9197777.2	MB preparing

# **EXHIBIT R**



---

**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 5:27 PM  
**To:** Merjian, Mardi R; Ledyard, Michael  
**Cc:** arun.sundaram@gm.com; timothy.conder@gm.com; Gordon, Robert E.; Gonshorek, Stewart C.; McCarthy, Michael B.  
**Subject:** GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)  
**Attachments:** General Documentation (incl. Letter of Direction); Grand Blanc, MI ; Detroit, MI; Flint, MI; GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS

Mardi and Michael,

Attached please find an updated checklist and drafts of the closing documents (except the deeds and title affidavits, which will follow).

Note that we are awaiting updated title commitments and underlying title documents relating to the properties in Flint and Detroit. The drafts relating to these properties remain subject to our review of the related title documents.

Also, note that the drafts are being transmitted to our client simultaneously and remain subject to our client's review.

Please contact me with any questions or comments you may have.

Best,  
Ryan

---

**Ryan C. Green.**  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268

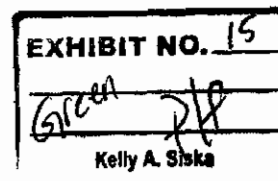
ryan.green@mayerbrown.com

<<General Documentation (incl. Letter of Direction)>> <<Grand Blanc, MI >> <<Detroit, MI>> <<Flint, MI>> <<GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS>>

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IRS CIRCULAR 230 NOTICE. Any tax advice expressed above by Mayer Brown LLP was not intended or written to be used, and cannot be used, by any taxpayer to avoid U.S. federal tax penalties. If such advice was written or used to support the promotion or marketing of the matter addressed above, then each offeree should seek advice from an independent tax advisor.

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**From:** Green, Ryan [Ryan.Green@mayerbrown.com]

**Sent:** Wednesday, October 15, 2008 4:40 PM

**To:** Green, Ryan

**Subject:** General Documentation (incl. Letter of Direction)

**Attachments:** GM/JPMorgan Chase: termination agreement (initial draft).DOC; GM/JPM Chase - Certificate regarding absence of liens (initial draft).DOC; GM-SPO Letter of Direction (MB Draft 10/15).DOC; GM-SPO - FIRPTA - Auto Facilities Real Estate Trust 2001-1.DOC; Certificate of Trust - Michigan Release.DOC; fw8ben[1].pdf; fw9[1].pdf; gm/2000 lease financing - ucc3 - general [3].PDF; gm/2000 lease financing - ucc3 - general [2].PDF; gm/2000 lease financing - ucc3 - general [1].PDF

<<GM/JPMorgan Chase: termination agreement (initial draft).DOC>> <<GM/JPM Chase - Certificate regarding absence of liens (initial draft).DOC>> <<GM-SPO Letter of Direction (MB Draft 10/15).DOC>> <<GM-SPO - FIRPTA - Auto Facilities Real Estate Trust 2001-1.DOC>> <<Certificate of Trust - Michigan Release.DOC>> <<fw8ben[1].pdf>> <<fw9[1].pdf>> <<gm/2000 lease financing - ucc3 - general [3].PDF>> <<gm/2000 lease financing - ucc3 - general [2].PDF>> <<gm/2000 lease financing - ucc3 - general [1].PDF>>

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**Ryan C. Green**

Mayer Brown LLP

71 South Wacker Drive

Chicago, IL 60606

Tel: 312 701 8032

Fax: 312 706 9268

ryan.green@mayerbrown.com

TERMINATION AGREEMENT AND RELEASE  
OF OPERATIVE AGREEMENTS

October \_\_, 2008

The parties to this Termination Agreement and Release of Operative Agreements (this "Termination and Release") acknowledge that the Lessee is exercising the Maturity Date Purchase Option pursuant to Section 20.2 of the Lease.

In consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby confessed and acknowledged, the undersigned, each of which is a party to one or more of the agreements identified as the Operative Agreements, hereby agree that (i) each of such Operative Agreements and any Commitment thereunder is hereby terminated and is discharged and of no further force or effect as of the date hereof, and (ii) the Administrative Agent and the Lessor do hereby (x) release all of their Liens and Lessor Liens against the Properties created by the Operative Agreements, (y) acknowledge that such Liens and Lessor Liens are forever released, satisfied and discharged and (x) authorize Lessee to file a termination of any existing Financing Statement relating to the Properties. The foregoing notwithstanding, the following provisions shall survive the termination hereby (A) any provision of the Operative Agreements which survives termination by its express terms, (B) the indemnification obligations set forth in Sections 12.1 (General Indemnity) and 12.2 (General Tax Indemnity) of the Participation Agreement (as defined herein), and (C) the obligations of the Lessee to pay Transaction Expenses pursuant to Section 8.2(iii) of the Participation Agreement.

All capitalized terms not otherwise defined herein shall have the meanings set forth in Annex A to that certain Participation Agreement dated as of October 31, 2001, among General Motors Corporation, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank, as Administrative Agent, as amended (the "Participation Agreement").

This Termination and Release may be executed in counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall be deemed to be a single document.

This Termination and Release shall be governed by, and construed and interpreted in accordance with, the internal laws of the State of New York, without regard to conflicts of law principles (other than Title 14 of Article 5 of the New York General Obligations Law), except to the extent the application of laws of another jurisdiction are mandatory.

*[ The remainder of this page is intentionally left blank ]*

*Termination Agreement and  
Release of Operative Agreements*

The undersigned have executed this Termination and Release as of the date first above here written.

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor

By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee

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

GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent

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

JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank

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

WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein

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

RELATIONSHIP FUNDING COMPANY, LLC

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

BTMU CAPITAL CORPORATION, as Secured  
Investor

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

JH EQUITY REALTY INVESTORS, INC., as  
Equity Investor

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

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

CITIBANK, N.A., as a Backup Facility Bank

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

BNP PARIBAS, as a Backup Facility Bank

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

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

HSBC BANK USA, as a Backup Facility Bank

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

*Termination Agreement and*

CREDIT SUISSE FIRST BOSTON, as a Backup  
Facility Bank

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

Name:

Title:

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

Name:

Title:

*Termination Agreement and*

CERTIFICATE

TO: General Motors Corporation

This Certificate is delivered to you pursuant to Section 19.1(a)(iv) of the Lease executed in connection with that certain Participation Agreement, dated as of October 31, 2001, among General Motors Corporation, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank, as Administrative Agent, as amended (the "Participation Agreement"). Capitalized terms used but not otherwise defined herein have the respective meanings specified in Annex A to the Participation Agreement.

The undersigned hereby certifies as to the absence of (i) any Liens created by the Operative Agreements that are attributable to such Person and (ii) any Lessor Liens attributable to such Person.

The undersigned has caused this Certificate to be executed and delivered by a duly authorized officer thereof as of this \_\_\_\_ day of October, 2008.

[ \_\_\_\_\_ ]<sup>1</sup>  
a [ \_\_\_\_\_ ]

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

<sup>1</sup> To be delivered by Auto Facilities Real Estate Trust 2001-1, JPMorgan Chase Bank, Relationship Funding Company, LLC, Citibank, N.A., BNP Paribas, HSBC Bank USA, Credit Suisse First Boston, BTM Capital Corporation and JH Equity Realty Investors.

October \_\_, 2008

Wilmington Trust Company  
1100 North Market Street  
Wilmington, DE 19890-0001

RE: Auto Facilities Real Estate Trust 2001-1

Gentlemen:

Pursuant to Section 4.2(a) of the Trust Agreement, dated as of October 31, 2001 (the "Trust Agreement"), among BTMU Capital Corporation (f/k/a BTM Capital Corporation), as Secured Investor, JH Equity Realty Investors, Inc., as Equity Investor, and Wilmington Trust Company, as Trustee (the "Trustee") thereunder, the undersigned as the "Required Investors", hereby authorizes and directs you, in your capacity as Trustee, to execute, deliver and perform the documents listed on Exhibit A hereto in connection with the sale by the captioned trust of all of its right, title and interest in and to the real and personal property owned by it in Grand Blanc, Michigan, Detroit, Michigan, and Flint, Michigan, in such forms as may be delivered to the Trust by the law firm of Mayer Brown, LLP and acceptable to the Secured Investor.

The undersigned confirms that such authorization and direction and each such action by you pursuant to the foregoing authorization and direction (i) is not inconsistent with the terms of the Operative Agreements to which the Trustee is a party and, (ii) is covered by the indemnification provided under Section 4.3 of the Trust Agreement and Section 12.1 of the Participation Agreement.

Capitalized terms used but not defined herein shall have the respective meanings provided in or by reference in the Participation Agreement.



IN WITNESS WHEREOF, the undersigned has duly executed and delivered this direction letter as of the date set forth above.

BTMU Capital Corporation

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

## EXHIBIT A

### Grand Blanc, Michigan:

1. Termination of Short Form Memorandum of Lease
2. Quitclaim Deed
3. Bill of Sale and Assignment
4. Title Affidavit

### Detroit, Michigan

1. Termination of Short Form Memorandum of Lease
2. Quitclaim Deed
3. Bill of Sale and Assignment
4. Title Affidavit

### Flint, Michigan

1. Termination of Short Form Memorandum of Lease
2. Quitclaim Deed
3. Bill of Sale and Assignment
4. Title Affidavit

### General Documentation

1. Certificate regarding the absence of liens
2. FIRPTA
3. Certificate of Trust
4. Termination and Release of Operative Agreements

**CERTIFICATE OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Code section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust ("Transferor"), the undersigned, in accordance with Treasury regulation §1.1445-2(b)(2), hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or other foreign person (as those terms are defined in the Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii);
3. Transferor's U.S. Employer Identification Number is 4430; and
4. Transferor's office address is 1100 N. Market St., Wilmington, DE 19890.

**REDACTED**

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declares that I have authority to sign this document on behalf of Transferor.

Date: October \_\_, 2008

**AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust**

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

*GM-SFO  
FIRPTA  
Auto Facilities Real Estate Trust 2001-1*

CERTIFICATE OF TRUST

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The undersigned Trustee, being first duly sworn, on oath state:

1. The name of the trust is: Auto Facilities Real Estate Trust No. 2001-1
2. The date of the trust instrument is: October 31, 2001
3. The name and mailing address of each grantor is:  
Name: Auto Facilities Real Estate Trust No. 2001-1  
Address: Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001
4. The name and mailing address of each trustee empowered to act under the trust instrument at the time of execution of this certificate:  
Name: Wilmington Trust Corporation  
Address: Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001
5. The legal description of all interests in real property owned by or conveyed to the trust:  
"See Exhibit (A) attached hereto for legal description"
6. The anticipated date of termination of the Trust is:  
UNKNOWN
7. The general powers of the Trustee(s) contained in Sections 11.2, 2.2 and 4.2 of the Trust Agreement.
8. Any person may rely upon this Certificate of Trust as proof of the existence of the Trust, and is relieved of any obligation or duty to verify that any transaction entered in to by the Trustees(s) is consistent with the terms and conditions of the Trust.
9. This Certificate of Trust is executed as evidence of the existence of the Trust, the terms and conditions of which are incorporated herein by reference. By the terms of the Trust, in the event of the death, resignation, or incapacity of the Primary Trustee, the Successor trustee shall become acting trustee without further act, bond, or order.

The statements contained in the Trust Certificate are true and correct and there are no other provisions in the trust instrument, or amendments to it, that limit the powers of the trustees to sell, convey, pledge, mortgage, lease, or transfer title to interests in real or personal property.

DATE: \_\_\_\_\_

Signature of Grantor \_\_\_\_\_

Print Name \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that (he) (she) (they) executed the above and foregoing instrument.

\_\_\_\_\_  
NOTARY PUBLIC

My commission Expires  
\_\_\_\_\_

## EXHIBIT A

### LEGAL DESCRIPTION

#### Grand Blanc, Michigan

Unit 1 Grand Pointe Park Condominium as recorded in Master Liber 3661 Pages 672 to 727 inclusive, as amended by First Amendment recorded in Master Liber 3880 Pages 939 to 944 inclusive, and designated as Genesee County Condominium Subdivision Plan No. 193 with rights in General Common Elements and Limited Common Elements as set forth in above Master Deed and as described in Act 59 of the Public Acts of Michigan of 1978, as amended.

#### Flint, Michigan

Parcel 1: That part of the Northeast  $\frac{1}{4}$  of Section 26, Town 7 North, Range 6 East, lying Southeasterly of the Southeasterly line of Grand Trunk Western Railroad right of way; also the Southeast  $\frac{1}{4}$  of said section, except beginning at the Southeasterly corner of said section; thence Northerly along the Easterly line of said section 196.46 feet; thence Southwesterly 355.58 feet to a point on the Southerly line of said section 294.71 feet Westerly from the beginning; thence Easterly along said Southerly line, 294.71 feet to the point of beginning; also, part of the West  $\frac{1}{2}$  of said section described as: Beginning at a point on the Southerly line of said section, 2116.52 feet North 88 degrees 24 minutes 30 seconds East from the Southwesterly corner of said section; thence North 38 degrees 57 minutes West to the Westerly line of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said section; thence North 01 degree 09 minutes 45 seconds West along the said Westerly line to a line 1100 feet Northerly from and parallel with the Southerly line of said section; thence South 88 degrees 24 minutes 30 seconds West 84.24 feet; thence North 10 degrees 19 minutes 36 seconds West, 159.06 feet; thence North 15 degrees 52 minutes 39 seconds West, 74.89 feet; thence North 18 degrees 17 minutes 14 seconds, 289.03 feet; thence North 24 degrees 16 minutes 49 seconds West, 337.70 feet; thence North 28 degrees 26 minutes 08 seconds West, 747.71 feet; thence North 22 degrees 30 minutes 23 seconds West, 707 feet; thence North 15 degrees 07 minutes 54 seconds West, 124.25 feet to the Southerly line of said railroad right of way; thence North 51 degrees 00 minutes 54 seconds East along said Southerly line to the Northerly limits line of the City of Flint; thence Easterly along said Northerly line to the North and South  $\frac{1}{4}$  line of said section; thence Southerly along said North and South line to the South  $\frac{1}{4}$  corner of said section; thence Westerly along Southerly line of said section, 522.77 feet to the point of beginning, except for that parcel of land described as follows: Commencing at the Southeast corner of Section 26, Town 7 North, Range 6 East; thence South 89 degrees 40 minutes 01 second West a distance of 412.64 feet; thence North 00 degrees 19 minutes 59 seconds West, a distance of 50.00 feet to the North right-of-way line of Bristol Road and the point of beginning; commencing at the point of beginning, thence North 89 degrees 40 minutes 01 second East, a distance of 189.00 feet; thence North 57 degrees 57 minutes 13 seconds East, a distance of 19.02 feet; thence South 89 degrees 40 minutes 01 second West, a distance of 205.19 feet; thence South 00 degrees 19 minutes 59 seconds East a distance of 10.00 feet to a the point of beginning.

Parcel 2: That part of the Southeast  $\frac{1}{4}$  of fractional Section 23, Town 7 North, Range 6 East, lying Westerly of the Westerly line of Van Slyke Road and Southeasterly of the Southeasterly line of the Grand Trunk Western Railroad right of way.

Parcel 3: A parcel of land beginning North 00 degrees 30 seconds East 702.24 feet from the interior  $\frac{1}{4}$  corner of said section; thence South 89 degrees 56 minutes 15 seconds West 328.60 feet; thence North 62 degrees 15 minutes West 109.08 feet; thence North 00 degrees 00 minutes 30 seconds East 376.18 feet; thence North 83 degrees 00 minutes 41 seconds East 220.93 feet; thence North 89 degrees 34 minutes 30 seconds East 105.62 feet; thence North 00 degrees 00 minutes 30 seconds East 332.85 feet; thence North 49 degrees 29 minutes 26 seconds East 19 feet; thence North 11 degrees 22 minutes 20 seconds West 18 feet; thence North 46 degrees 30 minutes 41 seconds East 122.84 feet; thence South 00 degrees 00 minutes 30 seconds West 901.42 feet to the place of beginning.

Detroit, Michigan

# Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.  
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

**Do not use this form for:**

- A U.S. citizen or other U.S. person, including a resident alien individual . . . . . **Instead, use Form: W-9**
  - A person claiming that income is effectively connected with the conduct of a trade or business in the United States . . . . . **W-8ECI**
  - A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) . . . . . **W-8ECI or W-8IMY**
  - A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) . . . . . **W-8ECI or W-8EXP**
  - A person acting as an intermediary . . . . . **W-8IMY**
- Note:** These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.
- Note:** See instructions for additional exceptions.

**Part I Identification of Beneficial Owner** (See instructions.)

1 Name of individual or organization that is the beneficial owner		2 Country of incorporation or organization	
3 Type of beneficial owner: <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Disregarded entity <input type="checkbox"/> Partnership <input type="checkbox"/> Simple trust <input type="checkbox"/> Grantor trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Estate <input type="checkbox"/> Government <input type="checkbox"/> International organization <input type="checkbox"/> Central bank of issue <input type="checkbox"/> Tax-exempt organization <input type="checkbox"/> Private foundation			
4 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.			
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)	
5 Mailing address (if different from above)			
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)	
6 U.S. taxpayer identification number, if required (see instructions) <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN		7 Foreign tax identifying number, if any (optional)	
8 Reference number(s) (see instructions)			

**Part II Claim of Tax Treaty Benefits** (if applicable)

9 I certify that (check all that apply):

- a  The beneficial owner is a resident of \_\_\_\_\_ within the meaning of the income tax treaty between the United States and that country.
- b  If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).
- c  The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).
- d  The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).
- e  The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, \$500,000.

10 Special rates and conditions (if applicable—see instructions): The beneficial owner is claiming the provisions of Article \_\_\_\_\_ of the treaty identified on line 9a above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_  
 Explain the reasons the beneficial owner meets the terms of the treaty article: \_\_\_\_\_

**Part III Notional Principal Contracts**

11  I have provided or will provide a statement that identifies those notional principal contracts from which the income is not effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

**Part IV Certification**

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- 1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,
- 2 The beneficial owner is not a U.S. person,
- 3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, and
- 4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ▶



## Request for Taxpayer Identification Number and Certification

**Give form to the  
requester. Do not  
send to the IRS.**

Print or type  
See Specific Instructions on page 2.

Name (as shown on your Income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7

<sup>1</sup>See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup>However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

### What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

### Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your Identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft) or 1-877-IDTHEFT(438-4338).

Visit the IRS website at [www.irs.gov](http://www.irs.gov) to learn more about identity theft and how to reduce your risk.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

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B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
2092532 5 dn 4.12.02

1b. This FINANCING STATEMENT AMENDMENT is to be filed [(for record)] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address; Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
**AUTO FACILITIES REAL ESTATE TRUST 2001-1**

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
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NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT**

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA

File with DE SOS [Matter No. 00652500] [Doc. No. 1457981]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
2092526 7 on 4.12.02

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR 6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral:  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR 9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA

File with DE SOS [Matter No. 00652500] [Doc. No. 1457980]

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

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B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
6416808 4 on 11.30.06

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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7d. <u>SEE INSTRUCTIONS</u>	ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
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NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT**

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. **OPTIONAL FILER REFERENCE DATA**

File with DE SOS [Matter No. 00652500] [Doc. No. 1457978]

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**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 4:43 PM  
**To:** Green, Ryan  
**Subject:** Grand Blanc, MI  
**Attachments:** gm/2000 lease financing - release of mortgage [grand blanc][hq].DOC; gm/2000 lease financing - release of air [grand blanc][hq].DOC; gm/2000 lease financing - term of lease supp [grand blanc][hq].DOC; gm/2000 lease financing - ucc3 - grand blanc [1].PDF; gm/2000 lease financing - ucc3 - grand blanc [2].PDF; GM-SPO - Grand Blanc, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC

<<gm/2000 lease financing - release of mortgage [grand blanc][hq].DOC>> <<gm/2000 lease financing - release of air [grand blanc][hq].DOC>> <<gm/2000 lease financing - term of lease supp [grand blanc][hq].DOC>> <<gm/2000 lease financing - ucc3 - grand blanc [1].PDF>> <<gm/2000 lease financing - ucc3 - grand blanc [2].PDF>>

<<GM-SPO - Grand Blanc, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC>>



THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

### RELEASE OF MORTGAGE

THIS RELEASE OF MORTGAGE (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust, as owner (the "Mortgagor"), granted a certain Mortgage dated as of January 6, 2003, and recorded on January 10, 2003, as Instrument No. 200301100004378, in the Official Records of Genesee County, Michigan (the "Mortgage"), covering certain real property in Genesee County, Michigan.

B. The Mortgagor desires that Releasor release and discharge from the lien of the Mortgage the real property, and Releasor is willing to release the lien on such real property and all of Releasor's interest therein (the "Release Property") as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property and all of Releasor's interest therein from the lien of the Mortgage, and the Mortgage is hereby fully paid, satisfied, released, discharged and terminated.

This Release applies to and covers all of the Mortgaged Property (as defined in the Mortgage) and rights granted under, or encumbered by, the Mortgage, including, without limitation, the Release Property.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Mortgage.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Releasor has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent on behalf of the  
Investors

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

Its: \_\_\_\_\_

“Releasor”

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and  
state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named  
\_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of  
JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, a  
\_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of  
the said corporation, and as its act and deed [he] [she] executed the above and foregoing  
instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457570 00652500

2

2 1 025

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF ASSIGNMENT OF LEASES, RENTS/  
STRUCTURAL SUPPORT AGREEMENT

THIS RELEASE OF ASSIGNMENT OF LEASES, RENTS/STRUCTURAL SUPPORT AGREEMENT (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., f/k/a JPMORGAN CHASE BANK, as with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust (the "Assignor"), executed a certain Assignment of Leases, Rents and Structural Support Agreement dated as of January 6, 2003, and recorded on January 10, 2003, as Instrument No. 200301100004379, in the Official Records of Genesee County, Michigan (as amended, modified or supplemented, the "Assignment"), covering certain real property in Genesee County, Michigan.

B. The Assignor desires that Releasor release and discharge from the lien of the Assignment the real property which is subject to the Assignment, and Releasor is willing to release all of the real property covered by the Assignment (the "Release Property"), as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property from the real property which is covered by the Assignment.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Assignment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Releasor, as Agent for the lenders, has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent for the Investors

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., f/k/a JPMorgan Chase Bank, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457572 00652500

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT

THIS TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Short Form Memorandum of Lease/Lease Supplement dated as of January 6, 2003 (the "Lease Supplement") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Grand Blanc, Genesee County, Michigan to Lessee; as evidenced by the Lease Supplement which was recorded on January 10, 2003, as Instrument No. 200301100004374, in the Official Records of Genesee County, Michigan; and

WHEREAS, the parties desire to terminate the Lease (as defined in the Lease Supplement) and release the Lease Supplement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease Supplement. Effective as of the date hereof, the Lease and Lease Supplement are terminated insofar as they demise the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.



2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease Supplement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

THE STATE OF DELAWARE     §  
  §  
COUNTY OF NEW CASTLE     §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_



EXHIBIT A  
LEGAL DESCRIPTION

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089800-on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c, and also give name of assignor in item 8.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE name and/or address:** Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE name:** Give record name to be deleted in item 6a or 6b.  **ADD name:** Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. SEE INSTRUCTIONS	ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT**

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. **OPTIONAL FILER REFERENCE DATA**  
File with Getesse County Recorder [Grand Blanc] [Matter No. 00652500] [Doc. No. 14579621]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089803 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

**6. CURRENT RECORD INFORMATION**

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

**7. CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

**10. OPTIONAL FILER REFERENCE DATA**

File with Genesee County Recorder [Grand Blanc] [Matter No. 00652500] [Doc. No. 14579631]

**BILL OF SALE**

**FOR VALUE RECEIVED**, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust ("**Seller**"), hereby conveys on an AS-IS, WHERE-AS basis onto GENERAL MOTORS CORPORATION, a Delaware corporation, all of Seller's right, title and interest, if any, in and to all tangible personal property upon the real estate in Genesee County, Michigan described on Exhibit A attached hereto and made a part hereof (the "**Land**"), including, without limitation, all equipment, facilities fixtures, and other personal property located at or on the Land (including without limitation, all HVAC components and equipment, all pipes, fire prevention components and equipment, security components and equipment for the Improvements, electrical and plumbing components and systems, loading dock levelors, loading docks lights, loading dock related affixed equipment, and other systems and equipment affixed to or incorporated into the Land), but in all events exclusive of all movable non-structural partitions, racking and related equipment, machinery, equipment, furniture, furnishings, trade fixtures, inventory, product samples, and other personal property of Seller used in connection with the operation of its business (the "**Personal Property**").

**IN WITNESS WHEREOF**, Seller has executed this Bill of Sale as of October \_\_, 2008.

**SELLER:**

**AUTO FACILITIES REAL ESTATE TRUST  
2001-1**, a Delaware statutory trust

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

Bill of Sale – Grand Blanc, MI



**EXHIBIT A  
LEGAL DESCRIPTION**

Bill of Sale – Grand Blanc, MI

CHDB02.5225459.3 13-Oct-08 14:09 00652500

JPMCB-STB-00000224

**From:** Green, Ryan [Ryan.Green@mayerbrown.com]

**Sent:** Wednesday, October 15, 2008 4:45 PM

**To:** Green, Ryan

**Subject:** Detroit, MI

**Attachments:** gm/2000 lease financing - ucc3 - detroit [2] - de sos.PDF; gm/2000 lease financing - ucc3 - detroit [1].PDF; gm/2000 lease financing - term of lease supp [detroit][franklin parking].DOC; gm/2000 lease financing - release of mortgage [detroit][franklin parking].DOC; gm/2000 lease financing - release of air [detroit][franklin parking].DOC; GM-SPO - Detroit, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC

<<gm/2000 lease financing - ucc3 - detroit [2] - de sos.PDF>> <<gm/2000 lease financing - ucc3 - detroit [1].PDF>> <<gm/2000 lease financing - term of lease supp [detroit][franklin parking].DOC>> <<gm/2000 lease financing - release of mortgage [detroit][franklin parking].DOC>> <<gm/2000 lease financing - release of air [detroit][franklin parking].DOC>>

<<GM-SPO - Detroit, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC>>

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
2007 1919660 on 5.21.07

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
---------------------	------	-------	-------------	---------

7d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
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NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. **OPTIONAL FILER REFERENCE DATA**  
File with DE SOS [Detroit] [Matter No. 00652500] [Doc. No. 1457972]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # 011

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement Identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement Identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
 Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regard to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
---------------------	------	-------	-------------	---------

7d. <u>SEE INSTRUCTIONS</u>	ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE
-----------------------------	----------------------------------	--------------------------	----------------------------------	---

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
 Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

**JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT**

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. OPTIONAL FILER REFERENCE DATA

File with Wayne County Recorder [Detroit/Parking] [Matter No. 00652500] [Doc. No. 14579641]

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT

THIS TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Short Form Memorandum of Lease/Lease Supplement dated as of January \_\_, 2003 (the "Lease Supplement") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Grand Blanc, Wayne County, Michigan to Lessee; as evidenced by the Lease Supplement which was recorded on January \_\_, 2003, in Liber \_\_, Page \_\_, in the Official Records of Wayne County, Michigan; and

WHEREAS, the parties desire to terminate the Lease (as defined in the Lease Supplement) and release the Lease Supplement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease Supplement. Effective as of the date hereof, the Lease and Lease Supplement are terminated insofar as they demise the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.

2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease Supplement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

THE STATE OF DELAWARE     §  
  §  
COUNTY OF NEW CASTLE     §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_



STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary

My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

### RELEASE OF MORTGAGE

THIS RELEASE OF MORTGAGE (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust, as owner (the "Mortgagor"), granted a certain Mortgage dated as of January \_\_, 2003, and recorded on January \_\_, 2003, in Liber \_\_, Page \_\_, in the Official Records of Wayne County, Michigan (the "Mortgage"), covering certain real property in Wayne County, Michigan.

B. The Mortgagor desires that Releasor release and discharge from the lien of the Mortgage the real property, and Releasor is willing to release the lien on such real property and all of Releasor's interest therein (the "Release Property") as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property and all of Releasor's interest therein from the lien of the Mortgage, and the Mortgage is hereby fully paid, satisfied, released, discharged and terminated.

This Release applies to and covers all of the Mortgaged Property (as defined in the Mortgage) and rights granted under, or encumbered by, the Mortgage, including, without limitation, the Release Property.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Mortgage.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Releasor has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent on behalf of the  
Investors

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

Its: \_\_\_\_\_

“Releasor”

STATE OF \_\_\_\_\_ )  
  ) )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457007 00000000

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF ASSIGNMENT OF LEASES, RENTS AND  
STRUCTURAL SUPPORT AGREEMENT

THIS RELEASE OF ASSIGNMENT OF LEASES, RENTS AND STRUCTURAL SUPPORT AGREEMENT (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., f/k/a JPMORGAN CHASE BANK, as with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust (the "Assignor"), executed a certain Assignment of Leases, Rents and Structural Support Agreement dated as of January \_\_, 2003, and recorded on January \_\_, 2003, in Liber \_\_, Page \_\_, in the Official Records of Wayne County, Michigan (as amended, modified or supplemented, the "Assignment"), covering certain real property in Wayne County, Michigan.

B. The Assignor desires that Releasor release and discharge from the lien of the Assignment the real property which is subject to the Assignment, and Releasor is willing to release all of the real property covered by the Assignment (the "Release Property"), as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property from the real property which is covered by the Assignment.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Assignment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Releasor, as Agent for the lenders, has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent for the Investors

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., f/k/a JPMorgan Chase Bank, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_



EXHIBIT A  
LEGAL DESCRIPTION

1457938 00652500

**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 4:47 PM  
**To:** Green, Ryan  
**Subject:** Flint, MI

**Attachments:** gm/2000 lease financing - ucc3 - flint [3].PDF; gm/2000 lease financing - ucc3 - flint [2].PDF; gm/2000 lease financing - ucc3 - flint [1].PDF; gm/2000 lease financing - term of ground lease [flint][L6].DOC; gm/2000 lease financing - release of alr [flint][L6].DOC; gm/2000 lease financing - release of mortgage [flint][L6].DOC; gm/2000 lease financing - term of lease supp [flint][L6].DOC; GM-SPO - Flint, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC

<<gm/2000 lease financing - ucc3 - flint [3].PDF>> <<gm/2000 lease financing - ucc3 - flint [2].PDF>> <<gm/2000 lease financing - ucc3 - flint [1].PDF>> <<gm/2000 lease financing - term of ground lease [flint][L6].DOC>> <<gm/2000 lease financing - release of alr [flint][L6].DOC>> <<gm/2000 lease financing - release of mortgage [flint][L6].DOC>> <<gm/2000 lease financing - term of lease supp [flint][L6].DOC>> <<GM-SPO - Flint, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC>>

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089804 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.

**DELETE** name: Give record name to be deleted in item 6a or 6b.

**ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR

6b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

7c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

7d. SEE INSTRUCTIONS

ADD'L INFO RE ORGANIZATION DEBTOR

7e. TYPE OF ORGANIZATION

7f. JURISDICTION OF ORGANIZATION

7g. ORGANIZATIONAL ID #, if any

NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

10. **OPTIONAL FILER REFERENCE DATA**

File with Genesee County Recorder [Flint] [Matter No. 00652500] [Doc. No. 14579671]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089803 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] [or recorded] in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.

**DELETE** names: Give record name to be deleted in item 6a or 6b.

**ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

**6. CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

**7. CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

**10. OPTIONAL FILER REFERENCE DATA**

File with Genesee County Recorder [Flint] [Matter No. 00652500] [Doc. No. 14579661]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089802 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the  REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in item 8a or 8b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
------	-------	-------------	---------

7d. <b>SEE INSTRUCTIONS</b>	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
-----------------------------	-----------------------------------	--------------------------	----------------------------------	---------------------------------

NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. **OPTIONAL FILER REFERENCE DATA**  
File with Genesee County Recorder [Flint] [Matter No. 00652500] [Doc. No. 1457965]

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF MEMORANDUM OF GROUND LEASE

THIS TERMINATION OF SHORT FORM MEMORANDUM OF GROUND LEASE (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessor"), and AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Memorandum of Lease, dated as of \_\_\_\_\_, 20\_\_ (the "Lease") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Flint, Genesee County, Michigan to Lessee; as evidenced by the Lease which was recorded on January \_\_, 2003, as Instrument No. 200305160068993, in the Official Records of Genesee County, Michigan; and

WHEREAS, the parties desire to terminate the Lease.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease. Effective as of the date hereof, the Lease is terminated insofar as it demises the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.

2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not

individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

LESSEE:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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



THE STATE OF DELAWARE     §  
  §  
COUNTY OF NEW CASTLE     §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457053 00659500

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF ASSIGNMENT OF LEASES, RENTS/  
STRUCTURAL SUPPORT AGREEMENT

THIS RELEASE OF ASSIGNMENT OF LEASES, RENTS/STRUCTURAL SUPPORT AGREEMENT (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., f/k/a JPMORGAN CHASE BANK, as with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust (the "Assignor"), executed a certain Assignment of Leases, Rents and Structural Support Agreement dated as of January \_\_, 2003, and recorded on January \_\_, 2003, as Instrument No. 200305160068996, in the Official Records of Genesee County, Michigan (as amended, modified or supplemented, the "Assignment"), covering certain real property in Genesee County, Michigan.

B. The Assignor desires that Releasor release and discharge from the lien of the Assignment the real property which is subject to the Assignment, and Releasor is willing to release all of the real property covered by the Assignment (the "Release Property"), as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property from the real property which is covered by the Assignment.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Assignment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Releasor, as Agent for the lenders, has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent for the Investors

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., f/k/a JPMorgan Chase Bank, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457060 00657600

1

Release - CAT B

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF MORTGAGE

THIS RELEASE OF MORTGAGE (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust, as owner (the "Mortgagor"), granted a certain Mortgage dated as of January \_\_, 2003, and recorded on January \_\_, 2003, as Instrument No. 200305160068995 in the Official Records of Genesee County, Michigan (the "Mortgage"), covering certain real property in Genesee County, Michigan.

B. The Mortgagor desires that Releasor release and discharge from the lien of the Mortgage the real property, and Releasor is willing to release the lien on such real property and all of Releasor's interest therein (the "Release Property") as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property and all of Releasor's interest therein from the lien of the Mortgage, and the Mortgage is hereby fully paid, satisfied, released, discharged and terminated.

This Release applies to and covers all of the Mortgaged Property (as defined in the Mortgage) and rights granted under, or encumbered by, the Mortgage, including, without limitation, the Release Property.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Mortgage.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, Releasor has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent on behalf of the  
Investors

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

Its: \_\_\_\_\_

“Releasor”

STATE OF \_\_\_\_\_ )  
  ) )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457040 00602500

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT

THIS TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Short Form Memorandum of Lease/Lease Supplement dated as of January \_\_, 2003 (the "Lease Supplement") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Flint, Genesee County, Michigan to Lessee; as evidenced by the Lease Supplement which was recorded on January \_\_, 2003, as Instrument No. 200305160068994, in the Official Records of Genesee County, Michigan; and

WHEREAS, the parties desire to terminate the Lease (as defined in the Lease Supplement) and release the Lease Supplement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease Supplement. Effective as of the date hereof, the Lease and Lease Supplement are terminated insofar as they demise the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.

2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease Supplement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

THE STATE OF DELAWARE     §  
  §  
COUNTY OF NEW CASTLE     §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

ss.:

COUNTY OF \_\_\_\_\_ )

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457001 00657400

6

Termination of Lease Supplement



**BILL OF SALE**

**FOR VALUE RECEIVED**, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust ("**Seller**"), hereby conveys on an AS-IS, WHERE-AS basis onto GENERAL MOTORS CORPORATION, a Delaware corporation, all of Seller's right, title and interest, if any, in and to all tangible personal property upon the real estate in Genesee County, Michigan described on Exhibit A attached hereto and made a part hereof (the "**Land**"), including, without limitation, all equipment, facilities fixtures, and other personal property located at or on the Land (including without limitation, all HVAC components and equipment, all pipes, fire prevention components and equipment, security components and equipment for the Improvements, electrical and plumbing components and systems, loading dock levelers, loading docks lights, loading dock related affixed equipment, and other systems and equipment affixed to or incorporated into the Land), but in all events exclusive of all movable non-structural partitions, racking and related equipment, machinery, equipment, furniture, furnishings, trade fixtures, inventory, product samples, and other personal property of Seller used in connection with the operation of its business (the "**Personal Property**").

**IN WITNESS WHEREOF**, Seller has executed this Bill of Sale as of October \_\_, 2008.

**SELLER:**

**AUTO FACILITIES REAL ESTATE TRUST  
2001-1**, a Delaware statutory trust

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

**EXHIBIT A  
LEGAL DESCRIPTION**

Parcel 1: That part of the Northeast  $\frac{1}{4}$  of Section 26, Town 7 North, Range 6 East, lying Southeasterly of the Southeasterly line of Grand Trunk Western Railroad right of way; also the Southeast  $\frac{1}{4}$  of said section, except beginning at the Southeasterly corner of said section; thence Northerly along the Easterly line of said section 196.46 feet; thence Southwesterly 355.58 feet to a point on the Southerly line of said section 294.71 feet Westerly from the beginning; thence Easterly along said Southerly line, 294.71 feet to the point of beginning; also, part of the West  $\frac{1}{2}$  of said section described as: Beginning at a point on the Southerly line of said section, 2116.52 feet North 88 degrees 24 minutes 30 seconds East from the Southwesterly corner of said section; thence North 38 degrees 57 minutes West to the Westerly line of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said section; thence North 01 degree 09 minutes 45 seconds West along the said Westerly line to a line 1100 feet Northerly from and parallel with the Southerly line of said section; thence South 88 degrees 24 minutes 30 seconds West 84.24 feet; thence North 10 degrees 19 minutes 36 seconds West, 159.06 feet; thence North 15 degrees 52 minutes 39 seconds West, 74.89 feet; thence North 18 degrees 17 minutes 14 seconds, 289.03 feet; thence North 24 degrees 16 minutes 49 seconds West, 337.70 feet; thence North 28 degrees 26 minutes 08 seconds West, 747.71 feet; thence North 22 degrees 30 minutes 23 seconds West, 707 feet; thence North 15 degrees 07 minutes 54 seconds West, 124.25 feet to the Southerly line of said railroad right of way; thence North 51 degrees 00 minutes 54 seconds East along said Southerly line to the Northerly limits line of the City of Flint; thence Easterly along said Northerly line to the North and South  $\frac{1}{4}$  line of said section; thence Southerly along said North and South line to the South  $\frac{1}{4}$  corner of said section; thence Westerly along Southerly line of said section, 522.77 feet to the point of beginning, except for that parcel of land described as follows: Commencing at the Southeast corner of Section 26, Town 7 North, Range 6 East; thence South 89 degrees 40 minutes 01 second West a distance of 412.64 feet; thence North 00 degrees 19 minutes 59 seconds West, a distance of 50.00 feet to the North right-of-way line of Bristol Road and the point of beginning; commencing at the point of beginning, thence North 89 degrees 40 minutes 01 second East, a distance of 189.00 feet; thence North 57 degrees 57 minutes 13 seconds East, a distance of 19.02 feet; thence South 89 degrees 40 minutes 01 second West, a distance of 205.19 feet; thence South 00 degrees 19 minutes 59 seconds East a distance of 10.00 feet to a the point of beginning.

Parcel 2: That part of the Southeast  $\frac{1}{4}$  of fractional Section 23, Town 7 North, Range 6 East, lying Westerly of the Westerly line of Van Slyke Road and Southeasterly of the Southeasterly line of the Grand Trunk Western Railroad right of way.

Parcel 3: A parcel of land beginning North 00 degrees 30 seconds East 702.24 feet from the interior  $\frac{1}{4}$  corner of said section; thence South 89 degrees 56 minutes 15 seconds West 328.60 feet; thence North 62 degrees 15 minutes West 109.08 feet; thence North 00 degrees 00 minutes 30 seconds East 376.18 feet; thence North 83 degrees 00 minutes 41 seconds East 220.93 feet; thence North 89 degrees 34 minutes 30 seconds East 105.62 feet; thence North 00 degrees 00 minutes 30 seconds East 332.85 feet; thence North 49 degrees 29 minutes 26 seconds East 19 feet; thence North 11 degrees 22 minutes 20 seconds West 18 feet; thence North 46 degrees 30 minutes 41 seconds East 122.84 feet; thence South 00 degrees 00 minutes 30 seconds West 901.42 feet to the place of beginning.

Bill of Sale - Flint, MI

01/20/2025 11:14:00 AM

## CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<b>Letter of Direction</b>	SI	MB	5225216.3	Draft circulated by MB on 10/15/08	
<b>SPO Headquarters, Grand Blanc, MI</b>					
A Release of Mortgage (record)	Agent	MB	1457570.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C), 19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004378</i>					
B Release of Assignment of Leases (record)	Agent	MB	1457572.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004379</i>					
C Release of Short Form Memorandum of Lease (record)	GM, Trust	MB	1457574.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C) Recorded 1/10/03, Instrument No. 200301100004374</i>					
D Quitclaim Deed (record)	Trust	MB		MB preparing	
<i>Lease §19.1(a)(i)(A)</i>					

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
E Bill of Sale and Assignment  <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225459.2	Draft circulated by MB on 10/15/08	
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>Financing statement recorded 8/25/04, Instrument No. 200408250089800</i>	N/A	MB	1457962.1	Draft circulated by MB on 10/15/08	
<i>Financing statement recorded 8/25/04, Instrument No. 200408250089803, Amendment recorded in Instrument No. 200706010047290</i>			1457963.1	Draft circulated by MB on 10/15/08	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Received	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter  <b>Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI</b>	Agent	Agent		Open	
A Release of Mortgage (record)  <i>Lease §19.1(a)(i)(C), 19.1(a)(vi)</i>	Agent	MB	1457937.1	Draft circulated by MB on 10/15/08	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

CUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
B Release of Assignment of Leases (record)  <i>Lease §19.1(a)(vi)</i>	Agent	MB	1457938.1	Draft circulated by MB on 10/15/08	
C Release of Short Form Memorandum of Lease (record)  <i>Lease §19.1(a)(l)(C)</i>	GM, Trust	MB	1457939.1	Draft circulated by MB on 10/15/08	
D Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment  <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225468.1	Draft circulated by MB on 10/15/08	
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>file number 2007 1919660, file date 5/21/07</i> <i>[DE SOS]</i>	N/A	MB	1457972.1	Draft circulated by MB on 10/15/08	
<i>UCC filed on _____, as</i> <i>Instrument No. [Wayne County]</i>			1457964.1	Draft circulated by MB on 10/15/08	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	

GM Checklist - Release of Properties from JPM Chase Synthetic Lease (3).XLS

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>GM Powertrain L6 Engine Plant, Flint, MI</b>					
A Release of Mortgage (record)	Agent	MB	1457949.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C), 19.1(a)(vi) Mortgage recorded on _____, 2003 as Instrument No. 200305160068995</i>					
B Release of Assignment of Leases (record)	Agent	MB	1457950.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(vi) ALR recorded on _____, 2003 as Instrument No. 200305160068996</i>					
C Release of Short Form Memorandum of Lease (record)	GM, Trust	MB	1457951.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C) Memo of Lease recorded on _____, 2003 as Instrument No. 200305160068994</i>					
D Release of Memorandum of Ground Lease (record)	GM, Trust	MB	1457953.3	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C)</i>					

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Memo of Ground Lease recorded on _____, 2003 as Instrument No. 200305160068993</i>					
E Quitclaim Deed (record) <i>Lease §19.1(a)(i)(A)</i>	Trust	MB		MB preparing	
F Bill of Sale and Assignment  <i>Lease §19.1(a)(i)(B)</i>	Trust	MB	5225467.1	Draft circulated by MB on 10/15/08	
G Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>UCC recorded on _____, as Instrument No. 200408250089802</i>	N/A	MB			
<i>UCC recorded on _____, as Instrument No. 200408250089803</i>			1457965.1	Draft circulated by MB on 10/15/08	
<i>UCC recorded on _____, as Instrument No. 200408250089804</i>			1457966.1	Draft circulated by MB on 10/15/08	
<i>UCC recorded on _____, as Instrument No. 200408250089804</i>			1457967.1	Draft circulated by MB on 10/15/08	
H Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
I Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
J Title Policy	TC	TC	N/A	At closing	
K Payoff Letter	Agent	Agent		Open	
<b>General Documentation</b>					

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

CUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
A Termination of UCCs (central, DE filings) <i>Blanket-type financing statements as to real property and related collateral located in Marion County, Indiana: recorded on 4.12.02 as File Number 2092532 5; and</i>	N/A	MB	1457981.1	Draft circulated by MB on 10/15/08	
<i>recorded on 4.12.02 as File Number 2092526 7</i>	N/A	MB	1457980.1	Draft circulated by MB on 10/15/08	
<i>Financing statement as to equipment, fixtures and related collateral located at certain U.S. manufacturing facilities</i>	N/A	MB	1457978.1	Draft circulated by MB on 10/15/08	
B Termination of Operative Agreements  <i>Participation Agreement §14.10</i>	GM, Trust, Agent, RFC, SI, EI, Backup Facility	MB	9191785.2	Draft circulated by MB on 10/15/08	
C IRS Form W-9	US Participants	US Participants	N/A	Form sent by MB on 10/15/08	
D IRS Form W-8BEN	Non-US Participants	Non-US Participants	N/A	Form sent by MB on 10/15/08	
E FIRPTA Affidavit  <i>Lease §19.1(a)(ii)</i>	Trust	MB	5225470.1	Draft circulated by MB on 10/15/08	



**CLOSING CHECKLIST**

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

<b>DOCUMENT</b>	<b>SIGNED BY</b>	<b>RESPONSIBLE PARTY</b>	<b>DOC. #</b>	<b>STATUS</b>	<b>COMMENTS</b>
F Certificate of Trust	Trust	MB	5225546.1	Draft circulated by MB on 10/15/08	
G Certificate regarding the absence of liens  Lease §19.1(a)(iv)	Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9191177.2	Draft circulated by MB on 10/15/08	

# **EXHIBIT S**

**From:** Merjian, Mardi R  
**Sent:** Wednesday, October 15, 2008 5:30 PM  
**To:** 'RICHARD.DUKER@jpmorgan.com'  
**Subject:** FW: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)  
**Attachments:** General Documentation (incl. Letter of Direction); Grand Blanc, MI ; Detroit, MI; Flint, MI; GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS

**Tracking:**

Recipient	Delivery
'RICHARD.DUKER@jpmorgan.com'	
D'Addona, Corinne	Delivered: 10/15/2008 5:30 PM

fyi

**From:** Green, Ryan [mailto:Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 5:27 PM  
**To:** Merjian, Mardi R; Ledyard, Michael  
**Cc:** arun.sundaram@gm.com; timothy.conder@gm.com; Gordon, Robert E.; Gonshorek, Stewart C.; McCarthy, Michael B.  
**Subject:** GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Mardi and Michael,

Attached please find an updated checklist and drafts of the closing documents (except the deeds and title affidavits, which will follow).

Note that we are awaiting updated title commitments and underlying title documents relating to the properties in Flint and Detroit. The drafts relating to these properties remain subject to our review of the related title documents.

Also, note that the drafts are being transmitted to our client simultaneously and remain subject to our client's review.

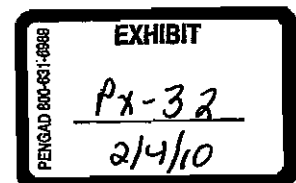
Please contact me with any questions or comments you may have.

Best,  
Ryan

Ryan C. Green  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268

ryan.green@mayerbrown.com

<<General Documentation (incl. Letter of Direction)>> <<Grand Blanc, MI >> <<Detroit, MI>> <<Flint, MI>> <<GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS>>



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**IRS CIRCULAR 230 NOTICE.** Any tax advice expressed above by Mayer Brown LLP was not intended or written to be used, and cannot be used, by any taxpayer to avoid U.S. federal tax penalties. If such advice was written or used to support the promotion or marketing of the matter addressed above, then each offeree should seek advice from an independent tax advisor.

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**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 4:40 PM  
**To:** Green, Ryan  
**Subject:** General Documentation (Incl. Letter of Direction)

**Attachments:** GM/JPMorgan Chase: termination agreement (initial draft).DOC; GM/JPM Chase - Certificate regarding absence of liens (initial draft).DOC; GM-SPO Letter of Direction (MB Draft 10/15).DOC; GM-SPO - FIRPTA - Auto Facilities Real Estate Trust 2001-1.DOC; Certificate of Trust - Michigan Release.DOC; fw8ben[1].pdf; fw9[1].pdf; gm/2000 lease financing - ucc3 - general [3].PDF; gm/2000 lease financing - ucc3 - general [2].PDF; gm/2000 lease financing - ucc3 - general [1].PDF

<<GM/JPMorgan Chase: termination agreement (initial draft).DOC>> <<GM/JPM Chase - Certificate regarding absence of liens (initial draft).DOC>> <<GM-SPO Letter of Direction (MB Draft 10/15).DOC>> <<GM-SPO - FIRPTA - Auto Facilities Real Estate Trust 2001-1.DOC>> <<Certificate of Trust - Michigan Release.DOC>> <<fw8ben[1].pdf>> <<fw9[1].pdf>> <<gm/2000 lease financing - ucc3 - general [3].PDF>> <<gm/2000 lease financing - ucc3 - general [2].PDF>> <<gm/2000 lease financing - ucc3 - general [1].PDF>>

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**Ryan C. Green**  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
ryan.green@mayerbrown.com

TERMINATION AGREEMENT AND RELEASE  
OF OPERATIVE AGREEMENTS

October \_\_, 2008

The parties to this Termination Agreement and Release of Operative Agreements (this "Termination and Release") acknowledge that the Lessee is exercising the Maturity Date Purchase Option pursuant to Section 20.2 of the Lease.

In consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby confessed and acknowledged, the undersigned, each of which is a party to one or more of the agreements identified as the Operative Agreements, hereby agree that (i) each of such Operative Agreements and any Commitment thereunder is hereby terminated and is discharged and of no further force or effect as of the date hereof, and (ii) the Administrative Agent and the Lessor do hereby (x) release all of their Liens and Lessor Liens against the Properties created by the Operative Agreements, (y) acknowledge that such Liens and Lessor Liens are forever released, satisfied and discharged and (x) authorize Lessee to file a termination of any existing Financing Statement relating to the Properties. The foregoing notwithstanding, the following provisions shall survive the termination hereby (A) any provision of the Operative Agreements which survives termination by its express terms, (B) the indemnification obligations set forth in Sections 12.1 (General Indemnity) and 12.2 (General Tax Indemnity) of the Participation Agreement (as defined herein), and (C) the obligations of the Lessee to pay Transaction Expenses pursuant to Section 8.2(iii) of the Participation Agreement.

All capitalized terms not otherwise defined herein shall have the meanings set forth in Annex A to that certain Participation Agreement dated as of October 31, 2001, among General Motors Corporation, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank, as Administrative Agent, as amended (the "Participation Agreement").

This Termination and Release may be executed in counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall be deemed to be a single document.

This Termination and Release shall be governed by, and construed and interpreted in accordance with, the internal laws of the State of New York, without regard to conflicts of law principles (other than Title 14 of Article 5 of the New York General Obligations Law), except to the extent the application of laws of another jurisdiction are mandatory.

[ *The remainder of this page is intentionally left blank.* ]

*Termination Agreement and  
Release of Operative Agreements*

The undersigned have executed this Termination and Release as of the date first above here written.

**AUTO FACILITIES REAL ESTATE TRUST  
2001-1, as Lessor**

**By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee**

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

**GENERAL MOTORS CORPORATION, as Lessee  
and Construction Agent**

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

**JPMORGAN CHASE BANK, as Administrative  
Agent and a Backup Facility Bank**

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

**WILMINGTON TRUST COMPANY, in its  
individual capacity, only to the extent expressly set  
forth herein**

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

**RELATIONSHIP FUNDING COMPANY, LLC**

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

**BTMU CAPITAL CORPORATION, as Secured  
Investor**

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

**JH EQUITY REALTY INVESTORS, INC., as  
Equity Investor**

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

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

**CITIBANK, N.A., as a Backup Facility Bank**

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

**BNP PARIBAS, as a Backup Facility Bank**

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

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

**HSBC BANK USA, as a Backup Facility Bank**

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

*Termination Agreement and*



**CREDIT SUISSE FIRST BOSTON, as a Backup  
Facility Bank**

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

Name:

Title:

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

Name:

Title:

*Termination Agreement and*

CERTIFICATE

TO: General Motors Corporation

This Certificate is delivered to you pursuant to Section 19.1(a)(iv) of the Lease executed in connection with that certain Participation Agreement, dated as of October 31, 2001, among General Motors Corporation, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank, as Administrative Agent, as amended (the "Participation Agreement"). Capitalized terms used but not otherwise defined herein have the respective meanings specified in Annex A to the Participation Agreement.

The undersigned hereby certifies as to the absence of (i) any Liens created by the Operative Agreements that are attributable to such Person and (ii) any Lessor Liens attributable to such Person.

The undersigned has caused this Certificate to be executed and delivered by a duly authorized officer thereof as of this \_\_\_\_ day of October, 2008.

\_\_\_\_\_<sup>1</sup>  
a \_\_\_\_\_

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

<sup>1</sup> To be delivered by Auto Facilities Real Estate Trust 2001-1, JPMorgan Chase Bank, Relationship Funding Company, LLC, Citibank, N.A., BNP Paribas, HSBC Bank USA, Credit Suisse First Boston, BTM Capital Corporation and JH Equity Realty Investors.

October \_\_, 2008

Wilmington Trust Company  
1100 North Market Street  
Wilmington, DE 19890-0001

RE: Auto Facilities Real Estate Trust 2001-1

Gentlemen:

Pursuant to Section 4.2(a) of the Trust Agreement, dated as of October 31, 2001 (the "Trust Agreement"), among BTMU Capital Corporation (f/k/a BTM Capital Corporation), as Secured Investor, JH Equity Realty Investors, Inc., as Equity Investor, and Wilmington Trust Company, as Trustee (the "Trustee") thereunder, the undersigned as the "Required Investors", hereby authorizes and directs you, in your capacity as Trustee, to execute, deliver and perform the documents listed on Exhibit A hereto in connection with the sale by the captioned trust of all of its right, title and interest in and to the real and personal property owned by it in Grand Blanc, Michigan, Detroit, Michigan, and Flint, Michigan, in such forms as may be delivered to the Trust by the law firm of Mayer Brown, LLP and acceptable to the Secured Investor.

The undersigned confirms that such authorization and direction and each such action by you pursuant to the foregoing authorization and direction (i) is not inconsistent with the terms of the Operative Agreements to which the Trustee is a party and, (ii) is covered by the indemnification provided under Section 4.3 of the Trust Agreement and Section 12.1 of the Participation Agreement.

Capitalized terms used but not defined herein shall have the respective meanings provided in or by reference in the Participation Agreement.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this direction letter as of the date set forth above.

BTMU Capital Corporation

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

## EXHIBIT A

### Grand Blanc, Michigan:

1. Termination of Short Form Memorandum of Lease
2. Quitclaim Deed
3. Bill of Sale and Assignment
4. Title Affidavit

### Detroit, Michigan

1. Termination of Short Form Memorandum of Lease
2. Quitclaim Deed
3. Bill of Sale and Assignment
4. Title Affidavit

### Flint, Michigan

1. Termination of Short Form Memorandum of Lease
2. Quitclaim Deed
3. Bill of Sale and Assignment
4. Title Affidavit

### General Documentation

1. Certificate regarding the absence of liens
2. FIRPTA
3. Certificate of Trust
4. Termination and Release of Operative Agreements

**CERTIFICATE OF NON-FOREIGN STATUS**

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Code section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust ("Transferor"), the undersigned, in accordance with Treasury regulation §1.1445-2(b)(2), hereby certifies the following on behalf of Transferor:

- 1. Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or other foreign person (as those terms are defined in the Code and Income Tax Regulations);
- 2. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii);
- 3. Transferor's U.S. Employer Identification Number is: 4430; and
- 4. Transferor's office address is 1100 N. Market St., Wilmington, DE 19890.

**REDACTED**

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declares that I have authority to sign this document on behalf of Transferor.

Date: October \_\_, 2008

**AUTO FACILITIES REAL ESTATE TRUST**  
2001-1, a Delaware statutory trust

By: Wilmington Trust Company, not in its individual capacity but solely as Trustee

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

GM-SPO  
FIRPTA

Auto Facilities Real Estate Trust 2001-1

CERTIFICATE OF TRUST

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The undersigned Trustee, being first duly sworn, on oath state:

1. The name of the trust is: Auto Facilities Real Estate Trust No. 2001-1
2. The date of the trust instrument is: October 31, 2001
3. The name and mailing address of each grantor is:  
Name: Auto Facilities Real Estate Trust No. 2001-1  
Address: Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001
4. The name and mailing address of each trustee empowered to act under the trust instrument at the time of execution of this certificate:  
Name: Wilmington Trust Corporation  
Address: Rodney Square North, 1100 North Market Street, Wilmington, DE 19890-0001
5. The legal description of all interests in real property owned by or conveyed to the trust:  
"See Exhibit (A) attached hereto for legal description"
6. The anticipated date of termination of the Trust is:  
UNKNOWN
7. The general powers of the Trustee(s) contained in Sections 11.2, 2.2 and 4.2 of the Trust Agreement.
8. Any person may rely upon this Certificate of Trust as proof of the existence of the Trust, and is relieved of any obligation or duty to verify that any transaction entered in to by the Trustees(s) is consistent with the terms and conditions of the Trust.
9. This Certificate of Trust is executed as evidence of the existence of the Trust, the terms and conditions of which are incorporated herein by reference. By the terms of the Trust, in the event of the death, resignation, or incapacity of the Primary Trustee, the Successor trustee shall become acting trustee without further act, bond, or order.

The statements contained in the Trust Certificate are true and correct and there are no other provisions in the trust instrument, or amendments to it, that limit the powers of the trustees to sell, convey, pledge, mortgage, lease, or transfer title to interests in real or personal property.

DATE: \_\_\_\_\_

Signature of Grantor \_\_\_\_\_

Print Name \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that (he) (she) (they) executed the above and foregoing instrument.

\_\_\_\_\_  
NOTARY PUBLIC

My commission Expires \_\_\_\_\_



## EXHIBIT A

### LEGAL DESCRIPTION

#### Grand Blanc, Michigan

Unit 1 Grand Pointe Park Condominium as recorded in Master Liber 3661 Pages 672 to 727 inclusive, as amended by First Amendment recorded in Master Liber 3880 Pages 939 to 944 inclusive, and designated as Genesee County Condominium Subdivision Plan No. 193 with rights in General Common Elements and Limited Common Elements as set forth in above Master Deed and as described in Act 59 of the Public Acts of Michigan of 1978, as amended.

#### Flint, Michigan

Parcel 1: That part of the Northeast  $\frac{1}{4}$  of Section 26, Town 7 North, Range 6 East, lying Southeasterly of the Southeasterly line of Grand Trunk Western Railroad right of way; also the Southeast  $\frac{1}{4}$  of said section, except beginning at the Southeasterly corner of said section; thence Northerly along the Easterly line of said section 196.46 feet; thence Southwesterly 355.58 feet to a point on the Southerly line of said section 294.71 feet Westerly from the beginning; thence Easterly along said Southerly line, 294.71 feet to the point of beginning; also, part of the West  $\frac{1}{2}$  of said section described as: Beginning at a point on the Southerly line of said section, 2116.52 feet North 88 degrees 24 minutes 30 seconds East from the Southwesterly corner of said section; thence North 38 degrees 57 minutes West to the Westerly line of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said section; thence North 01 degree 09 minutes 45 seconds West along the said Westerly line to a line 1100 feet Northerly from and parallel with the Southerly line of said section; thence South 88 degrees 24 minutes 30 seconds West 84.24 feet; thence North 10 degrees 19 minutes 36 seconds West, 159.06 feet; thence North 15 degrees 52 minutes 39 seconds West, 74.89 feet; thence North 18 degrees 17 minutes 14 seconds, 289.03 feet; thence North 24 degrees 16 minutes 49 seconds West, 337.70 feet; thence North 28 degrees 26 minutes 08 seconds West, 747.71 feet; thence North 22 degrees 30 minutes 23 seconds West, 707 feet; thence North 15 degrees 07 minutes 54 seconds West, 124.25 feet to the Southerly line of said railroad right of way; thence North 51 degrees 00 minutes 54 seconds East along said Southerly line to the Northerly limits line of the City of Flint; thence Easterly along said Northerly line to the North and South  $\frac{1}{4}$  line of said section; thence Southerly along said North and South line to the South  $\frac{1}{4}$  corner of said section; thence Westerly along Southerly line of said section, 522.77 feet to the point of beginning, except for that parcel of land described as follows: Commencing at the Southeast corner of Section 26, Town 7 North, Range 6 East; thence South 89 degrees 40 minutes 01 second West a distance of 412.64 feet; thence North 00 degrees 19 minutes 59 seconds West, a distance of 50.00 feet to the North right-of-way line of Bristol Road and the point of beginning; commencing at the point of beginning, thence North 89 degrees 40 minutes 01 second East, a distance of 189.00 feet; thence North 57 degrees 57 minutes 13 seconds East, a distance of 19.02 feet; thence South 89 degrees 40 minutes 01 second West, a distance of 205.19 feet; thence South 00 degrees 19 minutes 59 seconds East a distance of 10.00 feet to a the point of beginning.

Parcel 2: That part of the Southeast  $\frac{1}{4}$  of fractional Section 23, Town 7 North, Range 6 East, lying Westerly of the Westerly line of Van Slyke Road and Southeasterly of the Southeasterly line of the Grand Trunk Western Railroad right of way.

Parcel 3: A parcel of land beginning North 00 degrees 30 seconds East 702.24 feet from the interior  $\frac{1}{4}$  corner of said section; thence South 89 degrees 56 minutes 15 seconds West 328.60 feet; thence North 62 degrees 15 minutes West 109.08 feet; thence North 00 degrees 00 minutes 30 seconds East 376.18 feet; thence North 83 degrees 00 minutes 41 seconds East 220.93 feet; thence North 89 degrees 34 minutes 30 seconds East 105.62 feet; thence North 00 degrees 00 minutes 30 seconds East 332.85 feet; thence North 49 degrees 29 minutes 26 seconds East 19 feet; thence North 11 degrees 22 minutes 20 seconds West 18 feet; thence North 46 degrees 30 minutes 41 seconds East 122.84 feet; thence South 00 degrees 00 minutes 30 seconds West 901.42 feet to the place of beginning.

Detroit, Michigan

**Certificate of Foreign Status of Beneficial Owner  
 for United States Tax Withholding**

OMB No. 1545-1621

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.  
 ▶ Give this form to the withholding agent or payer. Do not send to the IRS.

Do not use this form for:

- A U.S. citizen or other U.S. person, including a resident alien individual Instead, use Form W-9
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) W-8ECI or W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) W-8ECI or W-8EXP

Note: These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.

- A person acting as an intermediary W-8IMY
- Note: See instructions for additional exceptions.

**Part I Identification of Beneficial Owner (See instructions.)**

<b>1</b> Name of individual or organization that is the beneficial owner	<b>2</b> Country of incorporation or organization
<b>3</b> Type of beneficial owner: <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Disregarded entity <input type="checkbox"/> Partnership <input type="checkbox"/> Simple trust <input type="checkbox"/> Grantor trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Estate <input type="checkbox"/> Government <input type="checkbox"/> International organization <input type="checkbox"/> Central bank of issue <input type="checkbox"/> Tax-exempt organization <input type="checkbox"/> Private foundation	
<b>4</b> Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.	
City or town, state or province. Include postal code where appropriate.	Country (do not abbreviate)
<b>5</b> Mailing address (if different from above)	
City or town, state or province. Include postal code where appropriate.	Country (do not abbreviate)
<b>6</b> U.S. taxpayer identification number, if required (see instructions) <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN	<b>7</b> Foreign tax identifying number, if any (optional)
<b>8</b> Reference number(s) (see instructions)	

**Part II Claim of Tax Treaty Benefits (if applicable)**

**9** I certify that (check all that apply):

- a  The beneficial owner is a resident of \_\_\_\_\_ within the meaning of the income tax treaty between the United States and that country.
- b  If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).
- c  The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).
- d  The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).
- e  The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, \$500,000.

**10** Special rates and conditions (if applicable—see instructions): The beneficial owner is claiming the provisions of Article \_\_\_\_\_ of the treaty identified on line 9a above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_  
 Explain the reasons the beneficial owner meets the terms of the treaty article: \_\_\_\_\_

**Part III Notional Principal Contracts**

**11**  I have provided or will provide a statement that identifies those notional principal contracts from which the income is not effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

**Part IV Certification**

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- 1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,
- 2 The beneficial owner is not a U.S. person,
- 3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, and
- 4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ▶ \_\_\_\_\_

**Request for Taxpayer  
Identification Number and Certification**

Give form to the requester. Do not send to the IRS.

Print or type  
See Specific instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN.

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** Check the "Limited liability company" box only and enter the appropriate code for the tax classification ("D" for disregarded entity, "C" for corporation, "P" for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line.

For an LLC classified as a partnership or a corporation, enter the LLC's name on the "Name" line and any business, trade, or DBA name on the "Business name" line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
2. The United States or any of its agencies or instrumentalities,
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation,
7. A foreign central bank of issue,
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
9. A futures commission merchant registered with the Commodity Futures Trading Commission,
10. A real estate investment trust,
11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
12. A common trust fund operated by a bank under section 584(a),
13. A financial institution,
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt payees, see *Exempt Payee* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts** opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. **Interest, dividend, broker, and barter exchange accounts** opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

### What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>3</sup>
b. So-called trust account that is not a legal or valid trust under estate law	The actual owner <sup>3</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

### Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft) or 1-877-IDTHEFT(438-4338).

Visit the IRS website at [www.irs.gov](http://www.irs.gov) to learn more about identity theft and how to reduce your risk.

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
2092532 5 on 4.12.02

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 8a or 8b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral  deleted or  added, or give entire  recited collateral description, or describe collateral  assigned.

8. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

8a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

8b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA  
File with DE SOS [Matter No. 00652500] [Doc. No. 14579811]



**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE#  
2092526 7 on 4.12.02

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in items 6a or 6b.  **ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. **OPTIONAL FILER REFERENCE DATA**

File with DE SOS [Matter No. 00652500] [Doc. No. 1457980]

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
6416808 4 on 11.30.06

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for records] (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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7d. SEE INSTRUCTIONS

ADDL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
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NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

8. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

8a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

8b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA  
File with DE SOS [Matter No. 00652500] [Doc. No. 14579781]

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**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 4:43 PM  
**To:** Green, Ryan  
**Subject:** Grand Blanc, MI

**Attachments:** gm/2000 lease financing - release of mortgage [grand blanc][hq].DOC; gm/2000 lease financing - release of alr [grand blanc][hq].DOC; gm/2000 lease financing - term of lease supp [grand blanc][hq].DOC; gm/2000 lease financing - ucc3 - grand blanc [1].PDF; gm/2000 lease financing - ucc3 - grand blanc [2].PDF; GM-SPO - Grand Blanc, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC

<<gm/2000 lease financing - release of mortgage [grand blanc][hq].DOC>> <<gm/2000 lease financing - release of alr [grand blanc][hq].DOC>> <<gm/2000 lease financing - term of lease supp [grand blanc][hq].DOC>> <<gm/2000 lease financing - ucc3 - grand blanc [1].PDF>> <<gm/2000 lease financing - ucc3 - grand blanc [2].PDF>>

<<GM-SPO - Grand Blanc, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC>>

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF MORTGAGE

THIS RELEASE OF MORTGAGE (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust, as owner (the "Mortgagor"), granted a certain Mortgage dated as of January 6, 2003, and recorded on January 10, 2003, as Instrument No. 200301100004378, in the Official Records of Genesee County, Michigan (the "Mortgage"), covering certain real property in Genesee County, Michigan.

B. The Mortgagor desires that Releasor release and discharge from the lien of the Mortgage the real property, and Releasor is willing to release the lien on such real property and all of Releasor's interest therein (the "Release Property") as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property and all of Releasor's interest therein from the lien of the Mortgage, and the Mortgage is hereby fully paid, satisfied, released, discharged and terminated.

This Release applies to and covers all of the Mortgaged Property (as defined in the Mortgage) and rights granted under, or encumbered by, the Mortgage, including, without limitation, the Release Property.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Mortgage.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Releasor has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent on behalf of the  
Investors

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

Its: \_\_\_\_\_

“Releasor”

STATE OF \_\_\_\_\_ )

ss.:

COUNTY OF \_\_\_\_\_ )

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

1457570 00657500

JPMCB-STB-00000300

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF ASSIGNMENT OF LEASES, RENTS/  
STRUCTURAL SUPPORT AGREEMENT

THIS RELEASE OF ASSIGNMENT OF LEASES, RENTS/STRUCTURAL SUPPORT AGREEMENT (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., f/k/a JPMORGAN CHASE BANK, as with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust (the "Assignor"), executed a certain Assignment of Leases, Rents and Structural Support Agreement dated as of January 6, 2003, and recorded on January 10, 2003, as Instrument No. 200301100004379, in the Official Records of Genesee County, Michigan (as amended, modified or supplemented, the "Assignment"), covering certain real property in Genesee County, Michigan.

B. The Assignor desires that Releasor release and discharge from the lien of the Assignment the real property which is subject to the Assignment, and Releasor is willing to release all of the real property covered by the Assignment (the "Release Property"), as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property from the real property which is covered by the Assignment.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Assignment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Releasor, as Agent for the lenders, has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent for the Investors

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

Its: \_\_\_\_\_



STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., f/k/a JPMorgan Chase Bank, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457572 00652500

- 4 -

Delaware of Maryland

JPMCB-STB-00000304

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT

THIS TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Short Form Memorandum of Lease/Lease Supplement dated as of January 6, 2003 (the "Lease Supplement") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Grand Blanc, Genesee County, Michigan to Lessee; as evidenced by the Lease Supplement which was recorded on January 10, 2003, as Instrument No. 200301100004374, in the Official Records of Genesee County, Michigan; and

WHEREAS, the parties desire to terminate the Lease (as defined in the Lease Supplement) and release the Lease Supplement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease Supplement. Effective as of the date hereof, the Lease and Lease Supplement are terminated insofar as they demise the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.

2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease Supplement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

THE STATE OF DELAWARE     §  
  §  
COUNTY OF NEW CASTLE     §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457974 00502600

JPMCB-STB-00000310



**UCC FINANCING STATEMENT AMENDMENT**

**FOLLOW INSTRUCTIONS (front and back) CAREFULLY**

A. NAME & PHONE OF CONTACT AT FILER [optional]

---

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089800 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the  REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address; Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

**6. CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

**7. CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
---------------------	------	-------	-------------	---------

7d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
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NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral:  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment, if this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT**

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

10. OPTIONAL FILER REFERENCE DATA  
File with Genesee County Recorder [Grand Blanc] [Matter No. 00652500] [Doc. No. 1457962]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089803 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.  
 CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
GENERAL MOTORS CORPORATION

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA  
File with Genesee County Recorder [Grand Blanc] [Matter No. 00652500] [Doc. No. 14579631]

**BILL OF SALE**

**FOR VALUE RECEIVED, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust ("Seller"), hereby conveys on an AS-IS, WHERE-AS basis onto GENERAL MOTORS CORPORATION, a Delaware corporation, all of Seller's right, title and interest, if any, in and to all tangible personal property upon the real estate in Genesee County, Michigan described on Exhibit A attached hereto and made a part hereof (the "Land"), including, without limitation, all equipment, facilities fixtures, and other personal property located at or on the Land (including without limitation, all HVAC components and equipment, all pipes, fire prevention components and equipment, security components and equipment for the Improvements, electrical and plumbing components and systems, loading dock levelors, loading docks lights, loading dock related affixed equipment, and other systems and equipment affixed to or incorporated into the Land), but in all events exclusive of all movable non-structural partitions, racking and related equipment, machinery, equipment, furniture, furnishings, trade fixtures, inventory, product samples, and other personal property of Seller used in connection with the operation of its business (the "Personal Property").**

**IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of October \_\_, 2008.**

**SELLER:**

**AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust**

**By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee**

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

Bill of Sale - Grand Blanc, MI

CHDRM 5125450 1 12 07 08 14:00 00000000

JPMCB-STB-00000313

**EXHIBIT A  
LEGAL DESCRIPTION**

Bill of Sale - Grand Blanc, MI

CHDB02 5225459.3 11-Oct-08 14:00:0657500

JPMCB-STB-00000314

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**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 4:45 PM  
**To:** Green, Ryan  
**Subject:** Detroit, MI

**Attachments:** gm/2000 lease financing - ucc3 - detroit [2] - de sos.PDF; gm/2000 lease financing - ucc3 - detroit [1].PDF; gm/2000 lease financing - term of lease supp [detroit][franklin parking].DOC; gm/2000 lease financing - release of mortgage [detroit][franklin parking].DOC; gm/2000 lease financing - release of alr [detroit][franklin parking].DOC; GM-SPO - Detroit, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC

<<gm/2000 lease financing - ucc3 - detroit [2] - de sos.PDF>> <<gm/2000 lease financing - ucc3 - detroit [1].PDF>> <<gm/2000 lease financing - term of lease supp [detroit][franklin parking].DOC>> <<gm/2000 lease financing - release of mortgage [detroit][franklin parking].DOC>> <<gm/2000 lease financing - release of alr [detroit][franklin parking].DOC>>

<<GM-SPO - Detroit, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC>>

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
2007 1919660 on 5.21.07

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 6.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address; Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR

6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
----------------------------	------------	-------------	--------

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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7d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA

File with DE SOS [Detroit] [Matter No. 00652500] [Doc. No. 1457972]

# UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # 00

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the  REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT (full or partial):** Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.

**DELETE** name: Give record name to be deleted in item 6a or 6b.

**ADD** name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. **SEE INSTRUCTIONS** ADDL INFO RE ORGANIZATION DEBTOR

7e. TYPE OF ORGANIZATION

7f. JURISDICTION OF ORGANIZATION

7g. ORGANIZATIONAL ID #, if any  NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment. If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME

JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. **OPTIONAL FILER REFERENCE DATA**

File with Wayne County Recorder [Detroit/Parking] [Matter No. 006525001] [Doc. No. 14579641]

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer-Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT

THIS TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Short Form Memorandum of Lease/Lease Supplement dated as of January \_\_, 2003 (the "Lease Supplement") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Grand Blanc, Wayne County, Michigan to Lessee; as evidenced by the Lease Supplement which was recorded on January \_\_, 2003, in Liber \_\_, Page \_\_, in the Official Records of Wayne County, Michigan; and

WHEREAS, the parties desire to terminate the Lease (as defined in the Lease Supplement) and release the Lease Supplement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease Supplement Effective as of the date hereof, the Lease and Lease Supplement are terminated insofar as they demise the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.



2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease Supplement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

THE STATE OF DELAWARE   §  
  §  
COUNTY OF NEW CASTLE   §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457020 00000000

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF MORTGAGE

THIS RELEASE OF MORTGAGE (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust, as owner (the "Mortgagor"), granted a certain Mortgage dated as of January \_\_, 2003, and recorded on January \_\_, 2003, in Liber \_\_, Page \_\_, in the Official Records of Wayne County, Michigan (the "Mortgage"), covering certain real property in Wayne County, Michigan.

B. The Mortgagor desires that Releasor release and discharge from the lien of the Mortgage the real property, and Releasor is willing to release the lien on such real property and all of Releasor's interest therein (the "Release Property") as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property and all of Releasor's interest therein from the lien of the Mortgage, and the Mortgage is hereby fully paid, satisfied, released, discharged and terminated.

This Release applies to and covers all of the Mortgaged Property (as defined in the Mortgage) and rights granted under, or encumbered by, the Mortgage, including, without limitation, the Release Property.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Mortgage.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Releasor has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent on behalf of the  
Investors

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

Its: \_\_\_\_\_

“Releasor”

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

1457937 00652500

2

Page 2 of 2



THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF ASSIGNMENT OF LEASES, RENTS AND  
STRUCTURAL SUPPORT AGREEMENT

THIS RELEASE OF ASSIGNMENT OF LEASES, RENTS AND STRUCTURAL SUPPORT AGREEMENT (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., f/k/a JPMORGAN CHASE BANK, as with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust (the "Assignor"), executed a certain Assignment of Leases, Rents and Structural Support Agreement dated as of January \_\_, 2003, and recorded on January \_\_, 2003, in Liber \_\_, Page \_\_, in the Official Records of Wayne County, Michigan (as amended, modified or supplemented, the "Assignment"), covering certain real property in Wayne County, Michigan.

B. The Assignor desires that Releasor release and discharge from the lien of the Assignment the real property which is subject to the Assignment, and Releasor is willing to release all of the real property covered by the Assignment (the "Release Property"), as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property from the real property which is covered by the Assignment.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Assignment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Releasor, as Agent for the lenders, has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent for the Investors

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., f/k/a JPMorgan Chase Bank, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

1457032 00659500

JPMCB-STB-00000330

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**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 4:47 PM  
**To:** Green, Ryan  
**Subject:** Flint, MI

**Attachments:** gm/2000 lease financing - ucc3 - flint [3].PDF; gm/2000 lease financing - ucc3 - flint [2].PDF; gm/2000 lease financing - ucc3 - flint [1].PDF; gm/2000 lease financing - term of ground lease [flint][L6].DOC; gm/2000 lease financing - release of alr [flint][L6].DOC; gm/2000 lease financing - release of mortgage [flint][L6].DOC; gm/2000 lease financing - term of lease supp [flint][L6].DOC; GM-SPO - Flint, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC

<<gm/2000 lease financing - ucc3 - flint [3].PDF>> <<gm/2000 lease financing - ucc3 - flint [2].PDF>> <<gm/2000 lease financing - ucc3 - flint [1].PDF>> <<gm/2000 lease financing - term of ground lease [flint][L6].DOC>> <<gm/2000 lease financing - release of alr [flint][L6].DOC>> <<gm/2000 lease financing - release of mortgage [flint][L6].DOC>> <<gm/2000 lease financing - term of lease supp [flint][L6].DOC>> <<GM-SPO - Flint, MI - Bill of Sale (Trust to GM) (MB Draft 10/10).DOC>>

**UCC FINANCING STATEMENT AMENDMENT**

**FOLLOW INSTRUCTIONS (front and back) CAREFULLY**

**A. NAME & PHONE OF CONTACT AT FILER [optional]**

**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**

**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

**1a. INITIAL FINANCING STATEMENT FILE #**  
200408250089804 on 8.25.04

**1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.**

**2.  TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

**3.  CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

**4.  ASSIGNMENT (full or partial):** Give name of assignee in Item 7a or 7b and address of assignee in Item 7c; and also give name of assignor in Item 9.

**5. AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in Items 6 and/or 7.  
 CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in Item 6a or 6b.  ADD name: Complete Item 7a or 7b, and also Item 7c; also complete Items 7e-7g (if applicable).

**6. CURRENT RECORD INFORMATION:**

**6a. ORGANIZATION'S NAME**  
AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR

<b>6b. INDIVIDUAL'S LAST NAME</b>	<b>FIRST NAME</b>	<b>MIDDLE NAME</b>	<b>SUFFIX</b>
-----------------------------------	-------------------	--------------------	---------------

**7. CHANGED (NEW) OR ADDED INFORMATION:**

**7a. ORGANIZATION'S NAME**

OR

<b>7b. INDIVIDUAL'S LAST NAME</b>	<b>FIRST NAME</b>	<b>MIDDLE NAME</b>	<b>SUFFIX</b>
-----------------------------------	-------------------	--------------------	---------------

<b>7c. MAILING ADDRESS</b>	<b>CITY</b>	<b>STATE</b>	<b>POSTAL CODE</b>	<b>COUNTRY</b>
----------------------------	-------------	--------------	--------------------	----------------

<b>7d. SEE INSTRUCTIONS</b>	<b>ADDL. INFO RE ORGANIZATION DEBTOR</b>	<b>7e. TYPE OF ORGANIZATION</b>	<b>7f. JURISDICTION OF ORGANIZATION</b>	<b>7g. ORGANIZATIONAL ID #, if any</b>
				<input type="checkbox"/> NONE

**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment; if this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

**9a. ORGANIZATION'S NAME**  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

<b>9b. INDIVIDUAL'S LAST NAME</b>	<b>FIRST NAME</b>	<b>MIDDLE NAME</b>	<b>SUFFIX</b>
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**10. OPTIONAL FILER REFERENCE DATA**  
File with Genesee County Recorder [Flint] [Matter No. 00652500] [Doc. No. 1457967]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
200408250089803 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the  
 REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 8.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
AUTO FACILITIES REAL ESTATE TRUST 2001-1

OR 6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

8. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

8a. ORGANIZATION'S NAME  
JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR 8b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA

File with Genesee County Recorder [Flint] [Matter No. 006525001] [Doc. No. 1457966]

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE#  
200408250089802 on 8.25.04

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2.  **TERMINATION:** Effectiveness of the Financing Statement Identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  **CONTINUATION:** Effectiveness of the Financing Statement Identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  **ASSIGNMENT** (full or partial): Give name of assignee in Item 7a or 7b and address of assignee in Item 7c; and also give name of assignor in Item 9.

5. **AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor  Secured Party of record. Check only one of these two boxes.  
Also check one of the following three boxes and provide appropriate information in Items 6 and/or 7.

**CHANGE** name and/or address: Please refer to the detailed instructions in regards to changing the name/address of a party.  **DELETE** name: Give record name to be deleted in Item 6a or 6b.  **ADD** name: Complete Item 7a or 7b, and also Item 7c; also complete Items 7e-7g (if applicable).

6. **CURRENT RECORD INFORMATION:**

6a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. **CHANGED (NEW) OR ADDED INFORMATION:**

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADDL. INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. **AMENDMENT (COLLATERAL CHANGE):** check only one box.  
Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT**

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. **OPTIONAL FILER REFERENCE DATA**

File with Genesee County Recorder [Flint] [Matter No. 00652500] [Doc. No. 14579651]



THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF MEMORANDUM OF GROUND LEASE

THIS TERMINATION OF SHORT FORM MEMORANDUM OF GROUND LEASE (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessor"), and AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Memorandum of Lease, dated as of \_\_\_\_\_, 20\_\_ (the "Lease") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Flint, Genesee County, Michigan to Lessee; as evidenced by the Lease which was recorded on January \_\_, 2003, as Instrument No. 200305160068993, in the Official Records of Genesee County, Michigan; and

WHEREAS, the parties desire to terminate the Lease.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease. Effective as of the date hereof, the Lease is terminated insofar as it demises the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.

2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not

individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee; (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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

LESSEE:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

THE STATE OF DELAWARE    §  
  §  
COUNTY OF NEW CASTLE   §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  ) )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

1457001 00000000

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF ASSIGNMENT OF LEASES, RENTS/  
STRUCTURAL SUPPORT AGREEMENT

THIS RELEASE OF ASSIGNMENT OF LEASES, RENTS/STRUCTURAL SUPPORT AGREEMENT (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., f/k/a JPMORGAN CHASE BANK, as with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-I, a Delaware business trust (the "Assignor"), executed a certain Assignment of Leases, Rents and Structural Support Agreement dated as of January \_\_, 2003, and recorded on January \_\_, 2003, as Instrument No. 200305160068996, in the Official Records of Genesee County, Michigan (as amended, modified or supplemented, the "Assignment"), covering certain real property in Genesee County, Michigan.

B. The Assignor desires that Releasor release and discharge from the lien of the Assignment the real property which is subject to the Assignment, and Releasor is willing to release all of the real property covered by the Assignment (the "Release Property"), as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property from the real property which is covered by the Assignment.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Assignment.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Releasor, as Agent for the lenders, has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent for the Investors

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

Its: \_\_\_\_\_



STATE OF \_\_\_\_\_ )  
 )  
 COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., f/k/a JPMorgan Chase Bank, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
 Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
 Printed or Typed Name of Notary  
 My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

1457950 00652500

JPMCB-STB-00000344

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

RELEASE OF MORTGAGE

THIS RELEASE OF MORTGAGE (this "Release"), made and given as of the \_\_\_ day of \_\_\_\_\_, 2008, by JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, with an address at 450 West 33 Street, 13<sup>th</sup> Floor, New York, NY 10001, as Administrative Agent on behalf of the Investors ("Releasor"), is based upon the following:

A. Auto Facilities Real Estate Trust 2001-1, a Delaware business trust, as owner (the "Mortgagor"), granted a certain Mortgage dated as of January \_\_, 2003, and recorded on January \_\_, 2003, as Instrument No. 200305160068995 in the Official Records of Genesee County, Michigan (the "Mortgage"), covering certain real property in Genesee County, Michigan.

B. The Mortgagor desires that Releasor release and discharge from the lien of the Mortgage the real property, and Releasor is willing to release the lien on such real property and all of Releasor's interest therein (the "Release Property") as described in Exhibit A attached to and made part of this Release.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor hereby releases and discharges the Release Property and all of Releasor's interest therein from the lien of the Mortgage, and the Mortgage is hereby fully paid, satisfied, released, discharged and terminated.

This Release applies to and covers all of the Mortgaged Property (as defined in the Mortgage) and rights granted under, or encumbered by, the Mortgage, including, without limitation, the Release Property.

All capitalized terms not otherwise defined herein shall have the meanings set forth in the Mortgage.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Releasor has executed this Release as of the date first above written.

JPMORGAN CHASE BANK, N.A., F/K/A  
JPMORGAN CHASE BANK, as  
Administrative Agent on behalf of the  
Investors

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

Its: \_\_\_\_\_

“Releasor”

STATE OF \_\_\_\_\_ )

ss.:

COUNTY OF \_\_\_\_\_ )

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of JPMORGAN CHASE BANK, N.A., F/K/A JPMORGAN CHASE BANK, a \_\_\_\_\_, as Administrative Agent for the Investors, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457949 00652500

- 2 -

Page 2 of 2

JPMCB-STB-00000347

THIS INSTRUMENT PREPARED BY,  
AND AFTER RECORDING RETURN TO:

Robert Gordon  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606

THIS SPACE FOR RECORDER'S USE ONLY

TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT

THIS TERMINATION OF SHORT FORM MEMORANDUM OF LEASE/LEASE SUPPLEMENT (this "Termination") is made this \_\_\_ day of \_\_\_\_\_, 2008 by and between, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust, through Wilmington Trust Company, not in its individual capacity but solely as Trustee ("Lessor"), and GENERAL MOTORS CORPORATION, a Delaware corporation ("Lessee").

WITNESSETH:

WHEREAS, Lessor has leased by a Short Form Memorandum of Lease/Lease Supplement dated as of January \_\_, 2003 (the "Lease Supplement") the land legally described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging but excluding the Improvements (as hereinafter defined, the "Land") and the improvements and fixtures located on the Land (collectively, the "Property") located in the City of Flint, Genesee County, Michigan to Lessee; as evidenced by the Lease Supplement which was recorded on January \_\_, 2003, as Instrument No. 200305160068994, in the Official Records of Genesee County, Michigan; and

WHEREAS, the parties desire to terminate the Lease (as defined in the Lease Supplement) and release the Lease Supplement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to enter into this Termination, as follows:

1. Termination of Lease and Release of Lease Supplement. Effective as of the date hereof, the Lease and Lease Supplement are terminated insofar as they demise the Property. This Termination does not terminate any covenants, warranties, indemnities or other obligations of Lessor or Lessee under the Lease which by their terms expressly survive the release or termination of such Lease; provided, however, that this Termination shall act as a release and termination of all liens, claims and interests Lessor possess under the Lease in and to the Property.

2. Liability of Trustee. It is expressly understood and agreed by the parties hereto that (i) this Termination is executed and delivered by Wilmington Trust Company, not individually or personally but solely as Trustee of the Trust, in the exercise of the powers and authority conferred and vested in it as such Trustee, (ii) each of the representations, undertakings and agreements herein made on the part of Trustee is made and intended not as personal representations, undertakings and agreements by Trustee but is made and intended for the purpose of binding only the Trust Estate, (iii) nothing herein contained shall be construed as creating any liability on Trustee, individually or personally, to perform any covenant either expressed or implied contained herein, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto and (iv) under no circumstances shall Trustee be personally liable for the payment of any indebtedness or expenses of any party hereto, or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by Trustee under this Termination of the Lease.

3. Miscellaneous.

(a) This Termination shall be construed and enforced in accordance with the laws of the state where the Land is located.

(b) This Termination may be executed in multiple counterparts each of which taken together shall constitute one and the same instrument.

(c) All capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease Supplement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Release as of the date first above written.

LESSOR:

AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust

BY: WILMINGTON TRUST COMPANY, not in  
its individual capacity but solely as Trustee

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

LESSEE:

GENERAL MOTORS CORPORATION,  
a Delaware corporation

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



THE STATE OF DELAWARE   §  
  §  
COUNTY OF NEW CASTLE   §

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner and Trustee of Auto Facilities Real Estate Trust 2001-1, a Delaware statutory trust, and that in said representative capacity [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

ss.:

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that [he] [she] is \_\_\_\_\_ of General Motors Corporation, a Delaware corporation, and that for and on behalf of the said corporation, and as its act and deed [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation to do so.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed Name of Notary  
My Commission Expires: \_\_\_\_\_

EXHIBIT A  
LEGAL DESCRIPTION

1457951 00652500

6

Termination of Lease Agreement

**BILL OF SALE**

**FOR VALUE RECEIVED, AUTO FACILITIES REAL ESTATE TRUST 2001-1, a Delaware statutory trust ("Seller"), hereby conveys on an AS-IS, WHERE-AS basis onto GENERAL MOTORS CORPORATION, a Delaware corporation, all of Seller's right, title and interest, if any, in and to all tangible personal property upon the real estate in Genesee County, Michigan described on Exhibit A attached hereto and made a part hereof (the "Land"), including, without limitation, all equipment, facilities fixtures, and other personal property located at or on the Land (including without limitation, all HVAC components and equipment, all pipes, fire prevention components and equipment, security components and equipment for the Improvements, electrical and plumbing components and systems, loading dock levelers, loading docks lights, loading dock related affixed equipment, and other systems and equipment affixed to or incorporated into the Land), but in all events exclusive of all movable non-structural partitions, racking and related equipment, machinery, equipment, furniture, furnishings, trade fixtures, inventory, product samples, and other personal property of Seller used in connection with the operation of its business (the "Personal Property").**

**IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of October \_\_, 2008.**

**SELLER:**

**AUTO FACILITIES REAL ESTATE TRUST  
2001-1, a Delaware statutory trust**

**By: Wilmington Trust Company, not in its  
individual capacity but solely as Trustee**

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

Bill of Sale - Flint, MI

CHOBM 57247 1 14 Oct 08 16:00 00/0000

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Parcel 1: That part of the Northeast  $\frac{1}{4}$  of Section 26, Town 7 North, Range 6 East, lying Southeasterly of the Southeasterly line of Grand Trunk Western Railroad right of way; also the Southeast  $\frac{1}{4}$  of said section, except beginning at the Southeasterly corner of said section; thence Northerly along the Easterly line of said section 196.46 feet; thence Southwesterly 355.58 feet to a point on the Southerly line of said section 294.71 feet Westerly from the beginning; thence Easterly along said Southerly line, 294.71 feet to the point of beginning; also, part of the West  $\frac{1}{2}$  of said section described as: Beginning at a point on the Southerly line of said section, 2116.52 feet North 88 degrees 24 minutes 30 seconds East from the Southwesterly corner of said section; thence North 38 degrees 57 minutes West to the Westerly line of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said section; thence North 01 degree 09 minutes 45 seconds West along the said Westerly line to a line 1100 feet Northerly from and parallel with the Southerly line of said section; thence South 88 degrees 24 minutes 30 seconds West 84.24 feet; thence North 10 degrees 19 minutes 36 seconds West, 159.06 feet; thence North 15 degrees 52 minutes 39 seconds West, 74.89 feet; thence North 18 degrees 17 minutes 14 seconds, 289.03 feet; thence North 24 degrees 16 minutes 49 seconds West, 337.70 feet; thence North 28 degrees 26 minutes 08 seconds West, 747.71 feet; thence North 22 degrees 30 minutes 23 seconds West, 707 feet; thence North 15 degrees 07 minutes 54 seconds West, 124.25 feet to the Southerly line of said railroad right of way; thence North 51 degrees 00 minutes 54 seconds East along said Southerly line to the Northerly limits line of the City of Flint; thence Easterly along said Northerly line to the North and South  $\frac{1}{4}$  line of said section; thence Southerly along said North and South line to the South  $\frac{1}{4}$  corner of said section; thence Westerly along Southerly line of said section, 522.77 feet to the point of beginning, except for that parcel of land described as follows: Commencing at the Southeast corner of Section 26, Town 7 North, Range 6 East; thence South 89 degrees 40 minutes 01 second West a distance of 412.64 feet; thence North 00 degrees 19 minutes 59 seconds West, a distance of 50.00 feet to the North right-of-way line of Bristol Road and the point of beginning; commencing at the point of beginning, thence North 89 degrees 40 minutes 01 second East, a distance of 189.00 feet; thence North 57 degrees 57 minutes 13 seconds East, a distance of 19.02 feet; thence South 89 degrees 40 minutes 01 second West, a distance of 205.19 feet; thence South 00 degrees 19 minutes 59 seconds East a distance of 10.00 feet to a the point of beginning.

Parcel 2: That part of the Southeast  $\frac{1}{4}$  of fractional Section 23, Town 7 North, Range 6 East, lying Westerly of the Westerly line of Van Slyke Road and Southeasterly of the Southeasterly line of the Grand Trunk Western Railroad right of way.

Parcel 3: A parcel of land beginning North 00 degrees 30 seconds East 702.24 feet from the interior  $\frac{1}{4}$  corner of said section; thence South 89 degrees 56 minutes 15 seconds West 328.60 feet; thence North 62 degrees 15 minutes West 109.08 feet; thence North 00 degrees 00 minutes 30 seconds East 376.18 feet; thence North 83 degrees 00 minutes 41 seconds East 220.93 feet; thence North 89 degrees 34 minutes 30 seconds East 105.62 feet; thence North 00 degrees 00 minutes 30 seconds East 332.85 feet; thence North 49 degrees 29 minutes 26 seconds East 19 feet; thence North 11 degrees 22 minutes 20 seconds West 18 feet; thence North 46 degrees 30 minutes 41 seconds East 122.84 feet; thence South 00 degrees 00 minutes 30 seconds West 901.42 feet to the place of beginning.

Bill of Sale - Flint, MI

FORM 575467 1 14 00 00 00 00 00

JPMCB-STB-00000355

CLOSING CHECKLIST  
 General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
Letter of Direction	SI	MB	5225216.3	Draft circulated by MB on 10/15/08	
<b>SPO Headquarters, Grand Blanc, MI</b>					
A Release of Mortgage (record)	Agent	MB	1457570.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C), 19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004378</i>					
B Release of Assignment of Leases (record)	Agent	MB	1457572.1	Draft circulated by MB on 10/15/08	
<i>Laase §19.1(a)(vi) Recorded 1/10/03, Instrument No. 200301100004379</i>					
C Release of Short Form Memorandum of Lease (record)	GM, Trust	MB	1457574.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(i)(C) Recorded 1/10/03, Instrument No. 200301100004374</i>					
D Quitclaim Deed (record)	Trust	MB		MB preparing	
<i>Lease §19.1(a)(i)(A)</i>					

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
E Bill of Sale and Assignment  <i>Lease §19.1(a)(l)(B)</i>	Trust	MB	5225459.2	Draft circulated by MB on 10/15/08	
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>Financing statement recorded 8/25/04, instrument No. 200408250089800</i>	N/A	MB	1457962.1	Draft circulated by MB on 10/15/08	
<i>Financing statement recorded 8/25/04, instrument No. 200408250089803, Amendment recorded in Instrument No. 200706010047290</i>			1457963.1	Draft circulated by MB on 10/15/08	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Received	
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter  <b>Franklin Parking Deck, Vacant Parcel 6/C and River East Parking Deck, Detroit, MI</b>	Agent	Agent		Open	
A Release of Mortgage (record)  <i>Lease §19.1(a)(l)(C), 19.1(a)(vi)</i>	Agent	MB	1457937.1	Draft circulated by MB on 10/15/08	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease  
 CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
B Release of Assignment of Leases (record)  <i>Lease §19.1(a)(vi)</i>	Agent	MB	1457938.1	Draft circulated by MB on 10/15/08	
C Release of Short Form Memorandum of Lease (record)  <i>Lease §19.1(a)(l)(C)</i>	GM, Trust	MB	1457939.1	Draft circulated by MB on 10/15/08	
D Quitclaim Deed (record) <i>Lease §19.1(a)(l)(A)</i>	Trust	MB		MB preparing	
E Bill of Sale and Assignment  <i>Lease §19.1(a)(l)(B)</i>	Trust	MB	5225468.1	Draft circulated by MB on 10/15/08	
F Termination of UCCs <i>Lease §19.1(a)(vi)</i> <i>file number 2007 1919660, file date 5/21/07</i> <i>[DE SOS]</i>	N/A	MB	1457972.1	Draft circulated by MB on 10/15/08	
<i>UCC filed on _____, as</i> <i>Instrument No. [Wayne County]</i>			1457964.1	Draft circulated by MB on 10/15/08	
G Affidavit for Title Company re: no liens <i>Lease §19.1(a)(vi)</i>	Trust	MB		MB preparing	
H Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	



CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
I Title Policy	TC	TC	N/A	At closing	
J Payoff Letter	Agent	Agent		Open	
<b>GM Powertrain L6 Engine Plant, Flint, MI</b>					
A Release of Mortgage (record)	Agent	MB	1467949.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(l)(C), 19.1(a)(vi) Mortgage recorded on _____, 2003 as Instrument No. 200305160068995</i>					
B Release of Assignment of Leases (record)	Agent	MB	1457950.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(vi) ALR recorded on _____, 2003 as Instrument No. 200305160068996</i>					
C Release of Short Form Memorandum of Lease (record)	GM, Trust	MB	1457951.1	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(l)(C) Memo of Lease recorded on _____, 2003 as Instrument No. 200305160068994</i>					
D Release of Memorandum of Ground Lease (record)	GM, Trust	MB	1457953.3	Draft circulated by MB on 10/15/08	
<i>Lease §19.1(a)(l)(C)</i>					

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
<i>Memo of Ground Lease recorded on _____, 2003 as Instrument No. 200305160068993</i>					
E Quitclaim Deed (record) Lease §19.1(a)(i)(A)	Trust	MB		MB preparing	
F Bill of Sale and Assignment  Lease §19.1(a)(i)(B)	Trust	MB	5225467.1	Draft circulated by MB on 10/15/08	
G Termination of UCCs Lease §19.1(a)(vi) UCC recorded on _____, as Instrument No. 200408250089802	N/A	MB	1457965.1	Draft circulated by MB on 10/15/08	
UCC recorded on _____, as Instrument No. 200408250089803			1457966.1	Draft circulated by MB on 10/15/08	
UCC recorded on _____, as Instrument No. 200408250089804			1457967.1	Draft circulated by MB on 10/15/08	
H Affidavit for Title Company re: no liens Lease §19.1(a)(vi)	Trust	MB		MB preparing	
I Title Commitment/Underlying Documents	TC	TC	N/A	Awaiting	
J Title Policy	TC	TC	N/A	At closing	
K Payoff Letter	Agent	Agent		Open	
<b>General Documentation</b>					

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
A Termination of UCCs (central, DE filings) <i>Blanket-type financing statements as to real property and related collateral located in Marion County, Indiana:</i> <i>recorded on 4.12.02 as File Number 2092532 5; and</i>	N/A	MB	1457981.1	Draft circulated by MB on 10/15/08	
<i>recorded on 4.12.02 as File Number 2092526 7</i>	N/A	MB	1457980.1	Draft circulated by MB on 10/15/08	
<i>Financing statement as to equipment, fixtures and related collateral located at certain U.S. manufacturing facilities</i>	N/A	MB	1457978.1	Draft circulated by MB on 10/15/08	
B Termination of Operative Agreements  <i>Participation Agreement §14.10</i>	GM, Trust, Agent, RFC, SI, EI, Backup Facility	MB	9191785.2	Draft circulated by MB on 10/15/08	
C IRS Form W-9	US Participants	US Participants	N/A	Form sent by MB on 10/15/08	
D IRS Form W-8BEN	Non-US Participants	Non-US Participants	N/A	Form sent by MB on 10/15/08	
E FIRPTA Affidavit  <i>Lease §19.1(a)(ii)</i>	Trust	MB	5225470.1	Draft circulated by MB on 10/15/08	

CLOSING CHECKLIST

General Motors: Release of Properties from JPMorgan Chase Synthetic Lease

CLOSING DATE: October 31, 2008

DOCUMENT	SIGNED BY	RESPONSIBLE PARTY	DOC. #	STATUS	COMMENTS
F Certificate of Trust	Trust	MB	5225546.1	Draft circulated by MB on 10/15/08	
G Certificate regarding the absence of liens  Lease §19.1(a)(iv)	Trust, Agent, RFC, SI, EI, Backup Facility Banks	MB	9191177.2	Draft circulated by MB on 10/15/08	

# **EXHIBIT T**

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**From:** Merjian, Mardi R  
**Sent:** Friday, October 17, 2008 3:26 PM  
**To:** 'Green, Ryan'  
**Cc:** arun.sundaram@gm.com; timothy.conder@gm.com; Gordon, Robert E.; Gonshorek, Stewart C.; McCarthy, Michael B.; Ledyard, Michael  
**Subject:** RE: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Ryan

Nice job on the documents. My only comment, unless I am missing something, is that all references to JPMorgan Chase Bank, as Administrative Agent for the investors should not include the reference "for the Investors"

Thanks

Mardi

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Mardi Merjian  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017

Tel: (212) 455-7283  
Cell: (201) 725-2936  
Fax: (212) 455-2502  
mmerjian@stblaw.com

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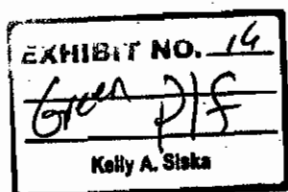
**From:** Green, Ryan [mailto:Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 15, 2008 5:27 PM  
**To:** Merjian, Mardi R; Ledyard, Michael  
**Cc:** arun.sundaram@gm.com; timothy.conder@gm.com; Gordon, Robert E.; Gonshorek, Stewart C.; McCarthy, Michael B.  
**Subject:** GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Mardi and Michael,

Attached please find an updated checklist and drafts of the closing documents (except the deeds and title affidavits, which will follow).

Note that we are awaiting updated title commitments and underlying title documents relating to the properties in Flint and Detroit. The drafts relating to these properties remain subject to our review of the related title documents.

Also, note that the drafts are being transmitted to our client simultaneously and remain subject to our



client's review.

Please contact me with any questions or comments you may have.

Best,  
Ryan

---

Ryan C. Green  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268

ryan.green@mayerbrown.com

<<General Documentation (incl. Letter of Direction)>> <<Grand Blanc, MI >> <<Detroit, MI>> <<Flint, MI>>  
<<GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS>>

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# **EXHIBIT U**



**From:** Green, Ryan [Ryan.Green@mayerbrown.com]  
**Sent:** Friday, October 24, 2008 10:07 AM  
**To:** Wineman, William; Merjian, Mardi R; Ledyard, Michael  
**Cc:** Gonshorek, Stewart C.  
**Subject:** RE: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)  
**Importance:** High  
**Attachments:** GM-JPMorgan Chase - Escrow Instructions (initial draft).DOC

Attached find draft escrow instructions. I have set them up to be signed by counsel for GM, counsel for the Trustee, counsel for the Administrative Agent and the title company. Please review and forward any comments at your earliest convenience.

Thanks,  
 Ryan

**Ryan C. Green**  
 Mayer Brown LLP  
 71 South Wacker Drive  
 Chicago, IL 60606  
 Tel: 312.701.8032  
 Fax: 312.706.9268

ryan.green@mayerbrown.com  
 <<GM-JPMorgan Chase - Escrow Instructions (initial draft).DOC>>

**From:** Green, Ryan  
**Sent:** Tuesday, October 21, 2008 5:55 PM  
**To:** 'Merjian, Mardi R'; 'Ledyard, Michael'  
**Cc:** Gordon, Robert E.; Gonshorek, Stewart C.  
**Subject:** RE: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Mardi and Michael,

Attached find drafts of the various deeds and an updated draft of the checklist. Please forward any comments you may have.

Note that regarding the Detroit properties, we will have separate release documents relating to the Franklin Deck, Parcel 6/C and the River East Deck. I expect to circulate revised drafts of the documents tomorrow.

Note that the drafts remain subject to our client's review and our review of outstanding title documents.

Best,  
 Ryan

<< File: GM Checklist - Release of Properties from JPM Chase Synthetic Lease.XLS >> << File: gm/2000 lease financing - quit claim deed - flint, mi.DOC >> << File: gm/2000 lease financing - quit claim deed - river east/detroit.DOC >> << File: gm/2000 lease financing - quit claim deed - 6 & c/detroit.DOC >> << File: gm/2000 lease financing - quit claim deed - franklin deck/detroit.DOC >> << File: gm/2000 lease financing - quit claim deed - grand blanc, mi.DOC >>

EXHIBIT NO. 19  
 Green JH  
 Kelly A. Slaka

October \_\_, 2008

VIA E-MAIL

LandAmerica  
1050 Wilshire Dr.  
Suite 310  
Troy, MI 48084  
Attention: William Wineman  
e-mail: WWineman@LANDAM.com

Re: Termination of that certain Participation Agreement dated as of October 31, 2001, among General Motors Corporation ("GM"), as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1 ("Trust"), as Lessor, Wilmington Trust Company ("Trustee"), as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank ("Agent"), as Administrative Agent, as amended (the "Participation Agreement") and release of all liens related thereto including liens relating to the following properties: (i) the SPO Headquarters Building located in Grand Blanc, Michigan (the "Grand Blanc Property"); (ii) the GM Powertrain L6 Engine Plant in Flint, Michigan (the "Flint Property"); (iii) the Franklin Deck in Detroit, Michigan (the "Franklin Deck"); (iv) the River East Parking Deck in Detroit, Michigan (the "River East Deck"); and (v) Parcel 6/C in Detroit, Michigan ("Parcel 6/C") (the Grand Blanc Property, the Flint Property, the Franklin Deck, the River East Deck and Parcel 6/C herein are each a "Property" and, collectively, the "Properties"). Capitalized terms used but not otherwise defined herein have the respective meanings specified in Annex A to the Participation Agreement.

Greetings:

The undersigned attorneys represent GM, the Agent and the Trustee in connection with the above referenced transaction whereby (i) the Participation Agreement and Operative Agreements will be terminated and (ii) the Liens and Lessor Liens will be released. LandAmerica (the "Title Company") has agreed to issue title insurance policies insuring the interests of GM or Riverfront Holdings, Inc. ("RHI") (as applicable) in and to the Properties in connection with (and after giving effect to) the consummation of the Transaction. This letter constitutes escrow and recording instructions in connection with the Transaction.

You have received or will receive four (4) (except as otherwise noted below) final sets of each of the following documents (collectively, the "Escrow Documents"):

For all of the Properties

1. Letter of Direction from BTMU Capital Corporation;
2. Termination of UCC Financing Statements (File Numbers 2092532 5, 2092526 7, and 6416808 4) (the "General UCC Terminations");
3. Termination of Operative Agreements from GM, the Trust, the Agent, and the Participants;
4. IRS Form W-9 from each US Participant;
5. IRS Form W-8BEN from each Non-US Participant;

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JPMCB-STB-00000430.

6. FIRPTA Affidavit from the Trust;
7. Certificate of Trust from the Trust;
8. Certificate regarding the absence of liens from the Trust, the Agent and the Participants;
9. Closing Statement (Note: this shall be prepared by the Title Company);

**For the Grand Blanc Property:**

10. Quitclaim Deed (the "Grand Blanc Deed") from Trust to GM;
11. Bill of Sale (the "Grand Blanc Bill of Sale") from Trust to GM (only one original shall be delivered);
12. Release of Mortgage (the "Grand Blanc Mortgage Release") from the Agent;
13. Release of Assignment of Leases and Rents (the "Grand Blanc ALR Release") from the Agent;
14. Termination of Short Form Memorandum of Lease (the "Grand Blanc Short Form Termination") between GM and the Trust;
15. Termination of Financing Statements (Instrument Numbers 200408250089800 and 200706010047290) (the "Grand Blanc UCC Terminations");
16. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "Grand Blanc Title Clearance Document") (only one original shall be delivered);

**For the Flint Property:**

17. Quitclaim Deed (the "Flint Deed") from Trust to GM;
18. Bill of Sale (the "Flint Bill of Sale") from Trust to GM (only one original shall be delivered);
19. Release of Mortgage (the "Flint Mortgage Release") from the Agent;
20. Release of Assignment of Leases and Rents (the "Flint ALR Release") from the Agent;
21. Termination of Short Form Memorandum of Lease (the "Flint Short Form Termination") between GM and the Trust;
22. Termination of Memorandum of Ground Lease (the "Flint Ground Lease Termination") between GM and the Trust;
23. Termination of Financing Statements (Instrument Numbers 200408250089802 and 200408250089804) (the "Flint UCC Terminations");
24. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "Flint Title Clearance Document") (only one original shall be delivered);

**For the Franklin Deck:**

25. Quitclaim Deed (the "Franklin Deck Deed") from Trust to [RHI] [OR] [GM];
26. Bill of Sale (the "Franklin Deck Bill of Sale") from Trust to [RHI] [OR] [GM] (only one original shall be delivered);
27. Release of Mortgage (the "Franklin Deck Mortgage Release") from the Agent;
28. Release of Assignment of Leases and Rents (the "Franklin Deck ALR Release") from the Agent;
29. Termination of Short Form Memorandum of Lease (the "Franklin Deck Short Form Termination") between GM and the Trust;
30. [Termination of Memorandum of Lease (the "Franklin Deck Ground Lease Termination") between RHI and the Trust;]
31. Termination of Financing Statements (file number 2007 1919660 and those filed on 5/23/07 at Liber 46328, Pages 567 and 573) (the "Franklin Deck UCC Terminations");
32. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "Franklin Deck Title Clearance Document") (only one original shall be delivered);

**For the River East Deck:**

33. Quitclaim Deed (the "River East Deck Deed") from Trust to [RHI] [OR] [GM];
34. Bill of Sale (the "River East Deck Bill of Sale") from Trust to [RHI] [OR] [GM] (only one original shall be delivered);
35. Release of Mortgage (the "River East Deck Mortgage Release") from the Agent;
36. Release of Assignment of Leases and Rents (the "River East Deck ALR Release") from the Agent;
37. Termination of Short Form Memorandum of Lease (the "River East Deck Short Form Termination") between GM and the Trust;
38. [Termination of Memorandum of Lease (the "River East Deck Ground Lease Termination") between RHI and the Trust;]
39. Termination of Financing Statements (filed on 8/27/04 at Liber 41215, Pages 368 and 387) (the "River East Deck UCC Terminations");
40. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "River East Deck Title Clearance Document") (only one original shall be delivered);

**For Parcel 6/C:**

41. Quitclaim Deed (the "Parcel 6/C Deed") from Trust to [RH] [OR] [GM];
42. Bill of Sale (the "Parcel 6/C Bill of Sale") from Trust to [RH] [OR] [GM] (only one original shall be delivered);
43. Release of Mortgage (the "Parcel 6/C Mortgage Release") from the Agent;
44. Release of Assignment of Leases and Rents (the "Parcel 6/C ALR Release") from the Agent;
45. Termination of Short Form Memorandum of Lease (the "Parcel 6/C Short Form Termination") between GM and the Trust;
46. Termination of Financing Statements (filed on 8/27/04 at Liber 41215, Pages 375 and 384) (the "River East Deck UCC Terminations"); and
47. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "River East Deck Title Clearance Document") (only one original shall be delivered).

When all of the conditions precedent to closing set forth in Section A below have been met, you are instructed to close this transaction and disburse the Funds (as defined below) as directed in Section B below and to release from escrow and deliver, record or to otherwise handle the Escrow Documents in accordance with Section C below.

**A. CONDITIONS PRECEDENT.**

All of the following conditions must be satisfied prior to disbursing the Funds as described in Section B and closing this transaction:

1. You have received all of the Escrow Documents;
2. The Title Company shall be irrevocably committed to issue, and by the execution of these escrow instructions Title Company does hereby irrevocably commit to issue, Lawyers Title Insurance Corporation 2006 ALTA owner's policies of title insurance (insuring fee owner's estates as to Exhibits A, B and C referenced below (collectively, the "Title Policies"), in connection with the Transaction for the Properties to be dated as of the date and time of the release of any of the Funds (or after recording of the Deeds (if earlier)), and concurrently with the release of any of the Funds shall issue, and otherwise in form identical to the pro forma owner's policies of title insurance (including all endorsements attached thereto) attached hereto as Exhibit A (the "Grand Blanc Owner's Title Policy"), Exhibit B (the "Flint Owner's Title Policy"), and Exhibit C (the "Detroit Owner's Title Policy") (collectively, the "Title Policies").
3. You shall have received, by wire transfer to your account as follows:

Comerica Bank, Detroit, MI  
ABA Number: 0096  
LandAmerica Financial Group, Inc. - NCS  
Account Number 0431  
Location Number: 00422  
Please reference our case number on all wires: N102355

**REDACTED**

funds in the amounts set forth in that certain Closing Statement (the "Closing Statement") prepared by you and executed by GM as described above (the "Funds").

4. You shall have confirmed that none of the Title Policies shall reflect any delinquent or past due real estate taxes, sewer or water charges, or special assessments.

5. You shall have received written or telephonic confirmation from the undersigned that all other conditions precedent to the closing of this transaction have been satisfied.

**B. DISBURSEMENT OF FUNDS.**

Upon the satisfaction of the conditions precedent set forth in Section A and the issuance of the signed pro forma Title Policies, you are instructed to close this transaction and to disburse the Funds to or at the direction of the undersigned in accordance with these written instructions and in conformity with the Closing Statement.

**C. RECORDING.**

As soon as possible after the release of the Funds pursuant to Section B above, you are instructed to record (or file, as applicable) the documents below (the "Recording Documents") with the appropriate recording office in the applicable state in the following order as to each Property:

**For the Grand Blanc Property**

1. The Grand Blanc Mortgage Release;
2. The Grand Blanc ALR Release;
3. The Grand Blanc Short Form Termination;
4. The Grand Blanc Deed;

**For the Flint Property**

5. The Flint Mortgage Release;
6. The Flint ALR Release;
7. The Flint Short Form Termination;
8. The Flint Ground Lease Termination;
9. The Flint Deed;

**For the Franklin Deck**

10. The Franklin Deck Mortgage Release;
11. The Franklin Deck ALR Release;
12. The Franklin Deck Short Form Termination;
13. [The Franklin Deck Ground Lease Termination;]
14. The Franklin Deck Deed;

**For the River East Deck**

15. The River East Deck Mortgage Release;
16. The River East Deck ALR Release;
17. The River East Deck Short Form Termination;
18. [The River East Deck Ground Lease Termination;]
19. The River East Deck Deed;

**For Parcel 6/C**

20. The Parcel 6/C Mortgage Release;
21. The Parcel 6/C ALR Release;
22. The Parcel 6/C Short Form Termination;
23. The Parcel 6/C Deed;

**D. DELIVERY OF DOCUMENTS.**

Immediately following closing, any extra original documents and copies of all Escrow Documents shall be forwarded to the counsel for GM, except for those documents which have been forwarded to the recorder's office (in which case certified copies of the foregoing shall be forwarded to the counsel for GM).

Promptly after the recording of the Recording Documents, you are instructed to deliver to counsel for GM, at the address below, a conformed copy of each of the Recording Documents, evidencing recordation thereof in accordance with these instructions. In the event that you receive any original recorded document, please forward it to counsel for GM at the address below.

Immediately upon the occurrence of the closing of this transaction and the release of any of the Funds, you are further instructed to give telephonic confirmation thereof to the undersigned Ryan Green at (312)701-8032. If you are unable to comply with these instructions and close this order at or before 4:00 p.m. EST on October 10, 2008, you are to notify the undersigned immediately, and are not to proceed without further written instructions from both of the undersigned.

Send to the undersigned Ryan Green by overnight courier the original executed Title Policies, within 10 days of the date of recordation of the Deeds.

**E. COSTS.**

All costs and expenses for the escrow fees and recording fees, transfer taxes and all other fees, charges and taxes with respect to the closing of this transaction shall be paid as shown on the Closing Statement. The undersigned shall have no responsibility or liability for any such costs or expenses.

LandAmerica  
Attention: William Wineman  
Page 7

Kindly acknowledge your receipt of these instructions, and your agreement to strictly comply with the same, by signing and returning to the undersigned the enclosed copy of this letter. Notwithstanding your failure to sign, and/or deliver a signed copy of, this letter, your act of recording or filing any of the Recording Documents or releasing any of the Funds shall constitute your unconditional agreement to issue the Title Policies pursuant to these instructions and to otherwise strictly comply with these instructions. This letter may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same letter.

Sincerely,

---

Ryan C. Green, Attorney for GM  
Mayer Brown LLP  
71 S. Wacker Drive  
Chicago, IL 60606  
Telephone: (312) 701-8032  
Facsimile: (312) 706-9268  
E-Mail: ryan.green@mayerbrown.com

---

Mardi Merjian, Attorney for the Agent  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 455-7283  
Facsimile: (212) 455-2502  
E-Mail: mmerjian@stblaw.com

---

Michael M. Ledyard, Attorney for the Trustee  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, Delaware 19801  
Telephone: (302) 888-6917  
Facsimile: (302) 571-1750  
E-Mail: mledyard@morrisjames.com



LandAmerica  
Attention: William Wineman  
Page 8

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF  
THESE RECORDING INSTRUCTIONS AND AGREES TO  
PROCEED IN STRICT ACCORDANCE THEREWITH.

Dated: October \_\_\_\_, 2008

LANDAMERICA

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

# **EXHIBIT V**

---

**From:** Merjian, Mardi R  
**Sent:** Monday, October 27, 2008 10:49 AM  
**To:** 'Green, Ryan'  
**Subject:** RE: FW: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

it was fine

---

Mardi Merjian  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017

Tel: (212) 455-7283  
Cell: (201) 725-2936  
Fax: (212) 455-2502  
mmerjian@stblaw.com

---

**From:** Green, Ryan [mailto:Ryan.Green@mayerbrown.com]  
**Sent:** Monday, October 27, 2008 10:47 AM  
**To:** Merjian, Mardi R  
**Subject:** RE: FW: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Yes. I will send you a package of documents for signature later today.

Do you have any comments to the draft escrow letter?

Thanks,  
Ryan

---

**From:** Merjian, Mardi R [mailto:mmerjian@stblaw.com]  
**Sent:** Monday, October 27, 2008 9:40 AM  
**To:** Green, Ryan  
**Subject:** FW: FW: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Ryan

Can you send me the docs that the Agent and the Banks have to execute, together with any instructions as to how many we want executed and where they get sent?

Thanks

Mardi



---

Mardi Merjian  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017

Tel: (212) 455-7283  
Cell: (201) 725-2936  
Fax: (212) 455-2502  
mmerjian@stblaw.com

---

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**From:** RICHARD.DUKER@jpmorgan.com [mailto:RICHARD.DUKER@jpmorgan.com]  
**Sent:** Monday, October 27, 2008 8:21 AM  
**To:** Merjian, Mardi R  
**Subject:** Re: FW: GM/JPMorgan Chase - Synthetic Lease (Auto Facilities Real Estate Trust 2001-1)

Any update on where we stand on documentation? I would like to make sure we get docs out to everyone to ensure we are in a position to close by Thursday. Thanks.

---

Richard W. Duker  
Managing Director  
JPMorgan Chase Bank, N.A.  
270 Park Avenue, 4th floor  
New York, NY 10017  
Tel: 212-270-3057  
Fax: 212-270-5127  
richard.duker@jpmorgan.com

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# **EXHIBIT W**

October 29, 2008

VIA E-MAIL

LandAmerica  
1050 Wilshire Dr.  
Suite 310  
Troy, MI 48084  
Attention: William Wineman  
e-mail: WWineman@LANDAM.com

**Re:** Termination of that certain Participation Agreement dated as of October 31, 2001, among General Motors Corporation ("GM"), as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1 ("Trust"), as Lessor, Wilmington Trust Company ("Trustee"), as Trustee, the Persons named therein as Investors, the Persons named therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank ("Agent"), as Administrative Agent, as amended (the "Participation Agreement") and release of all liens related thereto including liens relating to the following properties: (i) the SPO Headquarters Building located in Grand Blanc, Michigan (the "Grand Blanc Property"); (ii) the GM Powertrain L6 Engine Plant in Flint, Michigan (the "Flint Property"); (iii) the Franklin Deck in Detroit, Michigan (the "Franklin Deck"); (iv) the River East Parking Deck in Detroit, Michigan (the "River East Deck"); and (v) Parcel 6/C in Detroit, Michigan ("Parcel 6/C") (the Grand Blanc Property, the Flint Property, the Franklin Deck, the River East Deck and Parcel 6/C herein are each a "Property" and, collectively, the "Properties"). Capitalized terms used but not otherwise defined herein have the respective meanings specified in Annex A to the Participation Agreement.

Greetings:

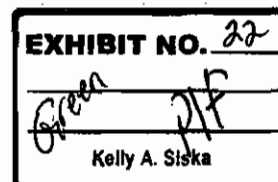
The undersigned attorneys represent GM, the Agent and the Trustee in connection with the above referenced transaction whereby (i) the Participation Agreement and Operative Agreements will be terminated and (ii) the Liens and Lessor Liens will be released. LandAmerica (the "Title Company") has agreed to issue title insurance policies insuring the interests of GM or Riverfront Holdings, Inc. ("RHI") (as applicable) in and to the Properties in connection with (and after giving effect to) the consummation of the Transaction. This letter constitutes escrow and recording instructions in connection with the Transaction.

You have received or will receive four (4) (except as otherwise noted below) final sets of each of the following documents (collectively, the "Escrow Documents"):

**For all of the Properties**

1. Letter of Direction from BTMU Capital Corporation;
2. Termination of UCC Financing Statements (File Numbers 2092532 5, 2092526 7, and 6416808 4) (the "General UCC Terminations");
3. Termination Agreement and Release of Operative Agreements from GM, the Trust, the Agent, and the Participants;
4. IRS Form W-9 from each US Participant;
5. IRS Form W-8BEN from each Non-US Participant;

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6. FIRPTA Affidavit from the Trust;
7. Certificate of Trust from the Trust;
8. Certificate regarding the absence of liens from the Trust, the Agent and the Participants;
9. Closing Statement (Note: this shall be prepared by the Title Company);

**For the Grand Blanc Property:**

10. Quitclaim Deed (the "Grand Blanc Deed") from Trust to GM;
11. Bill of Sale (the "Grand Blanc Bill of Sale") from Trust to GM (only one original shall be delivered);
12. Release of Mortgage (the "Grand Blanc Mortgage Release") from the Agent;
13. Release of Assignment of Leases and Rents (the "Grand Blanc ALR Release") from the Agent;
14. Termination of Short Form Memorandum of Lease (the "Grand Blanc Short Form Termination") between GM and the Trust;
15. Termination of Financing Statements (Instrument Numbers 200408250089800 and 200706010047290) (the "Grand Blanc UCC Terminations");
16. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "Grand Blanc Title Clearance Document") (only one original shall be delivered);

**For the Flint Property:**

17. Quitclaim Deed (the "Flint Deed") from Trust to GM;
18. Bill of Sale (the "Flint Bill of Sale") from Trust to GM (only one original shall be delivered);
19. Release of Mortgage (the "Flint Mortgage Release") from the Agent;
20. Release of Assignment of Leases and Rents (the "Flint ALR Release") from the Agent;
21. Termination of Short Form Memorandum of Lease (the "Flint Short Form Termination") between GM and the Trust;
22. Termination of Memorandum of Ground Lease (the "Flint Ground Lease Termination") between GM and the Trust;
23. Termination of Financing Statements (Instrument Numbers 200408250089802 and 200408250089804) (the "Flint UCC Terminations");
24. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "Flint Title Clearance Document") (only one original shall be delivered);



**For the Franklin Deck:**

25. Quitclaim Deed (the "Franklin Deck Deed") from Trust to RHI;
26. Bill of Sale (the "Franklin Deck Bill of Sale") from Trust to RHI (only one original shall be delivered);
27. Release of Mortgage (the "Franklin Deck Mortgage Release") from the Agent;
28. Release of Assignment of Leases and Rents (the "Franklin Deck ALR Release") from the Agent;
29. Termination of Short Form Memorandum of Lease (the "Franklin Deck Short Form Termination") between GM and the Trust;
30. Termination of Memorandum of Lease (the "Franklin Deck Ground Lease Termination") between RHI and the Trust;
31. Termination of Financing Statements (file number 2007 1919660 and those filed on 5/23/07 at Liber 46328, Pages 567 and 573) (the "Franklin Deck UCC Terminations");
32. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "Franklin Deck Title Clearance Document") (only one original shall be delivered);

**For the River East Deck:**

33. Quitclaim Deed (the "River East Deck Deed") from Trust to RHI;
34. Bill of Sale (the "River East Deck Bill of Sale") from Trust to RHI only one original shall be delivered);
35. Release of Mortgage (the "River East Deck Mortgage Release") from the Agent;
36. Release of Assignment of Leases and Rents (the "River East Deck ALR Release") from the Agent;
37. Termination of Short Form Memorandum of Lease (the "River East Deck Short Form Termination") between GM and the Trust;
38. Termination of Memorandum of Lease (the "River East Deck Ground Lease Termination") between RHI and the Trust;
39. Termination of Financing Statements (filed on 8/27/04 at Liber 41215, Pages 368 and 387) (the "River East Deck UCC Terminations");
40. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "River East Deck Title Clearance Document") (only one original shall be delivered);

**For Parcel 6/C:**

41. Quitclaim Deed (the "Parcel 6/C Deed") from Trust to RHI;
42. Bill of Sale (the "Parcel 6/C Bill of Sale") from Trust to RHI (only one original shall be delivered);
43. Release of Mortgage (the "Parcel 6/C Mortgage Release") from the Agent;
44. Release of Assignment of Leases and Rents (the "Parcel 6/C ALR Release") from the Agent;
45. Termination of Short Form Memorandum of Lease (the "Parcel 6/C Short Form Termination") between GM and the Trust;
46. Termination of Financing Statements (filed on 8/27/04 at Liber 41215, Pages 375 and 381) (the "River East Deck UCC Terminations"); and
47. Statement Required for the Issuance of ALTA Owner's Policies from GM to the Title Company (the "River East Deck Title Clearance Document") (only one original shall be delivered).

When all of the conditions precedent to closing set forth in Section A below have been met, you are instructed to close this transaction and disburse the Funds (as defined below) as directed in Section B below and to release from escrow and deliver, record or to otherwise handle the Escrow Documents in accordance with Section C below.

A. CONDITIONS PRECEDENT.

All of the following conditions must be satisfied prior to disbursing the Funds as described in Section B and closing this transaction:

1. You have received all of the Escrow Documents;

2. The Title Company shall be irrevocably committed to issue, and by the execution of these escrow instructions Title Company does hereby irrevocably commit to issue, Lawyers Title Insurance Corporation 2006 ALTA owner's policies of title insurance (insuring fee owner's estates as to Exhibits A, B and C referenced below (collectively, the "Title Policies"), in connection with the Transaction for the Properties to be dated as of the date and time of the release of any of the Funds (or after recording of the Deeds (if earlier)), and concurrently with the release of any of the Funds shall issue, and otherwise in form identical to the pro forma owner's policies of title insurance (including all endorsements attached thereto) attached hereto as Exhibit A (the "Grand Blanc Owner's Title Policy"), Exhibit B (the "Flint Owner's Title Policy"); and Exhibit C (the "Detroit Owner's Title Policy") (collectively, the "Title Policies").

3. You shall have received, by wire transfer to your account as follows:

Comerica Bank, Detroit, MI  
ABA Number: 0096  
LandAmerica Financial Group, Inc. - NCS  
Account Number: 0431  
Location Number: 00422  
Please reference our file number on all wires: N104090

**REDACTED**

funds in the amounts set forth in that certain Closing Statement (the "Closing Statement") prepared by you and executed by GM as described above (the "Funds").

4. You shall have confirmed that none of the Title Policies shall reflect any delinquent or past due real estate taxes, sewer or water charges, or special assessments.

5. You shall have received written or telephonic confirmation from the undersigned that all other conditions precedent to the closing of this transaction have been satisfied.

**B. DISBURSEMENT OF FUNDS.**

Upon the satisfaction of the conditions precedent set forth in Section A and the issuance of the signed pro forma Title Policies, you are instructed to close this transaction and to disburse the Funds to or at the direction of the undersigned in accordance with these written instructions and in conformity with the Closing Statement.

**C. RECORDING.**

As soon as possible after the release of the Funds pursuant to Section B above, you are instructed to record (or file, as applicable) the documents below (the "**Recording Documents**") with the appropriate recording office in the applicable state in the following order as to each Property:

**For the Grand Blanc Property**

1. The Grand Blanc Mortgage Release;
2. The Grand Blanc ALR Release;
3. The Grand Blanc Short Form Termination;
4. The Grand Blanc Deed;

**For the Flint Property**

5. The Flint Mortgage Release (the Title Company will swap the legal description of the signed originals with the legal description attached to draft Flint Mortgage Release attached as Exhibit D hereto);
6. The Flint ALR Release;
7. The Flint Short Form Termination;
8. The Flint Ground Lease Termination;
9. The Flint Deed;

**For the Franklin Deck**

10. The Franklin Deck Mortgage Release;
11. The Franklin Deck ALR Release;
12. The Franklin Deck Short Form Termination;
13. The Franklin Deck Ground Lease Termination;

14. The Franklin Deck Deed;

**For the River East Deck**

15. The River East Deck Mortgage Release;

16. The River East Deck ALR Release;

17. The River East Deck Short Form Termination;

18. The River East Deck Ground Lease Termination;

19. The River East Deck Deed (the Title Company will swap the first page and legal description of the signed originals with the first page and legal description attached to draft River East Deck Deed attached as Exhibit F hereto);

**For Parcel 6/C**

20. The Parcel 6/C Mortgage Release;

21. The Parcel 6/C ALR Release;

22. The Parcel 6/C Short Form Termination;

23. The Parcel 6/C Deed (the Title Company will swap the first page and legal description of the signed originals with the first page and legal description attached to draft Parcel 6/C Deed attached as Exhibit E hereto);

**D. DELIVERY OF DOCUMENTS.**

Immediately following closing, any extra original documents and copies of all Escrow Documents shall be forwarded to the counsel for GM, except for those documents which have been forwarded to the recorder's office (in which case certified copies of the foregoing shall be forwarded to the counsel for GM).

Promptly after the recording of the Recording Documents, you are instructed to deliver to counsel for GM, at the address below, a conformed copy of each of the Recording Documents, evidencing recordation thereof in accordance with these instructions. In the event that you receive any original recorded document, please forward it to counsel for GM at the address below.

Immediately upon the occurrence of the closing of this transaction and the release of any of the Funds, you are further instructed to give telephonic confirmation thereof to the undersigned Ryan Green at (312)701-8032. If you are unable to comply with these instructions and close this order at or before 4:00 p.m. EST on October 10, 2008, you are to notify the undersigned immediately, and are not to proceed without further written instructions from both of the undersigned.

Send to the undersigned Ryan Green by overnight courier the original executed Title Policies, within 10 days of the date of recordation of the Deeds.

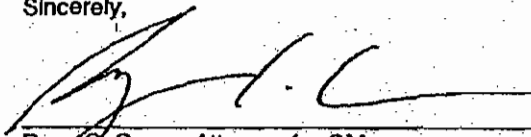
**E. COSTS.**

LandAmerica  
Attention: William Wineman  
Page 7

All costs and expenses for the escrow fees and recording fees, transfer taxes and all other fees, charges and taxes with respect to the closing of this transaction shall be paid as shown on the Closing Statement. The undersigned shall have no responsibility or liability for any such costs or expenses.

Kindly acknowledge your receipt of these instructions, and your agreement to strictly comply with the same, by signing and returning to the undersigned the enclosed copy of this letter. Notwithstanding your failure to sign, and/or deliver a signed copy of, this letter, your act of recording or filing any of the Recording Documents or releasing any of the Funds shall constitute your unconditional agreement to issue the Title Policies pursuant to these instructions and to otherwise strictly comply with these instructions. This letter may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same letter.

Sincerely,



Ryan C. Green, Attorney for GM  
Mayer Brown LLP  
74 S. Wacker Drive  
Chicago, IL 60606  
Telephone: (312) 701-8032  
Facsimile: (312) 706-9268  
E-Mail: ryan.green@mayerbrown.com

Mardi Merjian, Attorney for the Agent  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 455-7283  
Facsimile: (212) 455-2502  
E-Mail: mmerjian@stblaw.com



Michael M. Ledyard, Attorney for the Trustee  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, Delaware 19801  
Telephone: (302) 888-6917  
Facsimile: (302) 571-1750  
E-Mail: mledyard@morrisjames.com

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**From:** Merjian, Mardi R  
**Sent:** Wednesday, October 29, 2008 4:32 PM  
**To:** 'Green, Ryan'; Wineman, William; Ledyard, Michael  
**Subject:** RE: Auto Facilities Real Estate Trust 2001-1

**Attachments:** JPM.pdf



JPM.pdf (43 KB)

signature page attached

---

Mardi Merjian  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017

Tel: (212) 455-7283  
Cell: (201) 725-2936  
Fax: (212) 455-2502  
mmerjian@stblaw.com

---

-----Original Message-----

**From:** Green, Ryan [mailto:Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 29, 2008 4:18 PM  
**To:** Wineman, William; Merjian, Mardi R; Ledyard, Michael  
**Subject:** Auto Facilities Real Estate Trust 2001-1  
**Importance:** High

Attached find the final closing escrow letter with the attachments.  
Please sign the signature page and circulate to the group.

Thanks,  
Ryan

---

Ryan C. Green  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
ryan.green@mayerbrown.com

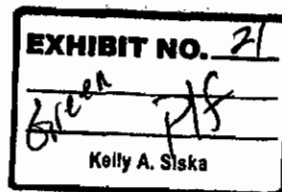
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-----Original Message-----

**From:** xerox@mayerbrown.com [mailto:xerox@mayerbrown.com]  
**Sent:** Wednesday, October 29, 2008 3:19 PM  
**To:** Green, Ryan  
**Subject:** XScan

Please open the attached document. It was scanned and sent to you using a Xerox

1



JPMCB-STB-0000885

WorkCentre Pro.

Sent by: Guest [xerox@mayerbrown.com]

Number of Images: 55

Attachment File Type: PDF

WorkCentre Pro Location: CHI-WAC41-115

Device Name: CHI-WAC41-115-X275

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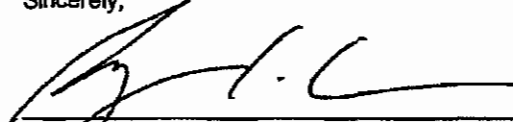
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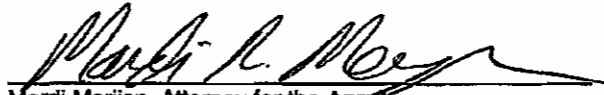
All costs and expenses for the escrow fees and recording fees, transfer taxes and all other fees, charges and taxes with respect to the closing of this transaction shall be paid as shown on the Closing Statement. The undersigned shall have no responsibility or liability for any such costs or expenses.

Kindly acknowledge your receipt of these instructions, and your agreement to strictly comply with the same, by signing and returning to the undersigned the enclosed copy of this letter. Notwithstanding your failure to sign, and/or deliver a signed copy of, this letter, your act of recording or filing any of the Recording Documents or releasing any of the Funds shall constitute your unconditional agreement to issue the Title Policies pursuant to these instructions and to otherwise strictly comply with these instructions. This letter may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same letter.

Sincerely,



Ryan G. Green, Attorney for GM  
Mayer Brown LLP  
77 S. Wacker Drive  
Chicago, IL 60606  
Telephone: (312) 701-8032  
Facsimile: (312) 706-9268  
E-Mail: ryan.green@mayerbrown.com



Mardi Merjian, Attorney for the Agent  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 455-7283  
Facsimile: (212) 455-2502  
E-Mail: mmerjian@stblaw.com

Michael M. Ledyard, Attorney for the Trustee  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, Delaware 19801  
Telephone: (302) 888-6917  
Facsimile: (302) 571-1750  
E-Mail: mledyard@morrisjames.com



---

**From:** Wineman, William [WWineman@LANDAM.com]  
**Sent:** Wednesday, October 29, 2008 5:22 PM  
**To:** Merjian, Mardi R; Green, Ryan; Ledyard, Michael  
**Subject:** RE: Auto Facilities Real Estate Trust 2001-1

**Attachments:** GM-Syn. Lease-Escrow Signature.pdf



GM-Syn.  
Lease-Escrow Signature

LandAmerica signature page attached

-----Original Message-----

**From:** Merjian, Mardi R [mailto:mmerjian@stblaw.com]  
**Sent:** Wednesday, October 29, 2008 4:32 PM  
**To:** Green, Ryan; Wineman, William; Ledyard, Michael  
**Subject:** RE: Auto Facilities Real Estate Trust 2001-1

signature page attached

---

Mardi Merjian  
Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, New York 10017

1: (212) 455-7283  
Cell: (201) 725-2936  
Fax: (212) 455-2502  
mmerjian@stblaw.com

-----Original Message-----

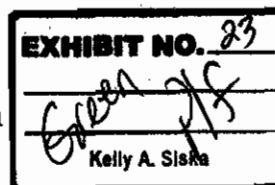
**From:** Green, Ryan [mailto:Ryan.Green@mayerbrown.com]  
**Sent:** Wednesday, October 29, 2008 4:18 PM  
**To:** Wineman, William; Merjian, Mardi R; Ledyard, Michael  
**Subject:** Auto Facilities Real Estate Trust 2001-1  
**Importance:** High

Attached find the final closing escrow letter with the attachments.  
Please sign the signature page and circulate to the group.

Thanks,  
Ryan

---

Ryan C. Green  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, IL 60606  
Tel: 312 701 8032  
Fax: 312 706 9268  
ryan.green@mayerbrown.com



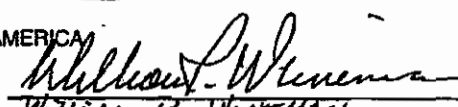
LandAmerica  
Attention: William Wineman  
Page 8

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF  
THESE RECORDING INSTRUCTIONS AND AGREES TO  
PROCEED IN STRICT ACCORDANCE THEREWITH.

Dated: October 29, 2008

LANDAMERICA

By:

  
Name: WILLIAM E. WINEMAN

Title:

Vice President

9193089,3 29-Oct-08 11:39 00652500

JPMCB-STB-00000893

# **EXHIBIT X**

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

DELAWARE DEPARTMENT OF STATE  
 U.C.C. FILING SECTION  
 FILED 07:22 PM 10/30/2008  
 INITIAL FILING # 6416808 4  
 AMENDMENT # 2008 3661491  
 SRV: 081081602

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Bryan Kluever  
 CT  
 208 South LaSalle Street  
 Suite 814  
 Chicago, IL 60604

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE #  
 6416808 4 or 11.30.06

1b. THIS FINANCING STATEMENT AMENDMENT is to be filed for record (or recorded) in the REAL ESTATE RECORDS.

2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

3.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4.  ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c; and also give name of assignor in item 9.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects  Debtor or  Secured Party of record. Check only one of these two boxes. Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Please refer to the detailed instructions (pertains to changing the name/address of a party).  DELETE name: Give record name to be deleted in item 6a or 6b.  ADD name: Complete item 7a or 7b, and also item 7c; also complete items 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME  
 GENERAL MOTORS CORPORATION

OR

6b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR

7b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

7c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

7d. SEE INSTRUCTIONS ADDL INFO RE ORGANIZATION DEBTOR 7e. TYPE OF ORGANIZATION 7f. JURISDICTION OF ORGANIZATION 7g. ORGANIZATIONAL ID #, if any  NONE

8. AMENDMENT (COLLATERAL CHANGE): check only one box. Describe collateral  deleted or  added, or give entire  restated collateral description, or describe collateral  assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME  
 JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

10. OPTIONAL FILER REFERENCE DATA  
 File with DE SOS [Matter No. 00652500] [General-13] [Doc. No. 1457978] 6E-74018460-5 log

FILING OFFICE COPY -- UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

EXHIBIT NO. 5  
 Perloesti  
 Kelly A. Siska

# **EXHIBIT Y**

**Liu, Emmeline S.**

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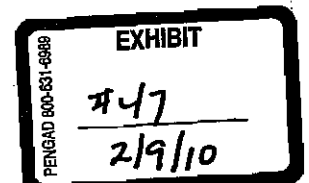
**From:** Scheibe, Robert H.  
**Sent:** Friday, February 13, 2009 4:03 PM  
**To:** 'julie.engell@gm.com'; 'rami.burshstine@weil.com'; 'adil.mistry@gm.com';  
'maurita.sutedja@gm.com'; 'roberto.bel@gm.com'; 'martin.i.darvick@gm.com';  
'richard.ginsburg@weil.com'; 'justin.forlenza@weil.com'  
**Cc:** Kurinskas Ann; David B. Walker; Donald R. Bonson; Geoffrey Kirles  
(geoffrey.kirles@jpmorgan.com); 'Gregory R. Maxon'; Kelley Kevin; Richard Duker; Maria W.  
Blackwell; Toder, Richard S.; Gottfried, Andrew D.; Owens, Christopher A.; Liu, Emmeline S.  
**Subject:** JPM/GM Fee Letter  
**Attachments:** Executed Fee Letter.PDF

I'm attaching a counterpart of the First Amendment Arrangement Fee Letter reflecting execution on behalf of JPMorgan Chase Bank, N.A., J.P. Morgan Securities Inc. and General Motors Corporation.

Regards,

Bob

**Robert H. Schelbe**  
Morgan, Lewis & Bockius LLP  
101 Park Avenue | New York, NY 10178-0660  
Direct: 212.309.6083 | Main: 212.309.6000 | Fax: 212.309.6001  
www.morganlewis.com  
Assistant: Brenda S. Mevorah | 212.309.6619 | bmevorah@morganlewis.com



**JPMORGAN CHASE BANK, N.A.**  
270 Park Avenue  
New York, New York 10017

**J.P. MORGAN SECURITIES INC.**  
270 Park Avenue  
New York, New York 10017

As of February 13, 2009

General Motors Corporation  
767 Fifth Avenue  
New York, NY 10153  
Attn: Treasurer

Office of the Secretary  
General Motors Corporation  
300 Renaissance Center  
Detroit, MI 48265-3000

First Amendment Arrangement Fee Letter

Ladies and Gentlemen:

We refer to (i) the Term Loan Agreement, dated as of November 29, 2006 (as in effect on the date hereof, the "Loan Agreement"), among General Motors Corporation (the "Company"), Saturn Corporation (the "Guarantor"), the lenders from time to time party thereto (the "Lenders") and JPMorgan Chase Bank, N.A. ("JPMCB"), as administrative agent for the Lenders, and (ii) the proposed First Amendment and Consent (the "Proposed Amendment") to the Loan Agreement dated as of the date hereof. Except to the extent otherwise provided herein, all capitalized terms used herein that are defined in the Loan Agreement shall have the same meanings herein.

As consideration for the agreement of JPMCB and J.P. Morgan Securities Inc. ("JPMSI") to arrange the Proposed Amendment, the Company hereby agrees to pay to JPMCB for its own account an arrangement fee equal to \$6,000,000 (the "Arrangement Fee"). The Arrangement Fee shall be earned, due and paid to JPMCB upon the occurrence of the Effective Date as described in the Proposed Amendment and as a condition to such occurrence as set forth in Paragraph 10(B) thereof.

You hereby agree that, once paid, the Arrangement Fee shall not be refundable under any circumstances.

DB1/K23846024

JPMCB-MLB-0000491

This First Amendment Arrangement Fee Letter shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to the conflicts of laws principles thereof.

To the extent permitted by applicable law, you and JPMCB and JPMSI irrevocably agree to waive trial by jury in any suit, action, proceeding, claim or counterclaim brought by or on behalf of any party related to or arising out of this First Amendment Arrangement Fee Letter or the transactions contemplated hereby.

This First Amendment Arrangement Fee Letter may be executed in any number of counterparts, each of which shall be an original and all of which, when taken together, shall constitute one original. A fax or .pdf copy of a counterpart signature page shall serve as the functional equivalent of a manually executed copy for all purposes.

**[Signature Pages Follow]**



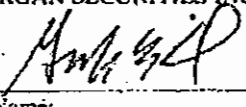
If the foregoing correctly sets forth our agreement, please indicate your acceptance of the terms hereof by signing in the appropriate space below and returning to us the executed duplicate of this First Amendment Arrangement Fee Letter.

Very truly yours,

JPMORGAN CHASE BANK, N.A.

By:   
Name: RICHARD W. DUKER  
Title: MANAGING DIRECTOR

J.P. MORGAN SECURITIES INC.

By:   
Name: Geoffrey Kirtles  
Title: Vice President

Accepted and agreed to as of  
the date first above written:

GENERAL MOTORS CORPORATION

By:

Name  
Title

Amstutz  
ADL - MUSTAY  
ASST. TREASURER

DB1/625846024

JPMCB-MLB-0000494

# **EXHIBIT Z**

**From:** solomon.n.raj@jpmchase.com  
**Sent:** Sunday, May 10, 2009 11:24 PM  
**To:** shwetha.x.r@jpmorgan.com; veena.x.korru@jpmorgan.com  
**Cc:** RICHARD.DUKER@jpmorgan.com  
**Subject:** RE: GM Term Loan

---

Shwetha/Veena, please search for the UCC filings and send it to Rick,

Regards, Solomon Raj - 91-080-41760151

Richard W. Duker/JPMCHASE

Richard W.  
Duker/JPMCHASE

05/08/2009 05:23 PM

To: IB DOX Collateral Report, Elizabeth Rarich/JPMCHASE  
cc: Solomon N Raj/JPMCHASE, Priyadarshini X Pattabiraman/JPMCHASE, Suhel  
X Inamdar/JPMCHASE, Sylvia X Godinho/JPMCHASE  
Subject: RE: GM Term Loan

This appears to be the collateral for a GM revolver that has been cancelled. I am looking for the collateral summary, copies of UCC filings, etc. for the \$1.5bn GM Term Loan. Thanks

**From:** Shwetha X R On Behalf Of IB DOX Collateral Report  
**Sent:** Friday, May 08, 2009 5:12 AM  
**To:** Elizabeth Rarich; Richard W. Duker  
**Cc:** Solomon N Raj; Priyadarshini X Pattabiraman; Suhel X Inamdar; Sylvia X Godinho  
**Subject:** Fw: GM Term Loan

Hi,

Please find below attached Collateral Report for UCN 005356613-000.

(See attached file: DOX Collateral Report 005356613-000 .xls)

Please revert for any clarifications or suggestions.

Regards,  
Shwetha Ramesh

Beth Rarich Documentation Management Unit/ IB Negotiable Collateral - Tel 713-750-3757 Fax 713-427-6408

Beth Rarich Documentation Management Unit/ IB Negotiable Collateral - Tel 713-750-3757 Fax 713-427-6408

Elizabeth  
Rarich/JPMCHASE

05/07/2009 08:57  
PM

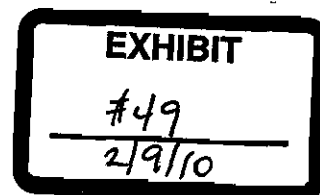
To  
IB DOX Collateral Report@JPMCHASE  
cc  
Richard W. Duker/JPMCHASE@JPMCHASE1  
Subject  
Fw: GM Term Loan

Team,

Please send a collateral listing to Mr. Duker.

Thank you,

Beth



----- Forwarded by Elizabeth Rarich/JPMCHASE on 05/07/2009 10:24 AM -----

<TCP\_CORPORATES@JPMORGAN.COM>

05/06/2009 03:19 PM  
Please respond to TCP\_Corporates

To:  
lienperfection.bangalore@jpmorgan.com,  
ib.collateral.services@jpmchase.com,  
richard.duker@jpmorgan.com  
cc:  
Subject: RE: GM Term Loan.

Rick  
For collateral, you need to send an email to: IB Collateral Services  
and for UCCs: LienPerfection Bangalore

GENERAL MOTORS CORPORATION  
UCN 005356613-000  
LIQ Tracking # ML782P83

I have cc'd them on this email.  
Teams: Please see Rick's request and send him the information he needs.

Vince

---

From: RICHARD.DUKER@JPMORGAN.COM  
Date: 05/06/09 19:28:36  
To: tcp\_corporates@jpmchase.com  
CC:  
BCC:  
Subject: GM Term Loan

Can we get a summary of legal/collateral documentation including details on all UCC filings?

---

Richard W. Duker  
Managing Director  
JPMorgan Chase Bank, N.A.  
270 Park Avenue, 4th floor  
New York, NY 10017  
Tel: 212-270-3057  
Fax: 212-270-5127  
richard.duker@jpmorgan.com

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# **EXHIBIT AA**

**From:** Silva, Ann B. <asilva@morganlewis.com> on behalf of Toder, Richard S. <rtoder@morganlewis.com>  
**Sent:** Wednesday, June 17, 2009 2:14 PM  
**To:** fbomchill@mayerbrown.com  
**Cc:** Toder, Richard S. <rtoder@morganlewis.com>; Gottfried, Andrew D. <agottfried@morganlewis.com>  
**Subject:** GM  
**Attach:** (63126380)\_ (2)\_ Robert Gordon affidavit – No. 2.doc;exhs001.pdf

---

Message from Richard Toder  
and Andy Gottfried:

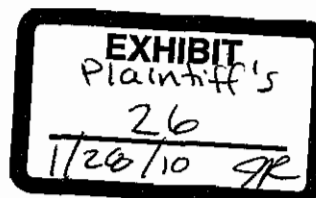
Fern – Attached for your review is a proposed Affidavit, together with exhibits, relating to the termination of the Term Loan Financing Statement. As you know, we are very eager to be in a position for this to be executed and sent to the appropriate parties.

Please call either of us if you have any questions.

Morgan, Lewis & Bockius LLP  
101 Park Avenue | New York, NY 10178-0600  
Main: 212.309.6000 | Fax: 212.309.6001  
www.morganlewis.com

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JPMCB - 00000112

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
In re

Chapter 11  
Case No. 09-50026 (REG)

GENERAL MOTORS CORPORATION, et al.,

Debtors.  
-----x

STATE OF ILLINOIS )

: ss.

COUNTY OF COOK )

Robert E. Gordon, being duly sworn, deposes and says:

1. I am a partner in the law firm Mayer Brown LLP ("Mayer Brown"). My practice concentrates in securitization transactions.
2. Mayer Brown represented General Motors Corporation ("GM") in a synthetic lease transaction (the "Transaction") in 2001. I was responsible for the Transaction at Mayer Brown. That Transaction was set forth in a Participation Agreement dated October 31, 2001, among GM, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons name therein as Backup Facility Banks, Relationship Funding Company, LLC, and JPMorgan Chase Bank, as Administrative Agent.
3. The Transaction financed GM's acquisition of certain real property.
4. In accordance with the Transaction, a UCC-1 financing statement was filed with the Secretary of State of Delaware listing GM as debtor and JPMorgan Chase Bank, as Administrative Agent, as secured party. A copy of this UCC-1 financing statement is attached as Exhibit A.



5. On October 30, 2008, GM paid all amounts due under the Transaction and exercised the purchase option provided for therein. As part of the termination of the Transaction, the parties executed a Termination Agreement and Release of Operative Agreements dated October 30, 2008 (the "Termination Agreement"). A copy of the Termination Agreement is attached as Exhibit B.

6. Pursuant to the Termination Agreement, GM was authorized "... to file a termination of any existing Financing Statement relating to the Properties" that were financed in the Transaction.

7. In accordance with the authority given to GM in the Termination Agreement, Mayer Brown, as counsel to GM, caused a UCC termination statement to be filed with respect to the financing statement filed for the Transaction. A copy of this termination statement is attached as Exhibit C.

8. Unfortunately, unbeknownst to me, the paralegal tasked with filing the termination statement referred to above, also caused a termination statement to be filed with respect to a UCC-1 financing statement that was entirely unrelated to the Transaction. A copy of this UCC termination statement is attached as Exhibit D.

9. Apparently, the paralegal determined that there was another UCC-1 financing statement filed in Delaware that listed GM as debtor and JPMorgan Chase Bank, N.A., as secured party. A review of this financing statement, attached as Exhibit E, would have shown that it did not relate to the Transaction. The paralegal unfortunately terminated this financing statement without my direction and without authority.

10. Mayer Brown has never represented GM (or any other party) with respect to a Term Loan Agreement among GM and others and JPMorgan Chase Bank, N.A., as

Administrative Agent, dated November 29, 2006. Accordingly, Mayer Brown was not authorized to terminate any financing statement related to the Term Loan Agreement.

---

Robert E. Gordon

Sworn to before me this  
\_\_\_\_\_ day of June, 2009

---

Notary Public

# **EXHIBIT BB**

---

**From:** Bomchill, Fern C. [FBomchill@mayerbrown.com]  
**Sent:** Thursday, June 18, 2009 3:06 PM  
**To:** Toder, Richard S.  
**Subject:** FW: Affidavit of Bob Gordon, v. 2  
**Attachments:** Affidavit of Bob Gordon, v. 2.DOC

Attached is the draft affidavit with a few revisions that we think are appropriate. Because you indicated yesterday that you did not believe that the background of how the mistake occurred is relevant at this time, we did not add those details to the affidavit. I will be around the rest of the day and tomorrow to address any questions you may have. Please let me know if you wish Bob to proceed to execute the affidavit

---

**From:** Sylve, Frances  
**Sent:** Thursday, June 18, 2009 11:56 AM  
**To:** Bomchill, Fern C.  
**Subject:** Affidavit of Bob Gordon, v. 2

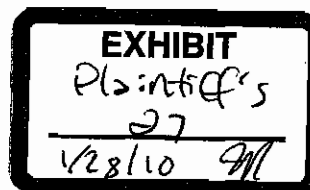
<<Affidavit of Bob Gordon, v. 2.DOC>>

**Frances C. Sylve**  
**Mayer Brown LLP**  
**71 South Wacker Drive**  
**Chicago, Illinois 60606**  
**312-701-7542**

---

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

GENERAL MOTORS CORPORATION, et al.,

Debtors.

Chapter 11  
Case No. 09-50026 (REG)

STATE OF ILLINOIS        )  
                                  : ss.  
COUNTY OF COOK         )

Robert E. Gordon, being duly sworn, deposes and says:

1. I am a partner in the law firm Mayer Brown LLP ("Mayer Brown"). My practice concentrates in real estate and lease finance transactions.

2. Mayer Brown represented General Motors Corporation ("GM") in a synthetic lease transaction (the "Transaction") in 2001. I was responsible for the Transaction at Mayer Brown. That Transaction was set forth in a Participation Agreement dated October 31, 2001, among GM, as Lessee and Construction Agent, Auto Facilities Real Estate Trust 2001-1, as Lessor, Wilmington Trust Company, as Trustee, the Persons named therein as Investors, the Persons name therein as Backup Facility Banks, Relationship Funding Company, LLC, and The Chase Manhattan Bank (now know as JPMorgan Chase Bank), as Administrative Agent.

3. The Transaction financed GM's acquisition of certain real property (the "Properties").

4. In accordance with the Transaction, UCC financing statements were filed, including a UCC-1 financing statement filed with the Secretary of State of Delaware listing GM as debtor and JPMorgan Chase Bank, as Administrative Agent, as secured party. A copy of this

UCC-1 financing statement filed in Delaware listing GM as debtor (the "GM Lease Financing Statement") is attached as Exhibit A.

5. On October 30, 2008, GM paid all outstanding amounts due under the Transaction and exercised the purchase option provided for therein. As part of the termination of the Transaction, the parties executed a Termination Agreement and Release of Operative Agreements dated October 30, 2008 (the "Termination Agreement"). A copy of the Termination Agreement is attached as Exhibit B.

6. Pursuant to the Termination Agreement, GM was "authorize[d] . . . to file a termination of any existing Financing Statement relating to the Properties" that were financed in the Transaction. See Exhibit B.

7. In accordance with the authority given to GM in the Termination Agreement, Mayer Brown, as counsel to GM, caused a UCC termination statement to be filed with respect to the GM Lease Financing Statement filed for the Transaction. A copy of this termination statement is attached as Exhibit C.

8. Unbeknownst to me, the paralegal tasked with filing the termination statement for the GM Leasing Financing Statement referred to above also caused a termination statement to be filed with respect to a UCC-1 financing statement that is entirely unrelated to the Transaction or the Properties (the "Unrelated Financing Statement"). A copy of this UCC termination statement (the "Unrelated Termination Statement") is attached as Exhibit D.

9. The Unrelated Financing Statement, attached as Exhibit E, lists GM as debtor and JPMorgan Chase Bank, N.A., as secured party, but the terms of the financing statement demonstrate that it relates to collateral pledged under a November 29, 2006 term loan agreement (the "Term Loan Agreement") and did not relate to the Transaction or the Properties.

Mayer Brown has never represented GM with respect to the Term Loan Agreement among GM and others and JPMorgan Chase Bank, N.A., as Administrative Agent.

10. GM was not authorized by the Termination Agreement to terminate any financing statement related to the Term Loan Agreement.

\_\_\_\_\_  
Robert E. Gordon

Sworn to before me this  
\_\_\_\_\_ day of June, 2009

\_\_\_\_\_  
Notary Public

# **EXHIBIT CC**



---

**From:** Bomchill, Fern C. [FBomchill@mayerbrown.com]  
**Sent:** Monday, June 29, 2009 7:33 AM  
**To:** Toder, Richard S.  
**Subject:** Re: GM

Thanks

---

**From:** Toder, Richard S.  
**To:** Bomchill, Fern C.  
**Cc:** Gottfried, Andrew D.  
**Sent:** Mon Jun 29 06:48:58 2009  
**Subject:** GM

Just wanted to give you an update. Last Thurs. the Court approved the repayment of the Term and Revolver Lenders three business days after the entry of the DIP order (should be tomorrow) subject to the Creditors Committee's right to investigate and challenge perfection of liens by July 31st. A copy of the Gordon Affidavit was given to counsel for the Committee, Debtors and the US Treasury.

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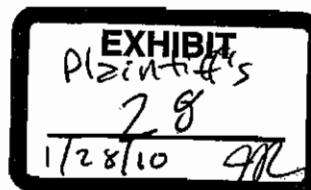
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# **EXHIBIT DD**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
::  
In re: :: Chapter 11  
:: Case No. 09-50026 (REG)  
General Motors Corporation, *et al.*, ::  
:: (Jointly Administered)  
Debtors. ::  
----- X

**FINAL ORDER PURSUANT TO BANKRUPTCY  
CODE SECTIONS 105(a), 361, 362, 363, 364 AND 507 AND BANKRUPTCY  
RULES 2002, 4001 AND 6004 (A) APPROVING A DIP CREDIT FACILITY  
AND AUTHORIZING THE DEBTORS TO OBTAIN POST-PETITION FINANCING  
PURSUANT THERETO, (B) GRANTING RELATED LIENS AND SUPER-PRIORITY  
STATUS, (C) AUTHORIZING THE USE OF CASH COLLATERAL AND (D)  
GRANTING ADEQUATE PROTECTION TO CERTAIN  
PRE-PETITION SECURED PARTIES**

THIS MATTER having come before this Court by the motion dated June 1, 2009 (the “**Motion**”) of General Motors Corporation (“**GM**”) and its affiliated debtors in the above-captioned cases, as debtors and debtors-in-possession (collectively with GM, the “**Debtors**”),<sup>1</sup> seeking, among other things, entry of a final order (the “**Final Order**”):

(i) Authorizing the Debtors, pursuant to sections 105, 362, 363 and 364 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 4001 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 4001 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Bankruptcy Rules**”), to enter into the Secured Superpriority Debtor-in-Possession Credit Agreement, by and among GM, as borrower, and The United States Department of the Treasury (“**U.S. Treasury**”) and Export Development Canada (“**EDC**”), as lenders

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<sup>1</sup> The Debtors in these cases include: GM, Saturn, LLC, Saturn Distribution Corporation, and Chevrolet-Saturn of Harlem, Inc.

(together, the “**DIP Lenders**”), in substantially the form annexed hereto as Exhibit 1 (as the same may be amended, supplemented, restated or otherwise modified from time to time, and together with all related agreements and documents, the “**DIP Credit Facility**”), and to obtain post-petition financing on a secured and super-priority basis pursuant to the terms and conditions thereof, up to a maximum aggregate amount of \$33.3 billion (the “**Commitment**”);

(ii) Authorizing the Debtors to execute and deliver the DIP Credit Facility and to perform such other acts as may be reasonably necessary or desirable in order to give effect to the provisions of the DIP Credit Facility, including the unconditional, joint and several guaranty of the obligations of GM under the DIP Credit Facility by each other Debtor (each, a “**Guarantor**”, and collectively, the “**Guarantors**”);

(iii) Providing, pursuant to sections 364(c)(1) and 507(b) of the Bankruptcy Code, that all obligations owing to the DIP Lenders under the DIP Credit Facility shall be accorded administrative expense status in each of these cases, and shall, subject only to the Carve-Out (as defined below), have priority over any and all other administrative expenses arising in these cases; provided, however, that subsequent to the closing of the Related Section 363 Transactions (as defined in the DIP Credit Facility), claims against the Debtors’ estates that have priority under Sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions (the “**Old GM Administrative and Priority Claims**”) shall have priority over such obligations (up to the aggregate amount of \$950,000,000; provided, however, that any greater amount shall

be subject to approval by the DIP Lenders) owing to the DIP Lenders under the DIP Credit Facility; and

(iv) Granting the DIP Lenders security interests in and liens on (the “**DIP Liens**”) all property and assets of each of the Debtors, of every kind or type whatsoever, including tangible, intangible, real, personal or mixed, whether now owned or hereafter acquired or arising, wherever located, all property of the estates of each of the Debtors within the meaning of section 541 of the Bankruptcy Code and all proceeds, rents and products of the foregoing, (including all avoidance actions arising under chapter 5 of the Bankruptcy Code and applicable state law except avoidance actions against the Petition Senior Facilities Secured Parties (as defined below)) with the exception of (a) any stocks, warrants, options or other equity interests issued to or held by any Debtor pursuant to the Related Section 363 Transactions (the “**New GM Equity Interests**”), (b) any leasehold interest of the Debtors in (i) the real property located at and commonly known as 301 Freedom Drive, City of Roanoke, Denton County, Texas or (ii) the real property located at and commonly known as 475 Brannan Street, City and County of San Francisco, California; and (c) certain Excluded Collateral (as defined in the DIP Credit Facility) (collectively, “**Property**”) as follows:

(A) pursuant to section 364(c)(2) of the Bankruptcy Code, valid, perfected, first-priority security interests in and liens on all Property that is not subject to non-avoidable, valid and perfected liens in existence as of the Petition Date (as defined herein) (or to non-avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code), in each case subject

only to (1) the Permitted Liens (as defined in the DIP Credit Facility), (2) the Carve-Out, (3) the adequate protection liens granted in connection with the Prepetition Revolving Credit Agreement pursuant to paragraph 6(b)(1)(x) of the Interim Order (the “**Prepetition Revolving Credit Agreement Order**”) Under 11 U.S.C. §§ 105, 361, 362, 363 and FED. R. BANKR. P. 2002, 4001 And 9014 (I) Authorizing Debtors to Use Cash Collateral, (II) Granting Adequate Protection to Prepetition Revolver Secured Parties and (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(B) (the “**Prepetition Revolving Credit Agreement Adequate Protection Liens**”), and (4) the adequate protection liens granted in connection with the Prepetition Term Loan Agreement pursuant to paragraph 5(b)(i) of the Interim Order (the “**Prepetition Term Loan Facility Order**”, and together with the Prepetition Revolving Credit Agreement Order, the “**Prepetition Revolving And Term Loan Orders**”) Under 11 U.S.C. §§ 105, 361, 362, 363 and FED. R. BANKR. P. 2002, 4001 and 9014 (I) Granting Adequate Protection to Term Loan Secured Parties and (II) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(B) (the “**Prepetition Term Loan Adequate Protection Liens**”, and together with the Prepetition Revolving Credit Agreement Adequate Protection Liens, the “**Prepetition Revolving And Term Adequate Protection Liens**”);

- (B) pursuant to section 364(c)(3) of the Bankruptcy Code, valid, perfected junior security interests in and liens on all Property that is subject to non-

avoidable, valid and perfected liens in existence as of the Petition Date, or to non-avoidable valid liens in existence as of the Petition Date that are subsequently perfected as permitted by section 546(b) of the Bankruptcy Code, subject only to the Carve-Out; and

(C) nothing in this Final Order, the Interim Order or the DIP Credit Facility shall in any way be construed to authorize or permit the DIP Lenders to seek recourse against the New GM Equity Interests at any time.

(v) Authorizing the application of a portion of the proceeds of the DIP Credit Facility toward payment in full of all principal, interest, letter of credit reimbursement obligations (including obligations to cash collateralize undrawn letters of credit) and other amounts due or outstanding under (A) that certain Term Loan Agreement, dated as of November 29, 2006, among GM, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent, and the lenders party thereto from time to time (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the “**Prepetition Term Loan Agreement**”) secured by a first-priority lien on certain Property (the “**Prepetition Term Loan Collateral**”), (B) that certain Amended and Restated Credit Agreement, dated as of July 20, 2006, among GM, General Motors of Canada, Limited (“**GMCL**”), Saturn Corporation, Citicorp USA, Inc., as administrative agent, and the lenders party thereto from time to time (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the “**Prepetition Revolving Credit Agreement**”) secured by a first-priority lien on certain Property (the “**Prepetition Revolving Credit Agreement Collateral**”), and (C) that certain Loan and

Security Agreement, dated as of October 2, 2006, among GM and Gelco Corporation (d/b/a GE Fleet Services) (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the “**Prepetition Gelco Loan Agreement**”, and together with the Prepetition Term Loan Agreement and the Prepetition Revolving Credit Agreement, the “**Prepetition Senior Facilities**”) secured by a first-priority lien on certain Property (the “**Prepetition Gelco Loan Agreement Collateral**”, and together with the Prepetition Term Loan Collateral and the Prepetition Revolving Credit Agreement Collateral, the “**Prepetition Senior Facilities Collateral**”);

(vi) Authorizing the Debtors to use cash collateral of the Existing UST Secured Parties (as defined below) (the “**Cash Collateral**”);

(vii) Granting to the Existing UST Secured Parties (as defined below), as adequate protection for the potential diminution in value of their respective liens on and security interests in Property, (A) a claim as contemplated by section 507(b) of the Bankruptcy Code (the “**Adequate Protection Claim**”), which Adequate Protection Claim shall have a priority immediately junior to the Super-priority Claim (as defined below) and pari passu with the super-priority claims granted under the Prepetition Revolving And Term Loan Orders, (B) liens on and security interests in the Property (the “**Adequate Protection Liens**”), only to the extent of and on account of any diminution in the value of the Existing UST Secured Parties’ interests in the Debtors’ interests in the Property on and after the Petition Date, which Adequate Protection Liens shall have a priority immediately junior to the DIP Liens on the Property, and (C) reimbursement by the Debtors of all reasonable expenses incurred in the course of these



chapter 11 cases by the Existing UST Secured Parties and their respective professional advisors and counsel. “**Existing UST Secured Parties**” shall mean the secured parties under (1) that certain Loan and Security Agreement, dated as of December 31, 2008, by and between GM and the U.S. Treasury (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the “**TARP Loan Agreement**”) and (2) that certain Credit Agreement, dated as of April 2, 2009, by and between GM Supplier Receivables LLC and the U.S. Treasury (as may be amended, restated, supplemented or otherwise revised from time to time, and together with all related agreements and documents, the “**Supplier Receivables Facility**”, and together with the TARP Loan Agreement, the “**Existing UST Loan Agreements**”). For the avoidance of doubt, the Adequate Protection Liens shall be pari passu with any adequate protection liens granted under the Prepetition Revolving And Term Loan Orders except the Prepetition Revolving And Term Adequate Protection Liens as detailed in paragraph (iv)(A) above;

(viii) Authorizing and directing the Debtors to pay, without further order of this Court, the principal, interest, reasonable fees, expenses and other amounts (including the Additional Notes (as defined in the DIP Credit Facility)) payable to the DIP Lenders and their professional advisors and counsel under the DIP Credit Facility, as the same become due, including all reasonable expenses incurred in the course of these chapter 11 cases by the DIP Lenders and their professional advisors and counsel, all as and to the extent provided in the DIP Credit Facility; provided, that copies of the invoices for reimbursement by the Debtors of such expenses and fees (if any) are to be provided to

the Committee, any other statutory committee appointed in the Debtors' chapter 11 cases, and the United States Trustee on a confidential basis; and

(ix) Vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Credit Facility and this Final Order.

This Court having considered the Motion, the DIP Credit Facility, the pleadings in support thereof and the pleadings in response thereto; and due and proper notice of the Motion having been provided in accordance with Bankruptcy Rules 2002, 4001, and 6004, and Local Bankruptcy Rule 4001 as reflected in the Affidavit of Service (Docket No. 134) filed with the Court on June 1, 2009; and a hearing pursuant to Bankruptcy Rule 4001(c)(2) having been held and concluded on June 1, 2009 (the "**Interim Hearing**") to consider the interim relief requested in the Motion; and the Court having entered an order granting the interim relief requested in the Motion (the "**Interim Order**"); and the Court having held a final hearing with respect to the Motion on June 25, 2009 (the "**Final Hearing**"); and it appearing that granting the relief requested in the Motion is appropriate, fair and reasonable and in the best interests of the Debtors, their estates, creditors and other parties in interest, and is essential for the Debtors' continued operations; and all objections to the relief requested in the Motion having been withdrawn, resolved or overruled on the merits by this Court; and upon consideration of the evidence presented, proffered or adduced at the Interim Hearing, the Final Hearing and in the Affidavit of Frederick A. Henderson, which was filed pursuant to Local Bankruptcy Rule 1007-2 on the Petition Date, the Declaration of William C. Repko in Support of Debtors' Proposed Debtor in Possession Financing Facility, the Statement of the United States of America Upon The Commencement Of General Motors Corporation's Chapter 11 Case [Docket No. 37] and

any other evidence presented at the Interim Hearing and the Final Hearing; and upon the record of the Interim Hearing and the Final Hearing; and upon the arguments of counsel; and after due deliberation and consideration and good and sufficient cause appearing therefor:

**BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING AND THE FINAL HEARING, THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

A. On June 1, 2009 (the “**Petition Date**”), the Debtors each filed a voluntary petition under chapter 11 of the Bankruptcy Code in this Court, commencing these cases. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases; the United States Trustee appointed the Official Committee of Unsecured Creditors (the “**Committee**”) on June 3, 2009.

B. **Jurisdiction and Venue.** This Court has jurisdiction over these proceedings, and over the property affected hereby, pursuant to 28 U.S.C. §§ 157(b) and 1334. Consideration of the Motion constitutes a core proceeding as defined in and pursuant to 28 U.S.C. § 157(b)(2). Venue for these cases and for the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Need for Post-petition Financing.** The Debtors have demonstrated a need for immediate and continuing access to post-petition financing pursuant to sections 363 and 364 of the Bankruptcy Code and Bankruptcy Rule 4001(c)(2). In the absence of this access, the Debtors will be unable to continue operating their business, causing immediate and irreparable loss or damage the Debtors’ estates, to the detriment of the Debtors, their estates, their creditors and other parties in interest in these cases. The Debtors do not have sufficient unrestricted cash

and other financing available to operate their businesses, maintain the estates' properties, and administer these cases absent the relief provided in this Final Order.

D. No Credit Available on More Favorable Terms. Given the Debtors' current financial condition, available assets and current and projected liabilities, as well as current conditions in the automotive and credit markets, the Debtors are unable to obtain financing from any other lender on terms more favorable than those provided by the DIP Lenders in the DIP Credit Facility. Other than pursuant to the DIP Credit Facility, the Debtors have been unable to obtain credit that either (i) was allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense, (ii) would have priority over all other administrative expenses specified in sections 503(b) and 507(b) of the Bankruptcy Code, (iii) would be secured solely by a lien on property of the Debtors' estates that is not otherwise subject to a lien, or (iv) would be secured only by a junior lien on property of the Debtors' estates that is subject to a lien.

E. Good Faith of DIP Lenders. The Debtors chose the DIP Lenders as post-petition lenders in good faith and after obtaining the advice of experienced counsel and other professionals. The Debtors and the DIP Lenders proposed and negotiated the terms and provisions of the DIP Credit Facility, the Interim Order and this Final Order in good faith, at arm's length, without collusion and with the intention that all obligations owed under the DIP Credit Facility would be valid claims accorded the priority and secured by the liens set forth herein. The loans and extensions of credit authorized in the Interim Order and this Final Order are supported by reasonably equivalent value and fair consideration and the terms and provisions of the DIP Credit Facility, the Interim Order and this Final Order are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties.

Any credit extended, loans made, or funds advanced to the Debtors pursuant to this Final Order, the Interim Order or the DIP Credit Facility is deemed to be so extended, made or permitted to be used in good faith by the DIP Lenders as required by and within the meaning of section 364(e) of the Bankruptcy Code. As good faith lenders, the DIP Lenders' claims, super-priority status, security interests and liens and other protections arising from or granted pursuant to this Final Order and the DIP Credit Facility will not be affected by any subsequent reversal, modification, vacatur or amendment of this Final Order or any other order, as provided in section 364(e) of the Bankruptcy Code.

F. Authority for the DIP Credit Facility. The U.S. Treasury has extended credit to, and acquired a security interest in, the Debtors as set forth in the DIP Credit Facility and as authorized by the Interim Order and this Final Order. Before entering into the DIP Credit Facility, the Secretary of the Treasury, in consultation with the Chairman of the Board of Governors of the Federal Reserve System and as communicated to the appropriate committees of Congress, found that the extension of credit to the Debtors is "necessary to promote financial market stability," and is a valid use of funds pursuant to the statutory authority granted to the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008, 12 U.S.C. §§ 5201 et. seq. ("EESA"). The U.S. Treasury's extension of credit to, and resulting security interest in, the Debtors as set forth in the DIP Credit Facility and as authorized in the Interim Order and this Final Order is a valid use of funds pursuant to EESA.

G. Waiver. Upon entry of this Final Order, each of the Debtors hereby forever releases, waives and discharges the Existing UST Secured Parties and DIP Lenders, together with their respective officers, directors, employees, agents, attorneys, professionals, affiliates, subsidiaries, assigns and/or successors (collectively, the "Released Parties") from any

and all claims and causes of action arising out of, based upon or related to, in whole or in part, (i) the Existing UST Loan Agreements, (ii) any aspect of the prepetition relationship, or any prepetition transaction, between any Debtor, on the one hand, and any Released Party, on the other hand, or (iii) any acts or omissions by any or all of the Released Parties in connection with any prepetition relationship or transaction with any Debtor or any affiliate thereof including, without limitation, any claims or defenses as to the extent, validity, characterization, priority or perfection of the liens and security interests granted to any Existing UST Secured Parties pursuant to the Existing UST Loan Agreements, “lender liability” and similar claims and causes of action, any actions, claims or defenses arising under chapter 5 of the Bankruptcy Code or any other claims or causes of action. The waivers described in this paragraph were binding on the Debtors immediately upon entry of the Interim Order, and shall be binding upon the Committee or any other statutory committee and all other parties in interest sixty (60) days after entry of this Final Order if, prior to the expiration of such sixty (60) day period, the Committee or other party in interest has not commenced, or filed a motion with this Court for authority to commence, a proceeding asserting a claim or cause of action waived under this paragraph.

H. Notice. Due and proper notice of the Motion, the DIP Credit Facility, and the time and location of the Final Hearing has been provided in accordance with the Interim Order. Such notice was adequate and sufficient, and no other or further notice need be provided.

**BASED UPON THE FOREGOING FINDINGS AND CONCLUSIONS,  
AND UPON THE MOTION AND THE RECORD MADE BEFORE THIS  
COURT AT THE INTERIM HEARING AND THE FINAL HEARING,  
AND GOOD AND SUFFICIENT CAUSE APPEARING THEREFOR, IT IS  
HEREBY ORDERED THAT:**

1. The Motion is granted to the extent provided in this Final Order. All objections to the Motion heretofore not withdrawn or resolved by the Final Order are overruled

on the merits in all respects. The Debtors are authorized, pursuant to section 364(c) of the Bankruptcy Code, to obtain post-petition financing on a final basis up to the maximum aggregate amount of the Commitment, on a super-priority and secured basis, pursuant and subject to the terms and conditions of the DIP Credit Facility and this Final Order including, without limitation, the Initial Budget (as defined in the DIP Credit Facility) and the DIP Credit Facility is approved in all respects.

2. The Debtors are hereby authorized to (A) enter into the DIP Credit Facility and are authorized and directed to perform all obligations under the DIP Credit Facility and this Final Order, including paying the principal, interest, fees, expenses, and other amounts (including the Additional Notes) due to the DIP Lenders and their professional advisors and counsel pursuant to the DIP Credit Facility or this Final Order as the same become due, which payments shall not otherwise be subject to the approval of this Court, and (B) unconditionally guaranty such payments on a joint and several basis as provided in the DIP Credit Facility.

3. Upon execution and delivery of the DIP Credit Facility and entry of this Final Order, the Debtors' obligations under the DIP Credit Facility (including the Additional Notes) shall constitute final, valid and binding obligations of the Debtors, enforceable against each Debtor and its estate in accordance with the terms thereof. No obligation, payment, transfer or grant of security under the DIP Credit Facility or this Final Order shall be stayed, restrained, voided or recovered under any provision of the Bankruptcy Code (including section 502(d) of the Bankruptcy Code) or other applicable law, or shall be subject to any defense, reduction, setoff, recoupment or counterclaim.

4. Except for the Carve-Out, and upon entry of this Final Order, no costs or expenses of administration of these cases or any future proceeding that may result therefrom,

including liquidation in bankruptcy or other proceedings under any chapter of the Bankruptcy Code, shall be imposed or charged against, or recovered from, the DIP Lenders or any of the Property under section 506(c) of the Bankruptcy Code or any similar principle of law, and each of the Debtors hereby waives for itself and on behalf of its estate any and all rights under section 506(c) of the Bankruptcy Code or otherwise to assert or impose, or seek to assert or impose, any such costs or expenses of administration against the DIP Lenders or the Property.

5. The DIP Lenders are hereby granted, pursuant to section 364(c)(1) of the Bankruptcy Code, an allowed super-priority administrative expense claim in each of these cases (the “**Super-priority Claim**”) for all loans, reimbursement obligations and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP Lenders under the DIP Credit Facility or hereunder, including, without limitation, all principal, accrued interest, costs, fees, expenses and all other amounts (including the Additional Notes) due under the DIP Credit Facility, which Super-priority Claim (A) shall have priority over any and all administrative expense claims and unsecured claims (including without limitation, the Adequate Protection Claim) against each Debtor or its estate in these cases, now existing or hereafter arising, of any kind or nature whatsoever including, without limitation, administrative expenses and claims of the kind specified in or ordered pursuant to Bankruptcy Code sections 105, 326, 328, 330, 331, 503(a), 503(b), 506(c) 507(a), 507(b), 546(c), 546(d), 726, 1113, and 1114, and any other provision of the Bankruptcy Code, as provided under section 364(c)(1) of the Bankruptcy Code, and (B) shall at all times be senior to the rights of each Debtor or its estate, and any successor trustee or other representative of any Debtor’s estate in these cases or in any subsequent proceeding or case under the Bankruptcy Code, to the extent permitted by law; provided, however, that subsequent



to the closing of the Related Section 363 Transactions, claims against the Debtors' estates that have priority under sections 503(b) or 507(a) of the Bankruptcy Code, including costs and expenses of administration that are attendant to the formulation and confirmation of a liquidating chapter 11 plan, whether incurred prior or subsequent to the consummation of the Related Section 363 Transactions, shall have priority over the remaining obligations owing to the DIP Lenders under the DIP Credit Facility (up to the aggregate amount of \$950,000,000; provided, however, that any greater amount shall be subject to approval by the DIP Lenders). The Super-priority Claim shall be subject and subordinate only to the Carve-Out and the claims set forth in the preceding proviso.

6. The DIP Lenders are hereby granted, pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code, continuing, valid, binding, enforceable, and automatically perfected DIP Liens in and on any and all of the Property, with the priorities set forth in paragraph (iv) above, to secure all repayment and other obligations of the Debtors under the DIP Credit Facility and this Final Order, including the Additional Notes. Except as expressly provided in the DIP Credit Facility or this Final Order, the DIP Liens shall not be made subject to or pari passu with any lien on, or security interest in, the Property, and shall be valid and enforceable against any trustee appointed in these cases, in any successor case, or upon the dismissal of any of these cases. The DIP Liens shall not be subject to sections 510, 549, 550 or 551 of the Bankruptcy Code. Except as provided in the DIP Credit Facility, this Final Order, or as otherwise agreed to by the DIP Lenders, the Debtors shall not grant any liens on the Property junior to the DIP Liens. In addition, except as permitted in the DIP Credit Facility, this Final Order, or as otherwise agreed to by the DIP Lenders, the Debtors shall not incur any debt with priority equal to or greater than the DIP Credit Facility. For the avoidance of doubt,

notwithstanding anything to the contrary in this Final Order, the Interim Order or the DIP Credit Facility, the Permitted Liens shall include any valid, perfected, non-avoidable prepetition senior liens in any Property of the Debtors' estates (or non-avoidable valid liens in existence as of the Petition Date that are subsequently perfected only as permitted by section 546(b) of the Bankruptcy Code), including, but not limited to, valid, perfected, non-avoidable prepetition senior statutory and possessory liens, and recoupment and setoff rights. Further, nothing in this Final Order, the Interim Order or the DIP Credit Facility shall in any way impair the right of any claimant with respect to any alleged reclamation right or impair the ability of a claimant to seek adequate protection with respect to any alleged reclamation right; provided, however, that nothing in this Final Order, the Interim Order or the DIP Credit Facility shall prejudice any rights, defenses, objections or counterclaims that the Debtors, the DIP Lenders, any agent under the Prepetition Senior Facilities, the lender under the TARP Loan Agreement, the Committee or any other party in interest may have with respect to the validity or priority of such asserted liens or rights, or with respect to any claim for adequate protection; provided, further, that nothing in this Final Order, the Interim Order or the DIP Credit Facility shall in any way be construed to permit or authorize the DIP Lenders to seek recourse against the New GM Equity Interests at any time. Notwithstanding the foregoing, the DIP Liens shall be subject and subordinate to valid and enforceable liens of governmental units for personal property taxes, real property taxes, special taxes, special assessments, and infrastructure improvement taxes arising after the Petition Date to the extent that such liens of governmental units take priority over previously granted and perfected consensual liens or security interests in property of the Debtors under applicable non-bankruptcy law.

7. Except as expressly agreed by the DIP Lenders, the obligations of the Debtors, including, without limitation, all obligations under the Notes (as defined in the DIP Credit Facility), shall be unconditionally guaranteed on a joint and several basis by each of the entities listed on Schedule 1.1B to the DIP Credit Facility. Except as otherwise expressly agreed to by each DIP Lender, the obligations of the Debtors shall further be unconditionally guaranteed on a joint and several basis by each and every subsequently acquired or organized direct or indirect domestic subsidiary of any Debtor (other than GMCL and direct and indirect subsidiaries of GMCL), each of which shall be made a guarantor under the DIP Credit Facility immediately upon its acquisition and/or organization as provided in the DIP Credit Facility.

8. The Existing UST Secured Parties are hereby granted, pursuant to sections 361, 362, 363, 364 and 507 of the Bankruptcy Code, the Adequate Protection Claim and the Adequate Protection Liens with the priorities set forth in paragraph (vii) hereof, in each case to the extent of any diminution in the value of the relevant Existing UST Secured Party's interests in the Debtors' interests in the Property (including Cash Collateral) occurring on or after the Petition Date.

9. The Debtors are hereby authorized to use the Cash Collateral in accordance with the Initial Budget, until the DIP Lenders have exercised remedies as a result of an Event of Default under, and as defined in, the DIP Credit Facility.

10. The DIP Liens, the Super-priority Claim, the Adequate Protection Liens and the Adequate Protection Claim shall continue in any superseding case or cases for any or all of the Debtors under any chapter of the Bankruptcy Code, and such liens, security interests and claims shall maintain their priorities as provided in this Final Order. If an order dismissing any of these cases, pursuant to section 1112 of the Bankruptcy Code or otherwise, is at any time

entered, such order shall provide that (A) the DIP Liens, the Super-priority Claim, the Adequate Protection Liens and the Adequate Protection Claim shall continue in full force and effect, shall remain binding on all parties in interest in these cases, and shall maintain their priorities as provided in this Final Order, until all obligations of the Debtors under the DIP Credit Facility (with respect to the DIP Liens and the Super-priority Claim) and the Existing UST Loan Agreements (with respect to the Adequate Protection Liens and the Adequate Protection Claim) have been paid and satisfied in full. Notwithstanding the dismissal of any or all of these cases, this Court shall retain jurisdiction with respect to enforcing the DIP Liens and the Super-priority Claim and the DIP Lenders' rights with respect thereto, and the Adequate Protection Liens and the Adequate Protection Claim and the Existing UST Secured Parties' rights with respect thereto.

11. Except as provided in this Final Order or in the DIP Credit Facility, the DIP Liens, the Super-priority Claim, the Adequate Protection Liens and the Adequate Protection Claim, and all rights and remedies of the DIP Lenders, shall not be modified, impaired or discharged by the entry of an order or orders confirming a plan or plans of reorganization in any or all of these cases and, pursuant to section 1141(d)(4) of the Bankruptcy Code, each Debtor waives any discharge as to any remaining obligations under the DIP Credit Facility and this Final Order including, without limitation, the Additional Notes.

12. This Final Order shall be sufficient and conclusive evidence of the validity, perfection and priority of the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement or other instrument or document, or the taking of any other act that otherwise may be required under state or federal law, rule, or regulation of any jurisdiction to validate or perfect the DIP Liens or the Adequate Protection Liens or to entitle the DIP Lenders and the Existing UST Secured Parties to the priorities set

forth herein. The DIP Liens and the Super-priority Claim granted to the DIP Lenders pursuant to this Final Order and the DIP Credit Facility with respect to the property of the Debtors' estates were perfected by operation of law upon entry of the Interim Order by the Court. The Debtors may execute, and the DIP Lenders or the Existing UST Secured Parties, as applicable, are hereby authorized to file or record financing statements or other instruments to evidence the DIP Liens and the Adequate Protection Liens, and the Debtors are hereby authorized and directed, promptly upon demand by any DIP Lender or Existing UST Secured Party, to execute, file and record any such statements or instruments as the DIP Lenders or such Existing UST Secured Party may request; provided, however, that no such execution, filing, or recordation shall be necessary or required in order to create or perfect the DIP Liens or any Adequate Protection Lien, and further, if the DIP Lenders or any Existing UST Secured Party, each in its sole discretion, shall choose to file such financing statements, mortgages, notices of lien or similar instruments or otherwise confirm perfection of such liens, all such documents shall be deemed to have been filed or recorded as of the Petition Date. A certified copy of this Final Order may, in the discretion of the DIP Lenders or any Existing UST Secured Party, as applicable, be filed with or recorded in any filing or recording office in addition to or in lieu of such financing statements, notices of lien or similar instruments, and all filing offices are hereby authorized to accept a certified copy of this Final Order for filing and recording, and to deem this Final Order to be in proper form for filing and recording.

13. Each and every federal, state, and local governmental agency, department or office is hereby authorized and directed to accept this Final Order and any and all documents and instruments necessary or appropriate to consummate the transactions contemplated by this Final Order or the DIP Credit Facility.

14. The automatic stay imposed by section 362(a) of the Bankruptcy Code is hereby modified to permit (A) the Debtors to grant the DIP Liens, the Super-priority Claim, the guaranties and other security provided for in the DIP Credit Facility, and to perform such acts as the DIP Lenders may request to assure the perfection and priority of the DIP Liens, (B) the Debtors to grant the Adequate Protection Liens and the Adequate Protection Claim, and to perform such acts as any Existing UST Secured Party may request to assure the perfection and priority of the Adequate Protection Liens, (C) the implementation of the terms of this Final Order and the DIP Credit Facility, (D) the repayment of the Prepetition Senior Facilities as detailed in paragraph 19 hereof, and (E) immediately upon the occurrence of an Event of Default under the DIP Credit Facility or the maturity of the credit extensions provided thereunder, the exercise by the DIP Lenders of all rights and remedies under such agreement or applicable law without further application to or order of this Court; provided, however, that prior to exercising any setoff of amounts held in any accounts maintained by any Debtor or enforcing any liens or other remedies with respect to the Property, the DIP Lenders shall provide to the Debtors (with copies to the Committee, any other statutory committee and the United States Trustee) five business days' prior written notice; provided further, however, that upon receipt of any such notice, the Debtors may only make disbursements in the ordinary course of business and with respect to the Carve-Out, but may not make any other disbursements. Upon the occurrence and during the continuance of an Event of Default under the DIP Credit Facility, the DIP Lenders and their respective representatives shall be granted access to all locations in support of the enforcement and exercise of their remedies.

15. Upon the occurrence and during the continuance of any Event of Default under the DIP Credit Facility, and subject to the five business day notice provision set forth in

paragraph 14 above, the DIP Lenders may compel any Debtor to exercise such Debtor's rights (if any) to sell any or all of the Property in its possession pursuant to section 363(b) of the Bankruptcy Code or any other applicable law, the DIP Lenders shall be entitled to exercise their right (if any) to credit bid the DIP Liens in any such sale pursuant to section 363(k) or other applicable provision of the Bankruptcy Code, or other applicable law, and the Debtors shall use best efforts (subject to applicable law) to exercise their rights (if any) to sell such Property if requested by the DIP Lenders (pursuant to section 363 of the Bankruptcy Code or otherwise).

16. As used in this Final Order, "**Carve-Out**" means, following the occurrence and during the continuance of an Event of Default under the DIP Credit Facility, an amount sufficient for payment of (A) allowed professional fees and disbursements incurred by professionals retained by the Debtors, the Committee and any other statutory committee (after application of all outstanding retainers held by those professionals) and allowed expenses of members of the Committee and any other statutory committee in an aggregate amount not to exceed \$20,000,000 (plus all such professional fees and disbursements, and expenses of members of the Committee and any other statutory committee that are unpaid after application of all outstanding retainers, and that were accrued or incurred prior to the occurrence of the Event of Default, to the extent allowed by this Court at any time), (B) fees pursuant to 28 U.S.C. § 1930 and any fees payable to the clerk of this Court, (C) fees and disbursements incurred by a chapter 7 trustee (if any) not to exceed \$2,000,000, and (D) fees and expenses incurred by a privacy ombudsman retained by Appointment of Ombudsman dated June 10, 2009 [Docket No. 565]; provided, however, that, so long as an Event of Default has not occurred, the Debtors shall be permitted to pay fees and expenses allowed and payable under 11 U.S.C. §§ 330 and 331, as the same may become due and payable, and the same shall not reduce the Carve-Out;

provided further, however, that the Carve-Out shall not include any fees or disbursements related to the investigation of, preparation for, or commencement or prosecution of, any claims or proceedings against the DIP Lenders, the Existing UST Secured Parties or EDC, in its capacity as lender under the Canadian Facility (as defined in the DIP Credit Facility) and on behalf of the Governments of Ontario and Canada, or other Canadian Lender Consortium Member (as defined in the DIP Credit Facility), or the claims or security interests in or liens on the property granted under the Canadian Facility, or their claims or security interests in or liens on the Property granted under the DIP Credit Facility or this Final Order.

17. The DIP Lenders have acted in good faith in connection with the DIP Credit Facility, the Interim Order and this Final Order and their reliance on the provisions of this Final Order when extending credit under the DIP Credit Facility will be in good faith. Accordingly, if any provision of this Final Order is hereafter modified, vacated, or stayed by subsequent order of this Court or any other court for any reason, the DIP Lenders are entitled to the protections provided in section 364(e) of the Bankruptcy Code. The DIP Credit Facility may not be recharacterized as an equity investment or otherwise.

18. The DIP Lenders may exercise their right (if any) to credit bid the loans and the Additional Notes under the DIP Credit Facility (pursuant to section 363(k) or other applicable provision of the Bankruptcy Code, or other applicable law), in whole or in part, in connection with any sale or other disposition of some or all of the Property in these cases.

19. (a) Upon entry of this Final Order, the Debtors shall be authorized to apply and shall apply the proceeds of the DIP Credit Facility to repay amounts outstanding under the Prepetition Senior Facilities and all second lien Hedging Obligations (as defined in the Prepetition Revolving Credit Agreement), including principal, accrued and unpaid interest, fees,



letter of credit reimbursement obligations (including obligations to cash collateralize undrawn letters of credit) and any other amounts due or owed by the Debtors thereunder within three business days of entry of this Final Order.

(b) Upon payment (“**Payment**”) of all obligations under the Prepetition Senior Facilities, all commitments under each of the Prepetition Senior Facilities shall be deemed irrevocably terminated. Further, upon Payment, except as set forth in subsection (c) below, the holders of such obligations (the “**Prepetition Senior Facilities Secured Parties**”) shall have no further rights with respect to the Debtors, the DIP Lenders, the Property or any claims or liens relating thereto (all of which liens and claims shall be deemed automatically satisfied and released without further action), whether such claims or liens arise under the Prepetition Term Loan Agreement, Prepetition Revolving Credit Agreement, the Prepetition Gelco Loan Agreement or related documentation, and the Debtors and their estates shall have no further obligations to the Prepetition Senior Facilities Secured Parties in connection with the Prepetition Senior Facilities. Nothing in this Order shall be deemed to alter, amend, release or waive any liens against, or obligations of, any non-Debtor affiliate under the Prepetition Revolving Credit Agreement and documents related thereto.

(c) The Prepetition Senior Facilities Secured Parties’ liens, claims and interests in the Property and any adequate protection claims or adequate protection liens, shall expire upon the Payment. In the event that the Committee investigates any liens of any of the Prepetition Senior Facilities Secured Parties or any third party brings an action against a Prepetition Senior Facilities Secured Party that is entitled to indemnification by the Debtors under the applicable Prepetition Senior Facility, then, notwithstanding any other provision of this Final Order, (i) the Debtors shall pay (in accordance with Paragraph 6(d) of the Prepetition

Revolving Credit Agreement Order and Paragraph 5(d) of the Prepetition Term Loan Facility Order), the reasonable fees, costs and charges incurred by the agents for the Prepetition Senior Facilities (and, in the case of Gelco, reasonable fees, costs and charges incurred by Gelco, so long as Gelco complies with the expense reimbursement procedures applicable to the agents under the other Prepetition Senior Facilities) in responding to such investigation or in defending any challenge to such liens or to their ability to retain any Payment, and (ii) the super-priority adequate protection claims granted pursuant to the Prepetition Revolving and Term Adequate Protection Orders shall remain in effect with respect to such expense reimbursement obligations, provided that such claims shall not have recourse to the New GM Equity Interests and Gelco is hereby granted superpriority adequate protection claims equivalent to those provided to the agents under the other Prepetition Senior Facilities. Nothing in this order shall affect the rights and remedies, if any, of the Prepetition Senior Facility Secured Lenders (other than Gelco and the agents under the other Prepetition Senior Facilities, whose rights and remedies shall be as described herein) to seek reimbursement of their reasonable fees, costs, and charges incurred in responding to any such investigation or in defending any challenge to such liens or Payment. Without limiting the generality of the foregoing, upon Payment, the Prepetition Senior Facilities Secured Parties (i) authorize the Debtors to file Uniform Commercial Code termination statements, mortgage releases and all other documents necessary to evidence the release of the liens against the Debtors securing the obligations under the Prepetition Senior Facilities and (ii) will take all such action and deliver all such other instruments and documents as may be reasonably requested by the Debtors or the agents under the Prepetition Senior Facilities to effectuate or evidence the termination of all such claims of the Prepetition Senior Facilities Secured Parties, in each case, at the sole cost and expense of the Debtors.

(d) Effective upon entry of this Final Order, the Debtors (on behalf of their estates) and any successor thereto release the Prepetition Senior Facilities Secured Parties and each of their directors, officers, appointees, counsel, advisors and employees serving in any capacity or function, including as a fiduciary, agents, advisors, shareholders, subsidiaries, affiliates, heirs, executors, administrators, attorneys, advisors, successors and assigns from, against and with respect to any and all actual or potential demands, claims, actions, causes of action (including derivative causes of action), suits, assessments, liabilities, losses, costs, damages, penalties, fees, charges, expenses and all other forms of liability whatsoever, in law or equity, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising under the Bankruptcy Code, state law or otherwise now existing or hereafter arising, directly or indirectly related to the Prepetition Senior Facilities and any and all dealings between the Prepetition Senior Facilities Secured Parties in connection with the Prepetition Senior Facilities, provided, however, that such release shall not apply to the Committee with respect only to the perfection of first priority liens of the Prepetition Senior Facilities Secured Parties (it being agreed that if the Prepetition Senior Facilities Secured Parties, after Payment, assert or seek to enforce any right or interest in respect of any junior liens, the Committee shall have the right to contest such right or interest in such junior lien on any grounds, including (without limitation) validity, enforceability, priority, perfection or value) (the “**Reserved Claims**”). The Committee shall have automatic standing and authority to both investigate the Reserved Claims and bring actions based upon the Reserved Claims against the Prepetition Senior Facilities Secured Parties not later than July 31, 2009 (the “**Challenge Period**”), provided, that upon the filing of any adversary proceeding prosecuting any Reserved Claim, the Challenge Period shall be extended with respect to such adversary proceeding through and until a court of competent jurisdiction

dismisses such adversary proceeding. The grant of automatic standing shall be without any further order of this Court or any requirement that the Committee file a motion seeking standing or authority to file a motion seeking standing or authority before prosecuting any such challenge. Any Prepetition Senior Facilities Secured Party accepting Payment shall submit to the jurisdiction of the Bankruptcy Court, it being understood that the respective administrative and collateral agents for the Prepetition Senior Facilities shall have no responsibility or liability for amounts paid to any Prepetition Senior Facilities Secured Parties and such agents shall be exculpated for any and all such liabilities, excluding only such funds as are retained by each such agent solely in its respective role as a lender.

(e) Immediately upon Payment, the DIP Lenders shall be deemed to have obtained a secured, non-avoidable, perfected security interest in and lien on the Prepetition Senior Facilities Collateral.

20. Notwithstanding anything herein to the contrary, none of the proceeds of any extension of credit under the DIP Credit Facility shall be used in connection with (a) any investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lenders or the Existing UST Secured Parties or EDC, in its capacity as lender under the Canadian Facility and on behalf of the Governments of Ontario and Canada, (b) the initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the DIP Lenders or the Existing UST Secured Parties or EDC, in its capacity as lender under the Canadian Facility and on behalf of the Governments of Ontario and Canada, or any of their respective affiliates with respect to any loans, extensions of credit or other financial accommodations made to any Debtor prior to, on or after the Petition Date, or (c) any loans, advances, extensions of credit, dividends or other

investments to any person not a Borrower or Guarantor other than for certain permitted exceptions set forth in the DIP Credit Facility.

21. On or substantially contemporaneous with the closing of the Related Section 363 Transactions, the Tranche C Term Loan (as such term is defined in the DIP Credit Facility) in an amount not less than \$950,000,000 shall be provided to the Borrower in accordance with section 2.14 of the DIP Credit Facility to fund the wind-down of the Debtors (the “**Wind-Down Facility**”). The funding of the Wind-Down Facility shall be subject to an appropriate amendment to the DIP Credit Facility, acceptable to the Debtors and the DIP Lenders, which amendment shall be subject to approval by this Court on three days notice after the filing of a motion seeking approval of the Wind-Down Facility. The Committee shall be copied on all drafts of the credit agreement related to the Wind-Down Facility and the Wind-Down Budget (as defined in the DIP Credit Facility) that are circulated between the Debtors and the DIP Lenders and shall be included in all substantive negotiations of the Wind-Down Facility and the Wind-Down Budget between the Debtors and the DIP Lenders.

22. In the event of any inconsistency between the terms and conditions of the DIP Credit Facility or the Interim Order and this Final Order, the terms and conditions of this Final Order shall control.

23. The parties to the DIP Credit Facility may, from time to time, enter into waivers or consents with respect thereto without further order of this Court. In addition, the parties to the DIP Credit Facility may, from time to time, enter into amendments with respect thereto without further order of this Court; provided, that, (A) the DIP Credit Facility, as amended, is not materially different from the form approved by this Final Order, (B) notice of all amendments is filed with this Court, and (C) notice of all amendments (other than those that are

ministerial or technical and do not adversely affect the Debtors) are provided in advance to counsel for the Committee and any other statutory committee, all parties requesting notice in these cases and the United States Trustee. For purposes hereof, a “material” difference from the form approved by this Final Order shall mean any difference resulting from a modification that operates to (1) shorten the maturity of the extensions of credit under the DIP Credit Facility or otherwise require more rapid principal amortization than is currently required under the DIP Credit Facility, (2) increase the aggregate amount of any of the commitments thereunder, (3) increase the rate of interest or any other fees or charges payable thereunder (other than to the extent contemplated in the DIP Credit Facility as in effect on the date of this Final Order), (4) add specific new Events of Default (as defined in the DIP Credit Facility) or shorten the notice or grace period in respect to any Default (as defined in the DIP Credit Facility) or Event of Default currently in the DIP Credit Facility, (5) enlarge the nature and extent of default remedies available to the DIP Lenders or agents under the DIP Credit Facility following the occurrence and during the continuance of an Event of Default, (6) add additional financial covenants or make any financial covenant or other negative or affirmative covenant or representation and warranty more restrictive on the Debtors, or (7) otherwise modify the DIP Credit Facility in a manner materially less favorable to the Debtors and their estates.

24. This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014, and shall be deemed effective and enforceable immediately upon its entry and nunc pro tunc to the Petition Date.

25. The rights, benefits, and privileges granted pursuant to this Final Order (including, without limitation, the DIP Liens, the Super-priority Claim, the Adequate Protection

Liens and the Adequate Protection Claim granted herein) shall attach and be enforceable against the bankruptcy estate of any direct or indirect subsidiary of the Debtors that is a party to the DIP Credit Facility and which hereafter becomes a debtor in these procedurally consolidated cases automatically and without further court order on a final basis. Except as may be provided in this Final Order, such subsidiary shall be deemed a “Debtor” hereunder effective as of the date such subsidiary files a petition and becomes a debtor in these cases.

26. Except as otherwise provided in this Final Order, the provisions of the DIP Credit Facility and the provisions of this Final Order, including all findings of fact and conclusions of law set forth herein, shall, immediately upon entry of this Final Order in these cases, become valid and binding upon the Debtors, the DIP Lenders, the Existing UST Secured Parties, all other creditors of the Debtors, the Committee, any other statutory committee and all other parties in interest in these cases and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed as a legal representative of any Debtor’s estate in these cases or in any subsequent chapter 7 case. In no event shall the DIP Lenders, whether in connection with the exercise of any rights or remedies under the DIP Credit Facility, hereunder or otherwise, be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors, so long as the actions of the DIP Lenders do not constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual participation in the management or operational affairs of a vessel or facility owned or operated by a Debtor, or otherwise cause liability to arise to the federal or state government or the status of responsible person or managing agent to exist under applicable law (as such terms, or any similar terms, are used in the Comprehensive Environmental Response,

Compensation and Liability Act, sections 9601 et seq. of title 42, United States Code, as amended, or any similar federal or state statute).

27. The Committee shall receive the same reports provided by the Debtors to the DIP Lenders under section 5.2 of the DIP Credit Facility.

28. The Debtors have provided adequate and sufficient notice of the Final Hearing and this Final Order as required under section 364 of the Bankruptcy Code, Rule 4001 of the Bankruptcy Rules and Rule 4001-2 of the Local Bankruptcy Rules.

29. The Final Hearing was held pursuant to Rule 4001 of the Bankruptcy Rules.

30. This Court shall retain exclusive jurisdiction to interpret and enforce the provisions of the DIP Credit Facility, the Interim Order and this Final Order in all respects; provided, however, that in the event this Court abstains from exercising or declines to exercise jurisdiction with respect to any matter provided for in this paragraph or is without jurisdiction, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter.

Dated: June 25, 2009  
New York, New York

/s/ Robert E. Gerber  
HON. ROBERT E. GERBER  
UNITED STATES BANKRUPTCY JUDGE



# **EXHIBIT EE**



June 30, 2009

General Motors Corporation  
757 Fifth Avenue  
New York, New York 10153  
Attention: Treasurer  
Telecopy: (212) 418-3632

Office of the Secretary  
General Motors Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000

To whom it may concern:

Reference is hereby made to the Term Loan Agreement, dated as of November 29, 2006 (as amended, supplemented or modified on or prior to the date hereof, the "Loan Agreement") among General Motors Corporation, a Delaware corporation (the "Borrower"), Saturn LLC (formerly known as Saturn Corporation), a Delaware limited liability company, as a Guarantor, the several financial institutions from time to time party thereto (the "Lenders"), and JPMorgan Chase Bank, N.A., as Administrative Agent (in such capacity, the "Agent"). All capitalized terms used but not otherwise defined herein have the meanings assigned to them in the Loan Agreement.

The Borrower has informed the Agent that the Borrower intends to repay amounts outstanding under the Loan Agreement and the other Loan Documents on June 30, 2009 in accordance with Paragraph 19(a) of the Final Order (the "Final Order") entered by the United States Bankruptcy Court for the Southern District of New York on June 25, 2009 (docket number 2529) in the Chapter 11 cases of the Borrower and certain of its Affiliates with respect to (A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain Post-Petition Financing Pursuant thereto, (B) Granting Related Liens and Superpriority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-petition Secured Parties.

For purposes of the foregoing, the Agent (on behalf of itself and the Lenders) hereby notifies the Borrower as follows:

The amounts outstanding under the Loan Agreement and the other Loan Documents on June 30, 2009, will be \$1,481,656,507.70, which consists of:

8163148299.7

EXHIBIT  
#55  
2/9/10

- (a) \$1,466,250,000.00 of principal of the Loans;
- (b) \$11,078,333.33 of interest due to the Lenders;
- (c) \$3,879,289.58 of estimated LIBOR breakage costs;
- (d) \$448,884.79 of fees and disbursements of Morgan, Lewis & Bockius, LLP, counsel to the Agent;

If immediately available funds are received by the Agent after 1:00 p.m. (New York City time) on June 30, 2009, per diem interest in the amount of \$325,833.33 shall be also payable.

This letter assumes that, except as expressly set forth above: (i) no repayments will be made after the date of this letter; (ii) there is no change in either of ABR or the Eurodollar Rate; and (iii) there has been no conversion from one type of Loan to the other after the date of this Payoff Letter.

Payment should be made by the Borrower by wire transfer of immediately available funds, to the Agent at the following account:

Bank to be Credited:	JPMorgan Chase Bank, N.A.
ABA#:	0021
Bank Address:	Loan & Agency Services 1111 Fannin Street - 10th Floor Houston, Texas 77002
Account Number:	0154
Reference:	General Motors Corp.

**REDACTED**

We will return to the Borrower the amount, if any, by which the estimated amount of LIBOR breakage costs set forth in clause I(c) above, exceeds actual aggregate LIBOR breakage costs claimed by the Lenders pursuant to the Loan Agreement.

This letter shall be governed by and construed in accordance with the law of the State of New York.

includes an estimate of time and disbursements through June 30, 2009.

D:\G3148299.7

FROM JPMORGAN CHASE BANK

(TUE) 6.30'09 10:39/ST. 10:38/NO. 4860861167 P 4

This letter and the amounts set forth herein are only effective with respect to payment June 30, 2009.

Very truly yours,

JPMORGAN CHASE BANK, N.A.,  
as Agent

By:   
Name: RICHARD W. DUKER  
Title: MANAGING DIRECTOR

cc: Soo-Jin Shim (telecopy 212-310-8007)

DE: 63148299.7

# **EXHIBIT FF**

BUTZEL LONG, a professional corporation  
Barry N. Seidel  
Eric B. Fisher  
380 Madison Avenue, 22<sup>nd</sup> Floor  
New York, New York 10017  
Telephone: (212) 818-1110  
Facsimile: (212) 818-0494

Special Counsel to the Official Committee of Unsecured  
Creditors of Motors Liquidation Company f/k/a General  
Motors Corporation

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re : Chapter 11  
MOTORS LIQUIDATION COMPANY, *et al.*, : Case No.: 09-50026 (REG)  
Debtors. : (Jointly Administered)  
-----X  
OFFICIAL COMMITTEE OF UNSECURED : Adversary Proceeding  
CREDITORS OF MOTORS LIQUIDATION : Case No.: 09-\_\_\_\_\_  
COMPANY f/k/a GENERAL MOTORS :  
CORPORATION, :  
Plaintiff. :  
-against- :  
JPMORGAN CHASE BANK, N.A., individually :  
and as Administrative Agent for various lenders :  
party to the Term Loan Agreement described herein; :  
ABN AMRO BANK N.V.; ADVENT GLB OPPTS :  
MSTR FUND; AEGON TRANSAMER MFS HI :  
YLD; ALTICOR INC; AMERICAN :  
INTERNATIONAL GROUP, INC.; APG FIXED :  
INCOME CREDITS; ARCH REINSURANCE :  
LTD; ARES IX CLO LTD; ARES VIII CLO LTD; :  
ARES VIR CLO LTD; ARES XI CLO LTD; :  
ARROWGRASS MASTER FUND LTD; ATRIUM :  
IV; ATRIUM V; AVENUE CLO V, LTD.; AVERY :  
POINT CLO LTD; BALLYROCK CLO 2006-1 :

LTD; BALLYROCK CLO 2006-2 LTD; BALTIC :  
FUNDING LLC; BANK OF AMERICA, N.A.; :  
BARCLAYS BANK PLC; BBT FD LP; BIG SKY :  
III SENIOR LOAN TR; BLACK DIAMOND CLO :  
2005 2; BLACK DIAMOND CLO 2005 1; BLACK :  
DIAMOND CLO 2006-1 CAYMN; BLACK :  
DIAMOND INTL FDG; BLACKROCK BD FD :  
INC HI INC FD; BLACKROCK CA STATE :  
TEACH RET; BLACKROCK CORPORATE HIGH :  
YIELD FUND III I; BLACKROCK CORPORATE :  
HIGH YIELD FUND, INC.; BLACKROCK :  
CORPORATE HIGH YIELD FUND V, INC.; :  
BLACKROCK CORPORATE HIGH YIELD :  
FUND VI, INC.; BLACKROCK DEBT :  
STRATEGIES FUND, INC.; BLACKROCK :  
DIVERSIFIED INCOME STRATEGIES FUND, :  
INC.; BLACKROCK EMP RET FD CITY DAL; :  
BLACKROCK FDS HIGH YIELD BOND :  
PORTFOLIO; BLACKROCK FLOATING RATE :  
INCOME STRATEGIES; BLACKROCK GBL INV :  
SER INC STR; BLACKROCK GIS INC STR PF; :  
BLACKROCK GSAM GOLDMAN CORE PL; :  
BLACKROCK HIGH INCOME SHARES; :  
BLACKROCK HIGH YIELD TRUST; :  
BLACKROCK MET INV SR TR HIGH YIELD; :  
BLACKROCK MGD AC SR HI INC PF; :  
BLACKROCK MULTI – STRATEGY FIXED; :  
BLACKROCK MULTI – STRTG SUB – TR C; :  
BLACKROCK SENIOR HIGH FUND INC; :  
BLACKROCK SENIOR INCOME SERIES II; :  
BLACKROCK SENIOR INCOME SERIES IV; :  
BLACKROCK STRATEGIC BOND TRUST; :  
BLACKROCK – LOCK MARTIN MSTR RET; :  
CAI DISTRESSED DEBT OPPORTU; :  
CANADIAN IMPERIAL BANK OF COMMERCE; :  
CANYON CAPITAL CDO 2002-1 LIMITED; CAP :  
FUND LP; CAP RSCH – AMER HI INC TR; :  
CARLYLE HIGH YIELD PAR IX LTD.; :  
CARLYLE HIGH YIELD PARTNERS 2008-1, :  
LTD.; CASTLE GARDEN FDG; CATERPILLAR :  
INC MSTR PEN TR; CELFIN CAPITAL S.A. :  
GFUFI; CHATHAM LIGHT II CLO; CITIBANK, :  
N.A. – NEW YORK; CITIGROUP FIN :  
PRODUCTS INC; CLASSIC CAYMAN BD LTD; :  
COCA COLA CO RET & MSTR TR; CONTL :  
CASUALTY CO; CREDIT SUISSE LOAN :

FUNDING LLC; CREDIT SUISSE, CAYMAN :  
 ISLANDS BRANCH; CS SYNDICATED LOAN :  
 FD; CSAM SYNDICATED LOAN FUND; :  
 CYPRESS TREE INTERNATIONAL LOAN :  
 HOLDING COMPANY; DE – SEI INSTL INV TR :  
 – HI YLD BD; DE – SEI INSTL MGD TR – HI :  
 YLD BD; DEBELLO INVESTORS LLC; DEL :  
 GRP GOV FD CORE PL FD; DELAWARE :  
 DIVERSIFIED INC FD; DELAWARE :  
 DIVERSIFIED INCOME TR; DELAWARE :  
 ENHANCED GLOBAL DIVID; DELAWARE :  
 EXTENDED DUR BD FD; DELAWARE GR INC :  
 FD CORPORATE; DELAWARE GRP EQ V DIV :  
 INC FD; DELAWARE HIGH – YIELD OPP FD; :  
 DELAWARE INV DIV & INCOME FD; :  
 DELAWARE INV GLB DIV & INCOME; :  
 DELAWARE OPTIMUM FXD INCOME FD; :  
 DELAWARE POOLED TR – CORE PL INC; :  
 DELAWARE POOLED TR – HI YLD BD P; :  
 DELAWARE VIP TR DIVERSIFIED IN; :  
 DELAWARE VIP TR HI YLD SERIES; :  
 DEUTSCHE BANK – NEW YORK; DEUTSCHE :  
 BANK AG CAYMAN ISLAND; EATON VANCE :  
 CDO IX LTD.; EATON VANCE CDO VIII LTD.; :  
 EATON VANCE CDO X PLC; EATON VANCE :  
 FLTG RT INC TR; EATON VANCE GRAYSON :  
 & CO.; EATON VANCE INSTITUTIONAL :  
 SENIOR LOAN FUND; EATON VANCE :  
 LIMITED DURATION INCOME FUND; EATON :  
 VANCE LOAN OPPORTUNITIES FUND, LTD.; :  
 EATON VANCE MEDALLION FLOATING; :  
 EATON VANCE SENIOR DEBT PORTFOLIO; :  
 EATON VANCE SENIOR FLOATING RATE :  
 TRUST; EATON VANCE SENIOR INCOME :  
 TRUST; EATON VANCE SHORT DURATION :  
 DIVERSIFIED INCOME FUND; EATON VANCE :  
 VARIABLE TRUST FLOATING RATE INCOME :  
 FUND; EMPLOYERS INS COMPANY OF :  
 WAUSA; FIDELITY ADV SR I – ADVR FLTG R; :  
 FIDELITY ADVISOR SERIES I – FIDELITY :  
 ADVISOR HIGH INCOME; FIDELITY ADVISOR :  
 SERIES II – FIDELITY ADVISOR STRT; :  
 FIDELITY AMERICAN HIGH YIELD FUND; :  
 FIDELITY BALLYROCK CLO II; FIDELITY :  
 BALLYROCK CLO III; FIDELITY CIP LLC :  
 HIGH INC CF 2; FIDELITY CIP LLC:FIDELITY :



FLOATING RATE; FIDELITY ILLINOIS MUNI :  
 RET FD; FIDELITY PURITAN TR – PURITAN :  
 FUND; FIDELITY SCH ST TR – STRT INCOME :  
 FUND; FIDELITY SUMMER ST – CAP & INC F; :  
 FIDELITY SUMMER ST TR – CAP & IN; :  
 FIDELITY SUMMER ST TR – HI INC F; :  
 FIDELITY VIP V STRT INC PF; FOOTHILL CLO :  
 I, LTD.; FOOTHILL GR INC; FOOTHILL GRP :  
 INC; FORTRESS CR INVS I LTD; FORTRESS CR :  
 INVS II LTD; FOUR CORNERS CLO II LTD; :  
 FOUR CORNERS CLO III LTD; FRT TR 4 COR :  
 SR FL RT INC FD 2; FST TR/FOUR CORNERS :  
 SR FLTG RT; GALAXITE MASTER UNIT TST; :  
 GE PEN TR; GENERAL ELECTRIC CAPITAL :  
 CORPORATION; GENESIS CLO 2007-1 LTD; :  
 GENESIS CLO 2007-2 LTD; GLOBAL :  
 INVESTMENT GRADE CREDIT; GOLDEN :  
 KNIGHT II CLO, LTD.; GOLDENTREE LOAN :  
 OPPORTUNITIES III, LTD.; GOLDENTREE :  
 LOAN OPPORTUNITIES IV, LTD.; GOLDMAN :  
 SACHS – ABS LOANS 2007-1; GOLDMAN :  
 SACHS CREDIT PARTNERS L.P.; GOLDMAN :  
 SACHS LENDING PARTNERS; GOLDMAN :  
 SACHS – ABS LOANS 2007 L; GRACIE CR :  
 OPPORTUNITIES MASTER; GRAND CENT :  
 ASSET TR WAM; GUGGENHEIM PORTFOLIO :  
 CO X LLC; GULF STREAM – SEXTANT CLO :  
 2007; GULF STREAM COMPASS CLO 2003-1; :  
 GULF STREAM – COMPASS CLO 2007; HARCH :  
 CLO II LTD; HARTFORD – FLTG BK LN SR OF :  
 HART; HARTFORD FLOATING RATE FUND; :  
 HIGHLAND FLOATING RATE FUND; :  
 HIGHLAND – PAC SEL FD FLTG RT LN; :  
 HIGHLAND CREDIT OPPORTUNITIES CDO, :  
 LTD.; HIGHLAND OFFSHORE PARTNERS, L.P.; :  
 IOWA PUBLIC EMPLOYEES RETIRE; IVY – HI :  
 INC FD; J.P. MORGAN WHITEFRIARS INC.; :  
 JERSEY STREET CLO, LTD; KATONAH III, :  
 LTD.; KATONAH IV LTD; L3 – LINCOLN :  
 VARIABLE INSURANCE PRODUCTS; LEH – :  
 PRINCIPAL INVESTORS FD; LEHMAN :  
 BROTHERS FIRST TRUST; LEHMAN :  
 BROTHERS HIGH INCOME; LEHMAN GMAM :  
 INV FDS TR; LEHMAN – NEUBERGER :  
 BERMAN – HIGH I; LINCOLN NATIONAL LIFE :  
 INSURANCE 12; LINCOLN NATIONAL LIFE :

SA20; LOAN FUNDING XI LLC; LOGAN – :  
 RAYTHEON MPT – FLTG RATE; LOGAN – :  
 RAYTHEON MPT – MID GRDE P; LOGAN :  
 CIRCLE – ALAMEDA CTY TRA; LOGAN :  
 CIRCLE – ALLINA HEALTH S; LOGAN CIRCLE :  
 – ALLINA HEALTHS; LOGAN CIRCLE – RIC :  
 PLC; LOGAN CIRCLE – RUS STR BND FND; :  
 LOGAN CIRCLE – RUSSELL MULTI – M; :  
 LOGAN CIRCLE FREDDIE MAC FDTN; :  
 LOGAN CIRCLE PEOPLES ENRGY COR; :  
 LOGAN CIRCLE – SUNOCO INC MSTR; :  
 LOGAN CIRCLE WIS PUB SER PEN T; LOGAN :  
 CIRCLE – LIBERTY ML EMP TI; LOGAN :  
 CIRCLE – RUSSELL INST FUN; LOGAN CRCL :  
 BECHTEL TR THRI; MACKAY – FIRE AND :  
 POLICE EMPLO; MACKAY NY LIFE INS CO :  
 GP; MACKAY SHIELDS ARKANSAS PUBLIC :  
 EMPLOYEE RETIREMENT SYSTEM; MACKAY :  
 SHIELDS CORE PLUS ALPHA LTD.; MACKAY :  
 SHIELDS SHORT DURATION ALPHA FUND; :  
 MACKAY – HOUSTON POL OFF PEN SYS; :  
 MADISON PARK FDG III LTD; MADISON :  
 PARK FDNG VI LTD; MADISON PARK :  
 FUNDING II; MADISON PARK FUNDING IV :  
 LTD; MARATHON CLO I LTD.; MARATHON :  
 CLO II LTD.; MARATHON FINANCING I B V; :  
 MARLBOROUGH STREET CLO LTD; MASON :  
 CAP LP; MASON CAP LTD; MAYPORT CLO :  
 LTD; MCDONNELL ILLINOIS STATE BOARD :  
 OF INVESTMENT; MERITAGE FUND LTD.; :  
 MERRILL LYNCH CAPITAL SERVICES, INC.; :  
 METWEST AM – 705 HI YLD BD FD; MFS – :  
 HIGH YIELD VAR ACCT; MFS CHARTER INC :  
 TR; MFS DIVERSIFIED INCOME FUND – SR; :  
 MFS FLTG RT HI INC FD; MFS INTERMARKET :  
 INC TR I; MFS INTERMEDIATE HIGH INCOME :  
 F; MFS MULTIMARKET INCOME TRUST; MFS :  
 SPCL VL TR; MFS SR III TR HI YLD OPP FD; :  
 MFS SR TR III HI INC FD; MFS TR VIII STRT :  
 INC FD; MFS VAR INS TR – MFS STRTGC INC; :  
 MFS VARIABLE INS TR MFS HIGH I; MFS VIT :  
 II HIGH YIELD PORTFOLIO; MFS VIT II STRT :  
 INC PORT; MFS – DIF – DIVERSIFIED INCOME :  
 FUN; MICROSOFT GLOBAL FINANCE; MO ST :  
 EMP RET SYS; MOMENTUM CAP FD LTD; :  
 MORGAN STANLEY SENIOR FD INC.; MT :

WILSON CLO II LTD; MUZINICH EXTRAYLD :  
FDS SLN FD; NASH POINT CLO; NATIONAL :  
CITY BANK; NEUBERGER BERMAN INC OPP :  
FD; NEW YORK LIFE INSURANCE CO GP; :  
NEW YORK LIFE INSURANCE GP PORT ALP; :  
OAK HILL CREDIT PARTNERS II LIMITED; :  
OAK HILL CREDIT PARTNERS III LIMITED; :  
OAK HILL CREDIT PARTNERS IV LIMITED; :  
OAK HILL CREDIT PARTNERS V LIMITED; :  
OAKTREE – BILL & MELINDA GATES; :  
OAKTREE – EMP RET FD CITY OF D; :  
OAKTREE – GEN BRD PEN HLTH BNF; :  
OAKTREE – HIGH YIELD FUND II, L.P.; :  
OAKTREE – PACIFIC GAS & ELECTRIC POST; :  
OAKTREE – SAN DIEGO CITY EMPLOYEES’ :  
RETIREMENT; OAKTREE – TMCT LCC; :  
OAKTREE CAPITAL MANAGEMENT – HIGH :  
YIELD TR; OAKTREE – DAIMLERCHRYSLER :  
CORP. M; OAKTREE – HIGH YIELD LP; :  
OAKTREE LOAN FUND 2X (CAY) LP; :  
OAKTREE LOAN FUND, L.P.; OAKTREE :  
SENIOR LOAN FUND; OAKTREE – :  
INTERNATIONAL PAPER CO COMNGL; OCM :  
– CENT ST, SE & SW PENS PL; OCM – IBM :  
PERSONAL PENS PL; OCM – PACIFIC GAS & :  
ELECTRIC COMP RET TR; OCM – STATE :  
TEACH RET OH; OCM – WM POOL HIGH :  
YIELD FIX INT TR; OCM HIGH YIELD PLUS :  
FD LP; OEVAG; OHIO POLICE & FIRE :  
PENSION; OPPENHEIMER SENIOR FLOATING :  
RATE FUND; OW FDNG LTD; PENSION INV :  
COMM OF GM FOR GM; PHOENIX EDGE SR :  
FD MULTI SECT; PHOENIX EDGE – MULTI – :  
SEC FIX INC; PIMCO FAIRWAY LOAN :  
FUNDING CO; PIMCO1464 – FREESCALE :  
RETIREMENT; PIMCO1641 – SIERRA PAC :  
RSCRCE DE; PIMCO2244 – VIRGINIA :  
RETIREMENT; PIMCO2603 – RED RIVER HYPI :  
LP; PIMCO3813 – CAYMAN BK LN FD; :  
PIMCO400 – STK PLUS SUB FD B LLC; :  
PIMCO6819 PORTOLA CLO LTD; PIMCO706 – :  
FD PRIVATE HI YD PT; PLUMBERS & :  
PIPEFITTERS NAT; PRIMUS CLO I LTD; :  
PRIMUS CLO II LTD; PUTNAM 29X – FDS TR – :  
FLTG RT INC; PUTNAM BK LN FD (CAYMAN) :  
MSTR; PYRAMIS FLTG RT HI INC COMNGL; :

PYRAMIS HI YLD FD LLC; RACE POINT II :  
 CLO; RACE POINT III CLO; RACE POINT IV :  
 CLO LTD; RBC DEXIA INVESTORS SERVICES; :  
 REAMS – BRD OF PEN PRESBYTERIA; REAMS :  
 – CHILDREN’S HSPTL PHILA; REAMS – CT :  
 GEN LIFE INS CO; REAMS – EMP RET SYS OF :  
 THE CIT; REAMS – HALLIBURTON :  
 COMPANY; REAMS – INDIANA UNIVERSITY; :  
 REAMS – KRAFT FOODS MASTER RET; :  
 REAMS – LA FIRE AND POLICE; REAMS – :  
 PARKVIEW MEM HOSPITAL; REAMS – :  
 PRUDENTIAL RET. INS. & ANN.; REAMS – :  
 REICHHOLD; REAMS – REICHHOLD, INC.; :  
 REAMS – ROTARY INTL FOUNDATION; :  
 REAMS – ST INDIANA MAJOR MOVES; :  
 REAMS – THE MATHER FOUNDATION; :  
 REAMS AGI GL FX INC MST FD; REAMS – :  
 AMER PRES LINES LTD; REAMS – AMER :  
 PRESIDENT LINES LTD; REAMS – BILL & :  
 MELINDA FOUND; REAMS BILL MEL GATES :  
 FD T; REAMS BOARD OF FIRE; REAMS CARP :  
 PENS FUND ILL; REAMS CHICAGO PARK :  
 DIST; REAMS CHILDRENS HSPTL FND; :  
 REAMS CITY MONT RETIR SYS; REAMS CITY :  
 OF MILWAUKEE RET; REAMS CITY OF MONT :  
 AL EMPL RET; REAMS EMERSON; REAMS :  
 HALLIB CO EMP BEN MS; REAMS IA ST PLC :  
 PENSIO; REAMS ILWU PMA; REAMS :  
 INDIANA ST POL PEN TR; REAMS INDIANA :  
 ST POLICE; REAMS INDIANA ST TEACH RET :  
 FD; REAMS LOUISIANA CARP REG CNC P; :  
 REAMS MUNI EMP RET SYS MICHIGA; :  
 REAMS TRUSTEES OF INDIANA UNIV; :  
 REAMS – BALT CNTY RETIREMENT; REAMS :  
 – BLDNG TRDS UN PEN TR; REAMS – CARP :  
 PEN FD IL; REAMS – CITY OF OAKLAND :  
 POLICE; REAMS – COLUMBS EXT MKT FD :  
 LLC; REAMS – CUMMINS AFFILIATE COL IN; :  
 REAMS – DUCHOSSOIS IND INC; REAMS – :  
 EIGHT DIST ELEC PEN FD; REAMS – :  
 EMERSON ELCTRC; REAMS – EMP RET SYS :  
 BALT CNTY; REAMS – FRONTEGRA COL :  
 CORE PL FD; REAMS – HEALTH CARE FOUND :  
 KS; REAMS – INDIANA MJR MOVE CNSTRCT; :  
 REAMS – INTER LC PEN FD GRPHC CO; :  
 REAMS KRAFT FOODS GLBL INC; REAMS – :

LABORATORY CORP OF US HL; REAMS – :  
MONTANA BOARD OF INVE; REAMS – :  
RETIREMENT BD OF THE PAR; REAMS – :  
SANTA BARBARA CNTY EMP R; REAMS – :  
SANTA BARBARA COUNTY; REAMS – :  
SEATTLE CITY EMPL RETIRE; REAMS – :  
SONOMA CNTY EMP RET ASSO; REAMS – ST :  
LUKE EPIS HLTH SYS FD; REAMS – THE :  
MATHER FOUND CORE PL; REAMS – THE :  
ROTARY FDTN; REAMS – TRUSTEES OF :  
PURDUE; REAMS – UNIV OF KENTUCKY; :  
REAMS – VENTURA CNTY EMP RET ASS; :  
RGA REINSURANCE CO; ROYAL BANK OF :  
SCOTLAND, PLC; SANKATY CR OPPTS OFF :  
MTR IV LP; SANKATY HIGH YIELD :  
PARTNERS II, L.P.; SANKATY HIGH YIELD :  
PARTNERS III L.P.; SECONDARY LOAN AND :  
DISTRESSED; SECURITY INVSTRS – HI YLD :  
FD; SEI INST MGD TR CORE FXD INC; SFR :  
LTD; SHINNECOCK CLO II LTD; SILVERADO :  
CLO 2006-I LTD; SOLUS CORE OPP MASTER :  
FD LTD; SRI FD LP; SSS FDG II, LLC; STATE :  
OF CONNECTICUT; STICHTING :  
BEDRIJFSTAKPENS; STICHTING DEPOSITOR :  
APG; STICHTING PENSIONFONDS ME; :  
TACONIC CAP PTNRS 1 5 LP; TACONIC :  
MARKET DISL MASTER II; TACONIC :  
MARKET DISLOCATION II; TACONIC :  
OPPORTUNITY FD L P; TCW HIGH INCOME :  
PARTS LTD; TCW IL ST BRD OF INV; TCW SR :  
SECURED FLTG RT LN FD L; TCW SR :  
SECURED LN FUND LP; TCW VELOCITY CLO; :  
TEXAS CTY & DIST RET SYS; THE BANK OF :  
NEW YORK; THRIVENT FIN FOR :  
LUTHERANS; THRIVENT HI YLD FD; :  
THRIVENT HI YLD PF; THRIVENT INCOME :  
FUND; THRIVENT INCOME PORTFOLIO; :  
TMCT II LLC; TRS SVCO LLC; VIRTUS :  
MULTISECTOR SHT TRM BD; VIRTUS MULTI :  
SECTOR FX INC FD; VIRTUS SENIOR :  
FLOATING RT FD; VITESSE CLO LTD; :  
VULCAN VENTURES INC; WAMCO 176 – VA :  
SUPPLEMENTAL RET; WAMCO 2357 – LEGG :  
MASON PRTNRS; WAMCO 3023 – VIRGINIA :  
RET SYS BK; WAMCO 3073 – JOHN HANCOCK :  
TRST; WAMCO 3074 – JOHN HANCOCK FD II; :

WAMCO MT WILSON CLO; WAMCO WSTRN :  
 ASST FLTG RT HI IN; WAMCO – 3131 – :  
 RAYTHEON MASTER PEN; WELLS – 13702900; :  
 WELLS – 14945000; WELLS – 16017000; WELLS :  
 16959701 – JOHN HANCOCK IN; WELLS CAP :  
 MGMT – 13923601; WELLS CAP MGMT :  
 12222133; WELLS CAP MGMT 18866500; :  
 WELLS 16463700 LA DEPT W&PWR EM; :  
 WELLS 16959700 – JH HI YLD; WEST BEND :  
 MUTUAL INSURANCE COM; WEXFORD :  
 CATALYST INVESTORS; WEXFORD :  
 SPECTRUM INVESTORS LLC; JOHN DOE NOS. :  
 1-100; and JOHN DOE, INC. NOS. 1-100, :  
 :  
 :  
 Defendants. :

-----X

**ADVERSARY COMPLAINT FOR (1) AVOIDANCE OF  
 UNPERFECTED LIEN, (2) AVOIDANCE AND RECOVERY OF  
 POSTPETITION TRANSFERS, (3) AVOIDANCE AND  
 RECOVERY OF PREFERENTIAL PAYMENTS, AND  
 (4) DISALLOWANCE OF CLAIMS BY DEFENDANTS**

TO THE HONORABLE ROBERT E. GERBER,  
 UNITED STATES BANKRUPTCY JUDGE:

The Official Committee of Unsecured Creditors of Motors Liquidation Company f/k/a  
 General Motors Corporation (“Plaintiff” or the “Committee”) appointed in the above-captioned  
 Chapter 11 cases, by its attorneys Butzel Long, P.C., pursuant to standing and authority granted  
 by Order of this Court, hereby brings this complaint (the “Complaint”), and alleges, upon  
 information and belief, as follows against Defendants:

**JURISDICTION AND VENUE**

1. This action is brought pursuant to Rule 7001 *et seq.* of the Federal Rules of  
 Bankruptcy Procedure to seek relief in accordance with 11 U.S.C. §§ 105, 502, 544, 545, 547,  
 549, 550, 551 and 1107 and other applicable law.

2. This adversary proceeding arises out of and relates to the above-captioned Chapter 11 cases.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157. This matter constitutes a “core” proceeding within the meaning of 28 U.S.C. §§ 157(b)(1) and 157(b)(2)(A), (B) and (O).

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1409(a), as this adversary proceeding arises under Title 11 or arises under or relates to a case under Title 11 of the United States Code (the “Bankruptcy Code”) which is pending in this district.

### PARTIES

5. Motors Liquidation Company f/k/a General Motors Corporation and certain of its subsidiaries (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on June 1, 2009 (the “Petition Date”) in the United States Bankruptcy Court for the Southern District of New York.

6. On June 3, 2009, the Office of the United States Trustee for the Southern District of New York appointed the Committee, pursuant to Section 1102 of the Bankruptcy Code.

7. The Committee has both standing and authority to bring this action and the claims asserted herein pursuant to paragraph 19(d) of the *Final Order Pursuant to Bankruptcy Code Sections 105(a), 361, 362, 363, 364 and 507 and Bankruptcy Rules 2002, 4001 and 6004 (A) Approving a DIP Credit Facility and Authorizing the Debtors to Obtain Post-Petition Financing Pursuant Thereto, (B) Granting Related Liens and Super-Priority Status, (C) Authorizing the Use of Cash Collateral and (D) Granting Adequate Protection to Certain Pre-Petition Secured Parties* dated June 25, 2009 (the “DIP Order”). In particular, under the DIP Order, the Court granted standing to the Committee to pursue claims challenging, *inter alia*, the security interest

of lenders to a certain term loan agreement, dated as of November 29, 2006, as amended by that certain first amendment dated as of March 4, 2009 (as amended, the "Term Loan Agreement").

8. In a diligent attempt to properly identify all possible parties to this Complaint, the Committee (i) asked counsel to JPMorgan Chase Bank, N.A. ("JPMorgan"), the administrative agent under the Term Loan Agreement, for a list of all lenders under the Term Loan Agreement or other entities who acquired an interest in the loan, which list has not been provided to date, (ii) reviewed the Term Loan Agreement, (iii) reviewed annex B and annex C attached to the *Application of the Debtors Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Fed. R. Bankr. P. 2014(a) for Authority to Employ Weil, Gotshal & Manges LLP as Attorneys for the Debtors, Nunc Pro Tunc to the Commencement Date*, dated as of June 12, 2009, (iv) reviewed a list of lenders pursuant to the Term Loan Agreement provided by Debtors' counsel, and (v) performed internet research.

9. ABN AMRO Bank N.V. is an entity that held an interest in the loan made under the Term Loan Agreement.

10. Advent Glb Opps MSTR Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

11. Aegon Transamer MFS Hi Yld is an entity that held an interest in the loan made under the Term Loan Agreement.

12. Alticor Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

13. American International Group, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.



14. APG Fixed Income Credits is an entity that held an interest in the loan made under the Term Loan Agreement.

15. Arch Reinsurance Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

16. Ares IX CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

17. Ares VIII CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

18. Ares VIR CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

19. Ares XI CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

20. Arrowgrass Master Fund Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

21. Atrium IV is an entity that held an interest in the loan made under the Term Loan Agreement.

22. Atrium V is an entity that held an interest in the loan made under the Term Loan Agreement.

23. Avenue CLO V, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

24. Avery Point CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

25. Ballyrock CLO 2006-1 Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

26. Ballyrock CLO 2006-2 Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

27. Baltic Funding LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

28. Bank of America, N.A. is an entity that held an interest in the loan made under the Term Loan Agreement.

29. Barclays Bank PLC is an entity that held an interest in the loan made under the Term Loan Agreement.

30. BBT FD LP is an entity that held an interest in the loan made under the Term Loan Agreement.

31. Big Sky III Senior Loan TR is an entity that held an interest in the loan made under the Term Loan Agreement.

32. Black Diamond CLO 2005 2 is an entity that held an interest in the loan made under the Term Loan Agreement.

33. Black Diamond CLO 2005 1 is an entity that held an interest in the loan made under the Term Loan Agreement.

34. Black Diamond CLO 2006-1 CAYMN is an entity that held an interest in the loan made under the Term Loan Agreement.

35. Black Diamond Intl FDG is an entity that held an interest in the loan made under the Term Loan Agreement.

36. Blackrock BD FD Inc Hi Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

37. Blackrock CA State Teach Ret is an entity that held an interest in the loan made under the Term Loan Agreement.

38. Blackrock Corporate High Yield Fund III I is an entity that held an interest in the loan made under the Term Loan Agreement.

39. Blackrock Corporate High Yield Fund, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

40. Blackrock Corporate High Yield Fund V, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

41. Blackrock Corporate High Yield Fund VI, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

42. Blackrock Debt Strategies Fund, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

43. Blackrock Diversified Income Strategies Fund, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

44. Blackrock Emp Ret FD City Dal is an entity that held an interest in the loan made under the Term Loan Agreement.

45. Blackrock FDS High Yield Bond Portfolio is an entity that held an interest in the loan made under the Term Loan Agreement.

46. Blackrock Floating Rate Income Strategies is an entity that held an interest in the loan made under the Term Loan Agreement.

47. Blackrock Gbl Inv Ser Inc STR is an entity that held an interest in the loan made under the Term Loan Agreement.

48. Blackrock GIS Inc STR PF is an entity that held an interest in the loan made under the Term Loan Agreement.

49. Blackrock GSAM Goldman Core PL is an entity that held an interest in the loan made under the Term Loan Agreement.

50. Blackrock High Income Shares is an entity that held an interest in the loan made under the Term Loan Agreement.

51. Blackrock High Yield Trust is an entity that held an interest in the loan made under the Term Loan Agreement.

52. Blackrock Met Inv Sr TR High Yield is an entity that held an interest in the loan made under the Term Loan Agreement.

53. Blackrock Mgd Ac Sr Hi Inc PF is an entity that held an interest in the loan made under the Term Loan Agreement.

54. Blackrock Multi – Strategy Fixed is an entity that held an interest in the loan made under the Term Loan Agreement.

55. Blackrock Multi – STRTG Sub – TR C is an entity that held an interest in the loan made under the Term Loan Agreement.

56. Blackrock Senior High Fund Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

57. Blackrock Senior Income Series II is an entity that held an interest in the loan made under the Term Loan Agreement.

58. Blackrock Senior Income Series IV is an entity that held an interest in the loan made under the Term Loan Agreement.

59. Blackrock Strategic Bond Trust is an entity that held an interest in the loan made under the Term Loan Agreement.

60. Blackrock – Lock Martin MSTR Ret is an entity that held an interest in the loan made under the Term Loan Agreement.

61. CAI Distressed Debt Opportu is an entity that held an interest in the loan made under the Term Loan Agreement.

62. Canadian Imperial Bank of Commerce is an entity that held an interest in the loan made under the Term Loan Agreement.

63. Canyon Capital CDO 2002-1 Limited is an entity that held an interest in the loan made under the Term Loan Agreement.

64. Cap Fund LP is an entity that held an interest in the loan made under the Term Loan Agreement.

65. Cap Rsch – Amer Hi Inc TR is an entity that held an interest in the loan made under the Term Loan Agreement.

66. Carlyle High Yield Par IX Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

67. Carlyle High Yield Partners 2008-1, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

68. Castle Garden FDG is an entity that held an interest in the loan made under the Term Loan Agreement.

69. Caterpillar Inc MSTR Pen TR is an entity that held an interest in the loan made under the Term Loan Agreement.
70. Celfin Capital S.A. GFUFI is an entity that held an interest in the loan made under the Term Loan Agreement.
71. Chatham Light II CLO is an entity that held an interest in the loan made under the Term Loan Agreement.
72. Citibank, N.A. – New York is an entity that held an interest in the loan made under the Term Loan Agreement.
73. Citigroup Fin Products Inc is an entity that held an interest in the loan made under the Term Loan Agreement.
74. Classic Cayman BD Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.
75. Coca Cola Co Ret & MSTR TR is an entity that held an interest in the loan made under the Term Loan Agreement.
76. Contl Casualty Co is an entity that held an interest in the loan made under the Term Loan Agreement.
77. Credit Suisse Loan Funding LLC is an entity that held an interest in the loan made under the Term Loan Agreement.
78. Credit Suisse, Cayman Islands Branch is an entity that held an interest in the loan made under the Term Loan Agreement.
79. CS Syndicated Loan FD is an entity that held an interest in the loan made under the Term Loan Agreement.

80. CSAM Syndicated Loan Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

81. Cypress Tree International Loan Holding Company is an entity that held an interest in the loan made under the Term Loan Agreement.

82. DE – SEI Instl Inv TR – Hi Yld BD is an entity that held an interest in the loan made under the Term Loan Agreement.

83. DE – SEI Instl Mgd TR – Hi Yld BD is an entity that held an interest in the loan made under the Term Loan Agreement.

84. Debello Investors LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

85. Del Grp Gov FD Core PL FD is an entity that held an interest in the loan made under the Term Loan Agreement.

86. Delaware Diversified Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

87. Delaware Diversified Income TR is an entity that held an interest in the loan made under the Term Loan Agreement.

88. Delaware Enhanced Global Divid is an entity that held an interest in the loan made under the Term Loan Agreement.

89. Delaware Extended Dur BD FD is an entity that held an interest in the loan made under the Term Loan Agreement.

90. Delaware Gr Inc FD Corporate is an entity that held an interest in the loan made under the Term Loan Agreement.

91. Delaware Grp Eq V Div Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

92. Delaware High – Yield Opp FD is an entity that held an interest in the loan made under the Term Loan Agreement.

93. Delaware Inv Div & Income FD is an entity that held an interest in the loan made under the Term Loan Agreement.

94. Delaware Inv Glb Div & Income is an entity that held an interest in the loan made under the Term Loan Agreement.

95. Delaware Optimum Fxd Income FD is an entity that held an interest in the loan made under the Term Loan Agreement.

96. Delaware Pooled TR – Core PL Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

97. Delaware Pooled TR – Hi Yld BD P is an entity that held an interest in the loan made under the Term Loan Agreement.

98. Delaware VIP TR Diversified In is an entity that held an interest in the loan made under the Term Loan Agreement.

99. Delaware VIP TR Hi Yld Series is an entity that held an interest in the loan made under the Term Loan Agreement.

100. Deutsche Bank – New York is an entity that held an interest in the loan made under the Term Loan Agreement.

101. Deutsche Bank AG Cayman Island is an entity that held an interest in the loan made under the Term Loan Agreement.



102. Eaton Vance CDO IX Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

103. Eaton Vance CDO VIII Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

104. Eaton Vance CDO X PLC is an entity that held an interest in the loan made under the Term Loan Agreement.

105. Eaton Vance FLTG Rt Inc TR is an entity that held an interest in the loan made under the Term Loan Agreement.

106. Eaton Vance Grayson & Co. is an entity that held an interest in the loan made under the Term Loan Agreement.

107. Eaton Vance Institutional Senior Loan Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

108. Eaton Vance Limited Duration Income Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

109. Eaton Vance Loan Opportunities Fund, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

110. Eaton Vance Medallion Floating is an entity that held an interest in the loan made under the Term Loan Agreement.

111. Eaton Vance Senior Debt Portfolio is an entity that held an interest in the loan made under the Term Loan Agreement.

112. Eaton Vance Senior Floating Rate Trust is an entity that held an interest in the loan made under the Term Loan Agreement.

113. Eaton Vance Senior Income Trust is an entity that held an interest in the loan made under the Term Loan Agreement.

114. Eaton Vance Short Duration Diversified Income Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

115. Eaton Vance Variable Trust Floating Rate Income Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

116. Employers Ins Company of WAUSA is an entity that held an interest in the loan made under the Term Loan Agreement.

117. Fidelity Adv Sr I – Advr Fltg R is an entity that held an interest in the loan made under the Term Loan Agreement.

118. Fidelity Advisor Series I – Fidelity Advisor High Income is an entity that held an interest in the loan made under the Term Loan Agreement.

119. Fidelity Advisor Series II – Fidelity Advisor STRT is an entity that held an interest in the loan made under the Term Loan Agreement.

120. Fidelity American High Yield Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

121. Fidelity Ballyrock CLO II is an entity that held an interest in the loan made under the Term Loan Agreement.

122. Fidelity Ballyrock CLO III is an entity that held an interest in the loan made under the Term Loan Agreement.

123. Fidelity CIP LLC High Inc CF 2 is an entity that held an interest in the loan made under the Term Loan Agreement.

124. Fidelity CIP LLC:Fidelity Floating Rate is an entity that held an interest in the loan made under the Term Loan Agreement.

125. Fidelity Illinois Muni Ret FD is an entity that held an interest in the loan made under the Term Loan Agreement.

126. Fidelity Puritan TR – Puritan Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

127. Fidelity SCH ST TR – STRT Income Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

128. Fidelity Summer ST – Cap & Inc F is an entity that held an interest in the loan made under the Term Loan Agreement.

129. Fidelity Summer ST TR – Cap & In is an entity that held an interest in the loan made under the Term Loan Agreement.

130. Fidelity Summer ST TR – Hi Inc F is an entity that held an interest in the loan made under the Term Loan Agreement.

131. Fidelity VIP V STRT Inc PF is an entity that held an interest in the loan made under the Term Loan Agreement.

132. Foothill CLO I, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

133. Foothill Gr Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

134. Foothill Grp Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

135. Fortress CR INVS I Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

136. Fortress CR INVS II Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

137. Four Corners CLO II Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

138. Four Corners CLO III Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

139. FRT TR 4 Cor Sr FL Rt Inc FD 2 is an entity that held an interest in the loan made under the Term Loan Agreement.

140. FST TR/Four Corners Sr FLTG Rt is an entity that held an interest in the loan made under the Term Loan Agreement.

141. Galaxite Master Unit TST is an entity that held an interest in the loan made under the Term Loan Agreement.

142. GE Pen TR is an entity that held an interest in the loan made under the Term Loan Agreement.

143. General Electric Capital Corporation is an entity that held an interest in the loan made under the Term Loan Agreement.

144. Genesis CLO 2007-1 Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

145. Genesis CLO 2007-2 Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

146. Global Investment Grade Credit is an entity that held an interest in the loan made under the Term Loan Agreement.

147. Golden Knight II CLO, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

148. Goldentree Loan Opportunities III, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

149. Goldentree Loan Opportunities IV, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

150. Goldman Sachs – ABS Loans 2007-1 is an entity that held an interest in the loan made under the Term Loan Agreement.

151. Goldman Sachs Credit Partners L.P. is an entity that held an interest in the loan made under the Term Loan Agreement.

152. Goldman Sachs Lending Partners is an entity that held an interest in the loan made under the Term Loan Agreement.

153. Goldman Sachs – ABS Loans 2007 L is an entity that held an interest in the loan made under the Term Loan Agreement.

154. Gracie Cr Opportunities Master is an entity that held an interest in the loan made under the Term Loan Agreement.

155. Grand Cent Asset TR Wam is an entity that held an interest in the loan made under the Term Loan Agreement.

156. Guggenheim Portfolio Co X LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

157. Gulf Stream – Sextant CLO 2007 is an entity that held an interest in the loan made under the Term Loan Agreement.

158. Gulf Stream Compass CLO 2003-1 is an entity that held an interest in the loan made under the Term Loan Agreement.

159. Gulf Stream – Compass CLO 2007 is an entity that held an interest in the loan made under the Term Loan Agreement.

160. Harch CLO II Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

161. Hartford – FLTG Bk Ln Sr of Hart is an entity that held an interest in the loan made under the Term Loan Agreement.

162. Hartford Floating Rate Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

163. Highland Floating Rate Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

164. Highland – Pac Sel FD FLTG Rt Ln is an entity that held an interest in the loan made under the Term Loan Agreement.

165. Highland Credit Opportunities CDO, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

166. Highland Offshore Partners, L.P. is an entity that held an interest in the loan made under the Term Loan Agreement.

167. Iowa Public Employees Retire is an entity that held an interest in the loan made under the Term Loan Agreement.

168. Ivy – Hi Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

169. JPMorgan is an entity that held an interest in the loan made under the Term Loan Agreement.

170. J.P. Morgan Whitefriars Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

171. Jersey Street CLO, Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

172. Katonah III, Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

173. Katonah IV Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

174. L3 – Lincoln Variable Insurance Products is an entity that held an interest in the loan made under the Term Loan Agreement.

175. LEH – Principal Investors FD is an entity that held an interest in the loan made under the Term Loan Agreement.

176. Lehman Brothers First Trust is an entity that held an interest in the loan made under the Term Loan Agreement.

177. Lehman Brothers High Income is an entity that held an interest in the loan made under the Term Loan Agreement.

178. Lehman GMAM Inv FDS TR is an entity that held an interest in the loan made under the Term Loan Agreement.

179. Lehman – Neuberger Berman – High I is an entity that held an interest in the loan made under the Term Loan Agreement.

180. Lincoln National Life Insurance 12 is an entity that held an interest in the loan made under the Term Loan Agreement.

181. Lincoln National Life SA20 is an entity that held an interest in the loan made under the Term Loan Agreement.

182. Loan Funding XI LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

183. Logan – Raytheon MPT – FLTG Rate is an entity that held an interest in the loan made under the Term Loan Agreement.

184. Logan – Raytheon MPT – Mid Grde P is an entity that held an interest in the loan made under the Term Loan Agreement.

185. Logan Circle – Alameda Cty Tra is an entity that held an interest in the loan made under the Term Loan Agreement.

186. Logan Circle – Allina Health S is an entity that held an interest in the loan made under the Term Loan Agreement.

187. Logan Circle – Allina Healths is an entity that held an interest in the loan made under the Term Loan Agreement.

188. Logan Circle – RIC PLC is an entity that held an interest in the loan made under the Term Loan Agreement.

189. Logan Circle – Rus STR Bnd FND is an entity that held an interest in the loan made under the Term Loan Agreement.



190. Logan Circle – Russell Multi – M is an entity that held an interest in the loan made under the Term Loan Agreement.

191. Logan Circle Freddie Mac FDTN is an entity that held an interest in the loan made under the Term Loan Agreement.

192. Logan Circle Peoples Enrgy Cor is an entity that held an interest in the loan made under the Term Loan Agreement.

193. Logan Circle – Sunoco Inc MSTR is an entity that held an interest in the loan made under the Term Loan Agreement.

194. Logan Circle Wis Pub Ser Pen T is an entity that held an interest in the loan made under the Term Loan Agreement.

195. Logan Circle – Liberty ML Emp Tl is an entity that held an interest in the loan made under the Term Loan Agreement.

196. Logan Circle – Russell Inst Fun is an entity that held an interest in the loan made under the Term Loan Agreement.

197. Logan Crcl Bechtel TR Thri is an entity that held an interest in the loan made under the Term Loan Agreement.

198. Mackay – Fire And Police Emplo is an entity that held an interest in the loan made under the Term Loan Agreement.

199. MacKay NY Life Ins Co GP is an entity that held an interest in the loan made under the Term Loan Agreement.

200. MacKay Shields Arkansas Public Employee Retirement System is an entity that held an interest in the loan made under the Term Loan Agreement.

201. MacKay Shields Core Plus Alpha Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

202. MacKay Shields Short Duration Alpha Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

203. MacKay – Houston Pol Off Pen Sys is an entity that held an interest in the loan made under the Term Loan Agreement.

204. Madison Park FDG III Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

205. Madison Park FDNG VI Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

206. Madison Park Funding II is an entity that held an interest in the loan made under the Term Loan Agreement.

207. Madison Park Funding IV Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

208. Marathon CLO I Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

209. Marathon CLO II Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

210. Marathon Financing I B V is an entity that held an interest in the loan made under the Term Loan Agreement.

211. Marlborough Street CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

212. Mason Cap LP is an entity that held an interest in the loan made under the Term Loan Agreement.

213. Mason Cap Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

214. Mayport CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

215. McDonnell Illinois State Board of Investment is an entity that held an interest in the loan made under the Term Loan Agreement.

216. Meritage Fund Ltd. is an entity that held an interest in the loan made under the Term Loan Agreement.

217. Merrill Lynch Capital Services, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

218. Metwest Am – 705 Hi Yld BD FD is an entity that held an interest in the loan made under the Term Loan Agreement.

219. MFS – High Yield Var Acct is an entity that held an interest in the loan made under the Term Loan Agreement.

220. MFS Charter Inc TR is an entity that held an interest in the loan made under the Term Loan Agreement.

221. MFS Diversified Income Fund – Sr is an entity that held an interest in the loan made under the Term Loan Agreement.

222. MFS FLTG Rt Hi Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

223. MFS Intermarket Inc TR I is an entity that held an interest in the loan made under the Term Loan Agreement.

224. MFS Intermediate High Income F is an entity that held an interest in the loan made under the Term Loan Agreement.

225. MFS Multimarket Income Trust is an entity that held an interest in the loan made under the Term Loan Agreement.

226. MFS Spcl VL TR is an entity that held an interest in the loan made under the Term Loan Agreement.

227. MFS Sr III TR Hi Yld Opp FD is an entity that held an interest in the loan made under the Term Loan Agreement.

228. MFS Sr TR III Hi Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

229. MFS TR VIII STRT Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

230. MFS Var Ins TR – MFS Strtgc Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

231. MFS Variable Ins TR MFS High I is an entity that held an interest in the loan made under the Term Loan Agreement.

232. MFS VIT II High Yield Portfolio is an entity that held an interest in the loan made under the Term Loan Agreement.

233. MFS VIT II STRT Inc Port is an entity that held an interest in the loan made under the Term Loan Agreement.

234. MFS – Dif – Diversified Income Fun is an entity that held an interest in the loan made under the Term Loan Agreement.

235. Microsoft Global Finance is an entity that held an interest in the loan made under the Term Loan Agreement.

236. MO St Emp Ret Sys is an entity that held an interest in the loan made under the Term Loan Agreement.

237. Momentum Cap FD Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

238. Morgan Stanley Senior FD Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

239. Mt Wilson CLO II Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

240. Muzinich Extrayld FDS SLN FD is an entity that held an interest in the loan made under the Term Loan Agreement.

241. Nash Point CLO is an entity that held an interest in the loan made under the Term Loan Agreement.

242. National City Bank is an entity that held an interest in the loan made under the Term Loan Agreement.

243. Neuberger Berman Inc Opp FD is an entity that held an interest in the loan made under the Term Loan Agreement.

244. New York Life Insurance Co GP is an entity that held an interest in the loan made under the Term Loan Agreement.

245. New York Life Insurance GP Port Alp is an entity that held an interest in the loan made under the Term Loan Agreement.

246. Oak Hill Credit Partners II Limited is an entity that held an interest in the loan made under the Term Loan Agreement.

247. Oak Hill Credit Partners III Limited is an entity that held an interest in the loan made under the Term Loan Agreement.

248. Oak Hill Credit Partners IV Limited is an entity that held an interest in the loan made under the Term Loan Agreement.

249. Oak Hill Credit Partners V Limited is an entity that held an interest in the loan made under the Term Loan Agreement.

250. Oaktree – Bill & Melinda Gates is an entity that held an interest in the loan made under the Term Loan Agreement.

251. Oaktree – Emp Ret FD City of D is an entity that held an interest in the loan made under the Term Loan Agreement.

252. Oaktree – Gen Brd Pen Hlth Bnf is an entity that held an interest in the loan made under the Term Loan Agreement.

253. Oaktree – High Yield Fund II, L.P. is an entity that held an interest in the loan made under the Term Loan Agreement.

254. Oaktree – Pacific Gas & Electric Post is an entity that held an interest in the loan made under the Term Loan Agreement.

255. Oaktree – San Diego City Employees' Retirement is an entity that held an interest in the loan made under the Term Loan Agreement.

256. Oaktree – TMCT LCC is an entity that held an interest in the loan made under the Term Loan Agreement.

257. Oaktree Capital Management – High Yield TR is an entity that held an interest in the loan made under the Term Loan Agreement.

258. Oaktree – DaimlerChrysler Corp. M is an entity that held an interest in the loan made under the Term Loan Agreement.

259. Oaktree – High Yield LP is an entity that held an interest in the loan made under the Term Loan Agreement.

260. Oaktree Loan Fund 2X (CAY) LP is an entity that held an interest in the loan made under the Term Loan Agreement.

261. Oaktree Loan Fund, L.P. is an entity that held an interest in the loan made under the Term Loan Agreement.

262. Oaktree Senior Loan Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

263. Oaktree – International Paper Co COMNGL is an entity that held an interest in the loan made under the Term Loan Agreement.

264. OCM – Cent ST, SE & SW Pens Pl is an entity that held an interest in the loan made under the Term Loan Agreement.

265. OCM – IBM Personal Pens Pl is an entity that held an interest in the loan made under the Term Loan Agreement.

266. OCM – Pacific Gas & Electric Comp Ret TR is an entity that held an interest in the loan made under the Term Loan Agreement.

267. OCM – State Teach Ret OH is an entity that held an interest in the loan made under the Term Loan Agreement.

268. OCM – WM Pool High Yield Fix Int TR is an entity that held an interest in the loan made under the Term Loan Agreement.

269. OCM High Yield Plus FD LP is an entity that held an interest in the loan made under the Term Loan Agreement.

270. OEVAG is an entity that held an interest in the loan made under the Term Loan Agreement.

271. Ohio Police & Fire Pension is an entity that held an interest in the loan made under the Term Loan Agreement.

272. Oppenheimer Senior Floating Rate Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

273. OW FDNG Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

274. Pension Inv Comm of GM for GM is an entity that held an interest in the loan made under the Term Loan Agreement.

275. Phoenix Edge Sr FD Multi Sect is an entity that held an interest in the loan made under the Term Loan Agreement.

276. Phoenix Edge – Multi – Sec Fix Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

277. Pimco Fairway Loan Funding Co is an entity that held an interest in the loan made under the Term Loan Agreement.



278. Pimco1464 – Freescale Retirement is an entity that held an interest in the loan made under the Term Loan Agreement.

279. Pimco1641 – Sierra Pac Rsrcrce De is an entity that held an interest in the loan made under the Term Loan Agreement.

280. Pimco2244 – Virginia Retirement is an entity that held an interest in the loan made under the Term Loan Agreement.

281. Pimco2603 – Red River HYPI LP is an entity that held an interest in the loan made under the Term Loan Agreement.

282. Pimco3813 – Cayman Bk Ln FD is an entity that held an interest in the loan made under the Term Loan Agreement.

283. Pimco400 – Stk Plus Sub FD B LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

284. Pimco6819 Portola CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

285. Pimco706 – FD Private Hi Yd Pt is an entity that held an interest in the loan made under the Term Loan Agreement.

286. Plumbers & Pipefitters Nat is an entity that held an interest in the loan made under the Term Loan Agreement.

287. Primus CLO I Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

288. Primus CLO II Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

289. Putnam 29X – FDS TR – FLTG Rt Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

290. Putnam Bk Ln FD (Cayman) MSTR is an entity that held an interest in the loan made under the Term Loan Agreement.

291. Pyramis FLTG Rt Hi Inc COMNGL is an entity that held an interest in the loan made under the Term Loan Agreement.

292. Pyramis Hi Yld FD LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

293. Race Point II CLO is an entity that held an interest in the loan made under the Term Loan Agreement.

294. Race Point III CLO is an entity that held an interest in the loan made under the Term Loan Agreement.

295. Race Point IV CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

296. RBC Dexia Investors Services is an entity that held an interest in the loan made under the Term Loan Agreement.

297. Reams – Brd of Pen Presbyteria is an entity that held an interest in the loan made under the Term Loan Agreement.

298. Reams – Children’s Hsptl Phila is an entity that held an interest in the loan made under the Term Loan Agreement.

299. Reams – CT Gen Life Ins Co is an entity that held an interest in the loan made under the Term Loan Agreement.

300. Reams – Emp Ret Sys of the Cit is an entity that held an interest in the loan made under the Term Loan Agreement.

301. Reams – Halliburton Company is an entity that held an interest in the loan made under the Term Loan Agreement.

302. Reams – Indiana University is an entity that held an interest in the loan made under the Term Loan Agreement.

303. Reams – Kraft Foods Master Ret is an entity that held an interest in the loan made under the Term Loan Agreement.

304. Reams – LA Fire and Police is an entity that held an interest in the loan made under the Term Loan Agreement.

305. Reams – Parkview Mem Hospital is an entity that held an interest in the loan made under the Term Loan Agreement.

306. Reams – Prudential Ret. Ins. & Ann. is an entity that held an interest in the loan made under the Term Loan Agreement.

307. Reams – Reichhold is an entity that held an interest in the loan made under the Term Loan Agreement.

308. Reams – Reichhold, Inc. is an entity that held an interest in the loan made under the Term Loan Agreement.

309. Reams – Rotary Intl Foundation is an entity that held an interest in the loan made under the Term Loan Agreement.

310. Reams – St Indiana Major Moves is an entity that held an interest in the loan made under the Term Loan Agreement.

311. Reams – The Mather Foundation is an entity that held an interest in the loan made under the Term Loan Agreement.

312. Reams Agi Gl Fx Inc Mst FD is an entity that held an interest in the loan made under the Term Loan Agreement.

313. Reams – Amer Pres Lines Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

314. Reams – Amer President Lines Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

315. Reams – Bill & Melinda Found is an entity that held an interest in the loan made under the Term Loan Agreement.

316. Reams Bill Mel Gates FD T is an entity that held an interest in the loan made under the Term Loan Agreement.

317. Reams Board of Fire is an entity that held an interest in the loan made under the Term Loan Agreement.

318. Reams Carp Pens Fund ILL is an entity that held an interest in the loan made under the Term Loan Agreement.

319. Reams Chicago Park Dist is an entity that held an interest in the loan made under the Term Loan Agreement.

320. Reams Childrens Hsptl Fnd is an entity that held an interest in the loan made under the Term Loan Agreement.

321. Reams City Mont Retir Sys is an entity that held an interest in the loan made under the Term Loan Agreement.

322. Reams City of Milwaukee Ret is an entity that held an interest in the loan made under the Term Loan Agreement.

323. Reams City of Mont Al Empl Ret is an entity that held an interest in the loan made under the Term Loan Agreement.

324. Reams Emerson is an entity that held an interest in the loan made under the Term Loan Agreement.

325. Reams Hallib Co Emp Ben Ms is an entity that held an interest in the loan made under the Term Loan Agreement.

326. Reams IA St PLC Pensio is an entity that held an interest in the loan made under the Term Loan Agreement.

327. Reams ILWU PMA is an entity that held an interest in the loan made under the Term Loan Agreement.

328. Reams Indiana St Pol Pen TR is an entity that held an interest in the loan made under the Term Loan Agreement.

329. Reams Indiana St Police is an entity that held an interest in the loan made under the Term Loan Agreement.

330. Reams Indiana St Teach Ret FD is an entity that held an interest in the loan made under the Term Loan Agreement.

331. Reams Louisiana Carp Reg CNC P is an entity that held an interest in the loan made under the Term Loan Agreement.

332. Reams Muni Emp Ret Sys Michiga is an entity that held an interest in the loan made under the Term Loan Agreement.

333. Reams Trustees of Indiana Univ is an entity that held an interest in the loan made under the Term Loan Agreement.

334. Reams – Balt Cnty Retirement is an entity that held an interest in the loan made under the Term Loan Agreement.

335. Reams – Bldng Trds Un Pen TR is an entity that held an interest in the loan made under the Term Loan Agreement.

336. Reams – Carp Pen FD IL is an entity that held an interest in the loan made under the Term Loan Agreement.

337. Reams – City of Oakland Police is an entity that held an interest in the loan made under the Term Loan Agreement.

338. Reams – Columbs Ext Mkt FD LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

339. Reams – Cummins Affiliate Col In is an entity that held an interest in the loan made under the Term Loan Agreement.

340. Reams – Duchossois Ind Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

341. Reams – Eight Dist Elec Pen FD is an entity that held an interest in the loan made under the Term Loan Agreement.

342. Reams – Emerson Elctrc is an entity that held an interest in the loan made under the Term Loan Agreement.

343. Reams – Emp Ret Sys Balt Cnty is an entity that held an interest in the loan made under the Term Loan Agreement.

344. Reams – Frontegra Col Core PL FD is an entity that held an interest in the loan made under the Term Loan Agreement.

345. Reams – Health Care Found KS is an entity that held an interest in the loan made under the Term Loan Agreement.

346. Reams – Indiana Mjr Move Cnstrct is an entity that held an interest in the loan made under the Term Loan Agreement.

347. Reams – Inter LC Pen FD Grphc Co is an entity that held an interest in the loan made under the Term Loan Agreement.

348. Reams Kraft Foods Glbl Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

349. Reams – Laboratory Corp of US HL is an entity that held an interest in the loan made under the Term Loan Agreement.

350. Reams – Montana Board of Inve is an entity that held an interest in the loan made under the Term Loan Agreement.

351. Reams – Retirement Bd of the Par is an entity that held an interest in the loan made under the Term Loan Agreement.

352. Reams – Santa Barbara Cnty Emp R is an entity that held an interest in the loan made under the Term Loan Agreement.

353. Reams – Santa Barbara County is an entity that held an interest in the loan made under the Term Loan Agreement.

354. Reams – Seattle City Empl Retire is an entity that held an interest in the loan made under the Term Loan Agreement.

355. Reams – Sonoma Cnty Emp Ret Asso is an entity that held an interest in the loan made under the Term Loan Agreement.

356. Reams – St Luke Epis Hlth Sys FD is an entity that held an interest in the loan made under the Term Loan Agreement.

357. Reams – The Mather Found Core PL is an entity that held an interest in the loan made under the Term Loan Agreement.

358. Reams – The Rotary Fdtn is an entity that held an interest in the loan made under the Term Loan Agreement.

359. Reams – Trustees of Purdue is an entity that held an interest in the loan made under the Term Loan Agreement.

360. Reams – Univ of Kentucky is an entity that held an interest in the loan made under the Term Loan Agreement.

361. Reams – Ventura Cnty Emp Ret Ass is an entity that held an interest in the loan made under the Term Loan Agreement.

362. RGA Reinsurance Co is an entity that held an interest in the loan made under the Term Loan Agreement.

363. Royal Bank of Scotland, plc is an entity that held an interest in the loan made under the Term Loan Agreement.

364. Sankaty Cr Opps Off Mtr IV LP is an entity that held an interest in the loan made under the Term Loan Agreement.

365. Sankaty High Yield Partners II, L.P. is an entity that held an interest in the loan made under the Term Loan Agreement.



366. Sankaty High Yield Partners III L.P. is an entity that held an interest in the loan made under the Term Loan Agreement.

367. Secondary Loan and Distressed is an entity that held an interest in the loan made under the Term Loan Agreement.

368. Security Invstrs – Hi Yld FD is an entity that held an interest in the loan made under the Term Loan Agreement.

369. SEI Inst Mgd TR Core Fxd Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

370. SFR Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

371. Shinnecock CLO II Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

372. Silverado CLO 2006-I Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

373. Solus Core Opp Master FD Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

374. SRI FD LP is an entity that held an interest in the loan made under the Term Loan Agreement.

375. SSS Fdg II, LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

376. State of Connecticut is an entity that held an interest in the loan made under the Term Loan Agreement.

377. Stichting Bedrijfstakpens is an entity that held an interest in the loan made under the Term Loan Agreement.

378. Stichting Depositor APG is an entity that held an interest in the loan made under the Term Loan Agreement.

379. Stichting Pensionfonds Me is an entity that held an interest in the loan made under the Term Loan Agreement.

380. Taconic Cap Ptnrs 1 5 LP is an entity that held an interest in the loan made under the Term Loan Agreement.

381. Taconic Market Disl Master II is an entity that held an interest in the loan made under the Term Loan Agreement.

382. Taconic Market Dislocation II is an entity that held an interest in the loan made under the Term Loan Agreement.

383. Taconic Opportunity FD L P is an entity that held an interest in the loan made under the Term Loan Agreement.

384. TCW High Income Parts Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

385. TCW IL St Brd of Inv is an entity that held an interest in the loan made under the Term Loan Agreement.

386. TCW Sr Secured FLTG Rt Ln FD L is an entity that held an interest in the loan made under the Term Loan Agreement.

387. TCW Sr Secured Ln Fund LP is an entity that held an interest in the loan made under the Term Loan Agreement.

388. TCW Velocity CLO is an entity that held an interest in the loan made under the Term Loan Agreement.

389. Texas Cty & Dist Ret Sys is an entity that held an interest in the loan made under the Term Loan Agreement.

390. The Bank of New York an entity that held an interest in the loan made under the Term Loan Agreement.

391. Thrivent Fin For Lutherans is an entity that held an interest in the loan made under the Term Loan Agreement.

392. Thrivent Hi Yld FD is an entity that held an interest in the loan made under the Term Loan Agreement.

393. Thrivent Hi Yld PF is an entity that held an interest in the loan made under the Term Loan Agreement.

394. Thrivent Income Fund is an entity that held an interest in the loan made under the Term Loan Agreement.

395. Thrivent Income Portfolio is an entity that held an interest in the loan made under the Term Loan Agreement.

396. TMCT II LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

397. TRS SVCO LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

398. Virtus Multisector Sht Trm BD is an entity that held an interest in the loan made under the Term Loan Agreement.

399. Virtus Multi Sector Fx Inc FD is an entity that held an interest in the loan made under the Term Loan Agreement.

400. Virtus Senior Floating Rt FD is an entity that held an interest in the loan made under the Term Loan Agreement.

401. Vitesse CLO Ltd is an entity that held an interest in the loan made under the Term Loan Agreement.

402. Vulcan Ventures Inc is an entity that held an interest in the loan made under the Term Loan Agreement.

403. WAMCO 176 – VA Supplemental Ret is an entity that held an interest in the loan made under the Term Loan Agreement.

404. WAMCO 2357 – Legg Mason Prtnrs is an entity that held an interest in the loan made under the Term Loan Agreement.

405. WAMCO 3023 – Virginia Ret Sys Bk is an entity that held an interest in the loan made under the Term Loan Agreement.

406. WAMCO 3073 – John Hancock Trst is an entity that held an interest in the loan made under the Term Loan Agreement.

407. WAMCO 3074 – John Hancock FD II is an entity that held an interest in the loan made under the Term Loan Agreement.

408. WAMCO Mt Wilson CLO is an entity that held an interest in the loan made under the Term Loan Agreement.

409. WAMCO Wstrn Asst FLTG Rt Hi In is an entity that held an interest in the loan made under the Term Loan Agreement.

410. WAMCO – 3131 – Raytheon Master Pen is an entity that held an interest in the loan made under the Term Loan Agreement.

411. Wells – 13702900 is an entity that held an interest in the loan made under the Term Loan Agreement.

412. Wells – 14945000 is an entity that held an interest in the loan made under the Term Loan Agreement.

413. Wells – 16017000 is an entity that held an interest in the loan made under the Term Loan Agreement.

414. Wells 16959701 – John Hancock In is an entity that held an interest in the loan made under the Term Loan Agreement.

415. Wells Cap Mgmt – 13923601 is an entity that held an interest in the loan made under the Term Loan Agreement.

416. Wells Cap Mgmt 12222133 is an entity that held an interest in the loan made under the Term Loan Agreement.

417. Wells Cap Mgmt 18866500 is an entity that held an interest in the loan made under the Term Loan Agreement.

418. Wells 16463700 LA Dept W&Pwr Em is an entity that held an interest in the loan made under the Term Loan Agreement.

419. Wells 16959700 – JH Hi Yld is an entity that held an interest in the loan made under the Term Loan Agreement.

420. West Bend Mutual Insurance Com is an entity that held an interest in the loan made under the Term Loan Agreement.

421. Wexford Catalyst Investors is an entity that held an interest in the loan made under the Term Loan Agreement.

422. Wexford Spectrum Investors LLC is an entity that held an interest in the loan made under the Term Loan Agreement.

423. The true names, identities and capacities of the Defendants sued herein as John Doe Nos. 1-100, and John Doe, Inc., Nos. 1-100 are unknown to Plaintiff. These fictitiously named Defendants held an interest in the loan made under the Term Loan Agreement. As and when the names, identities and capacities of these fictitiously named Defendants become known, Plaintiff will amend this Complaint to set forth these Defendants' true names, identities and capacities and otherwise proceed against them as if they had been named as parties upon the commencement of this adversary proceeding in accordance with Rules 15 and 25 of the Federal Rules of Civil Procedure.

424. The parties identified in paragraphs 9 – 423, above, are collectively referred to herein as the “Defendants.”

## **GENERAL ALLEGATIONS**

### **The Term Loan Agreement**

425. Among other parties, General Motors Corporation (“GM”), Saturn Corporation, and JPMorgan, as administrative agent and lender, were parties to the Term Loan Agreement.

426. Under the Term Loan Agreement, certain lenders (the “Term Loan Lenders”) advanced \$1.5 billion in loan proceeds to certain of the Debtors secured by a first-priority lien (the “Lien”) on certain assets of GM. The Defendants to this action include the Term Loan Lenders and entities that subsequently acquired an economic interest in the loan made pursuant to the Term Loan Agreement.

427. As of the Petition Date, the outstanding principal balance under the Term Loan Agreement was in excess of \$1.4 billion, and each of the Defendants had a claim against the Debtors consistent with its percentage interest in the loan made under the Term Loan Agreement.

### **The DIP Order**

428. On the Petition Date, the Debtors filed a motion (the “DIP Motion”) seeking authority from the Bankruptcy Court to obtain in excess of \$33 billion in postpetition financing (the “DIP Loans”) from The United States Department of Treasury and Export Development Canada to pay certain prepetition claims and fund the Debtors’ operations and administrative costs, among other things.

429. The DIP Motion asked the Bankruptcy Court to authorize the Debtors to use a portion of the proceeds of the DIP Loans to pay in full all claims under the Term Loan Agreement, inasmuch as it was generally assumed that all claims under the Term Loan Agreement were fully-secured, first-priority claims.

430. In connection with the DIP Motion, among other things, the Committee negotiated for, *inter alia*, a period of time during which it could investigate the Lien securing the Term Loan Agreement and bring claims challenging the Lien, if the Committee learned that the Lien was unperfected or otherwise subject to challenge.

431. As reflected in the DIP Order, the DIP Loans were finally approved by the Bankruptcy Court on June 25, 2009, and, pursuant to paragraph 19(d) thereto, the Committee was authorized to investigate and pursue any challenges to the Lien.

432. After entry of the DIP Order and in accordance with its terms, the Debtors paid the Term Lenders in full satisfaction of all claims arising under the Term Loan Agreement.

**The Lien Securing The Term Loan Agreement Was Not Perfected As Of The Petition Date**

433. The Committee brings this action challenging the Lien securing the Term Loan Agreement because the pertinent UCC filings demonstrate that the Lien was not perfected as of the Petition Date.

434. On November 30, 2006, the Lien was perfected when a UCC-1 financing statement (the “Financing Statement”) was filed with the Secretary of State of Delaware listing GM as “debtor” and JPMorgan, as “administrative agent and secured party,” and indicating the collateral (the “Collateral”) covered by the Financing Statement as “THE ASSETS DESCRIBED ON ANNEX I ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.” The Financing Statement is attached hereto as Exhibit 1.

435. On October 30, 2008, however, the Financing Statement was terminated when a UCC-3 financing statement amendment (the “Termination Statement”) was filed with the Secretary of State of Delaware providing that the “[e]ffectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement,” and listing JPMorgan, as administrative agent, as “THE SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT.” The Termination Statement is attached hereto as Exhibit 2.

436. As of the Petition Date, the only two records on file with the Secretary of State of Delaware relating to the Collateral were the Financing Statement and the Termination Statement. As such, the Financing Statement had been terminated by the Termination Statement. Thus, as a matter of law, Defendants’ Lien on the Collateral was not perfected on the Petition Date.

437. Paragraph 19(d) of the DIP Order authorizes the Committee to bring actions based upon the perfection of the Lien by July 31, 2009.



**First Claim for Relief**  
**(Avoidance of Lien as Unperfected)**

438. The Committee repeats and realleges the allegations in above paragraphs 1 through 437 inclusive, as though fully set forth herein.

439. Pursuant to 11 U.S.C. § 544(a), a trustee (or a debtor in possession under 11 U.S.C. § 1107) is vested with the rights and status of a hypothetical judicial lien creditor whose lien was perfected at the time of the bankruptcy petition. Such status under Section 544(a) of the Bankruptcy Code allows a trustee (or a debtor in possession under 11 U.S.C. § 1107) to avoid an unperfected security interest in a debtor's assets.

440. As a result of the filing of the Termination Statement, Defendants did not have a perfected security interest on the Petition Date. Accordingly, the Lien of the Defendants was unenforceable as against the Debtors.

441. Based on the foregoing and pursuant to 11 U.S.C. § 544(a), the Debtors may avoid the Lien because the Lien was not perfected on the Petition Date. Because the Lien is subject to avoidance, it is preserved for the benefit of the estates pursuant to 11 U.S.C. § 551.

**Second Claim for Relief**  
**(Avoidance and Recovery of Postpetition Transfers)**

442. The Committee repeats and realleges the allegations in above paragraphs 1 through 441 inclusive, as though fully set forth herein.

443. Because the Lien is subject to avoidance as set forth in the First Claim for Relief, Defendants were not entitled to payments made to them after the Petition Date.

444. Section 549 of the Bankruptcy Code allows a trustee (or a debtor in possession under 11 U.S.C. § 1107) to avoid transfers of property of the estate that occur after the

commencement of the case and that are not authorized by the Bankruptcy Code or the bankruptcy court.

445. The DIP Order provisionally authorized the Debtors to apply a portion of the proceeds of the DIP credit facility toward payment in full of all amounts due and outstanding under the Term Loan Agreement and provided that the Lien expired upon such payment.

446. The Debtors paid all amounts due and outstanding under the Term Loan Agreement after the Petition Date (collectively, the “Postpetition Transfers”). The Postpetition Transfers were provisionally made or allowed on the assumption that the Lien was perfected.

447. The DIP Order provides that the Lien remained subject to claims by the Committee challenging the perfection of the Lien.

448. As alleged above, the Financing Statement was terminated on October 30, 2008. Consequently, as of the Petition Date, the Lien was not perfected.

449. Given that the provisional authorization for the Postpetition Transfers under the Term Loan Agreement was contingent on the perfection of the Lien, which contingency cannot be met, the Postpetition Transfers were not authorized under the Bankruptcy Code or by the bankruptcy court.

450. None of the Postpetition Transfers should have been made to or for the benefit of Defendants and all such Postpetition Transfers are subject to avoidance under 11 U.S.C. § 549.

451. To the extent that a transfer is avoided under 11 U.S.C. § 549, 11 U.S.C. § 550 allows a trustee (or a debtor in possession under 11 U.S.C. § 1107) to recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property.

452. Based on the foregoing and pursuant to 11 U.S.C. § 549, the Debtors, as debtors in possession, and the Committee are entitled to avoid the Postpetition Transfers and recover for the Debtors' estates the proceeds or value of the Postpetition Transfers under 11 U.S.C. § 550.

**Third Claim for Relief**  
**(Avoidance and Recovery of Payments as Preferential Transfers)**

453. The Committee repeats and realleges the allegations in above paragraphs 1 through 452 inclusive, as though fully set forth herein.

454. To the extent any Defendant received any payments (the "Payment(s)") from the Debtors under the Term Loan Agreement during the ninety days prior to the Petition Date (the "Preference Period"), such Defendant is liable for the amount of such Payment, including but not limited to that certain Payment made by the Debtors to JPMorgan on May 27, 2009 in the amount of \$28,241,781.

455. The Defendants were creditors of the Debtors at the time the Payment(s) were made.

456. The making of the Payment(s) constituted a transfer of an interest of the Debtors' property.

457. The Payment(s) were made to or for the benefit of Defendants, as creditors of the Debtors at the time they were made.

458. The Payment(s) were made for, or on account of, an antecedent debt owed to the Defendants by the Debtors at the time the Payment(s) were made.

459. The Debtors were insolvent at the time the Payment(s) were made and throughout the Preference Period.

460. As a result of the Payment(s) being made, the Defendants received more than they would have received if (a) the Debtors' cases were cases under Chapter 7 of the Bankruptcy

Code, (b) the Payment(s) had not been made, and (c) the Defendants received payment on their debts under the provisions of the Bankruptcy Code.

461. Based on the foregoing and pursuant to 11 U.S.C. § 547, the Debtors are entitled to avoid the Payment(s) and an Order should be entered granting judgment in favor of the Debtors: (i) avoiding the Payment(s) pursuant to 11 U.S.C. § 547, and (ii) directing the Defendants to pay an amount equal to such Payment(s) pursuant to 11 U.S.C. § 550.

**Fourth Claim for Relief**  
**(To Disallow Any Claim of Defendants Until Disgorgement)**

462. The Committee repeats and realleges the allegations in above paragraphs 1 through 461 inclusive, as though fully set forth herein.

463. As alleged above, the Defendants have received Payment(s) and/or Postpetition Transfers subject to avoidance and/or recovery by the Debtors. The Defendants have not returned such Payment(s) and/or Postpetition Transfers to the Debtors.

464. Based on the foregoing and pursuant to 11 U.S.C. § 502(d), any claims that the Defendants may have against any of the Debtors must be disallowed in full unless and until the Defendants disgorge such Payment(s) and/or Postpetition Transfers to the Debtors.

**WHEREFORE**, the Committee prays for judgment as follows:

1. For an order adjudicating the Lien avoided pursuant to 11 U.S.C. § 544 and preserving the Lien for the benefit of the estates pursuant to 11 U.S.C. § 551;
2. For an order adjudicating the Postpetition Transfers avoided pursuant to 11 U.S.C. § 549 and preserving the Postpetition Transfers for the benefit of the estates pursuant to 11 U.S.C. § 551;
3. For an order adjudicating the Payment(s) avoided pursuant to 11 U.S.C. § 547 and preserving the Payment(s) for the benefit of the estates pursuant to 11 U.S.C. § 551;

4. For a judgment awarding recovery to the Debtors for the benefit of the estates against the Defendants or any mediate or intermediate transferee in the amount of the avoided Payment(s) and/or Postpetition Transfers pursuant to 11 U.S.C. § 550;

5. For a judgment disallowing any claims any Defendant may have against the Debtors until such Defendant has disgorged to the Debtors the amount of the Payment(s) and/or Postpetition Transfers;

6. For costs of suit incurred herein to the extent permitted by law;

7. For interest on any award, attorneys' fees and costs incurred by the Debtors and/or the Committee to the extent allowed by any applicable law, contract, or statute; and

8. For such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
July 31, 2009

Respectfully submitted,

BUTZEL LONG, a professional corporation

By: /s/ Eric B. Fisher  
Barry N. Seidel  
Eric B. Fisher

Special Counsel to the Official Committee of  
Unsecured Creditors of Motors Liquidation  
Company f/k/a General Motors Corporation  
380 Madison Avenue, 22<sup>nd</sup> Floor  
New York, New York 10017  
Telephone: (212) 818-1110  
Facsimile: (212) 818-0494

# **EXHIBIT 1**

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)  
**UCC Filings 800-828-0938**

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**National Corporate Research  
 41 State Street  
 Suite 600  
 Albany, NY 12207  
 |melissa@nationalcorp.com**

DELAWARE DEPARTMENT OF STATE  
 U.C.C. FILING SECTION  
 FILED 03:23 PM 11/30/2006  
 INITIAL FILING NUM: 6418808 4  
 AMENDMENT NUMBER: 0000000  
 SRV: 051094538

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. DEBTOR'S EXACT FULL LEGAL NAME - (omit suffixes like "INC" or "CORP" unless they are part of the name)**

1a. ORGANIZATION'S NAME  
**GENERAL MOTORS CORPORATION**

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**300 RENAISSANCE CENTER DETROIT MI 48265-3000 USA**

1d. REGISTRATION STATE OF ORGANIZATION 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL I.D.#, if any  
**Delaware Corporation**  NONE

**2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - (omit only one debtor name (2a or 2b) - do not abbreviate or combine names)**

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. REGISTRATION STATE OF ORGANIZATION 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL I.D.#, if any  
 NONE

**3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNOR OF ASSIGNOR'S IF - (omit only unsecured party name) (See 20a))**

3a. ORGANIZATION'S NAME  
**JPMORGAN CHASE BANK, N.A., AS ADMINISTRATIVE AGENT**

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**P.O. BOX 2558 HOUSTON TX 77252 USA**

4. THE FINANCING STATEMENT covers the following collateral:  
**THE ASSETS DESCRIBED ON ANNEX I ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN.**

5. ALTERNATIVE DESIGNATION (if applicable)	6. REGISTERED	7. CONSIGNER/CONSIGNEE	8. BALANCE ON	9. BELIEVED/NOT	10. L100	11. NON-UCC FILING
12. UCC FINANCING STATEMENT is to be filed for record (or recorded in the REAL ESTATE RECORDS - Please Indicate)	13. Check to REQUEST REPORT (by or Debtor)	14. All Debtors	Debtor 1	Debtor 2		
3. OFFICIAL FILER REFERENCE DATA					F#176913	
6701-619 -- DE -- Secretary of State					A#274606	

This Annex I  
consists of 4 pages

ANNEX I  
TO  
UCC-1 FINANCING STATEMENT

Debtor: General Motors Corporation  
300 Renaissance Center  
Detroit, Michigan 48265-3000  
(the "Debtor")

Secured Party: JPMorgan Chase Bank, N.A., as Administrative Agent  
P.O. Box 2558  
Houston, TX 77252  
(the "Agent")

The financing statement to which this Annex I is attached covers all of the following property of the Debtor now owned or at any time hereafter acquired (collectively, the "Collateral"):

- (1) all Equipment and all Fixtures, other than Excluded Equipment and Fixtures;
- (2) all Documents and General Intangibles attributable solely to Equipment or Fixtures, other than Excluded Equipment and Fixtures;
- (3) all books and records pertaining solely to Equipment or Fixtures (or Proceeds or products of Equipment or Fixtures), in each case, other than Excluded Equipment and Fixtures (or Proceeds or products thereof); and
- (4) to the extent not otherwise included in the foregoing clauses, all Proceeds and products of any and all of the foregoing.

As used herein, the following terms shall have the following meanings:

"Collateral Agreement": the collateral agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Credit Agreement": the term loan agreement, dated as of November 29, 2006, among the Debtor, Saturn Corporation, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (as the same may be amended, supplemented or otherwise modified from time to time).

"Documents": all "Documents" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.



**"Equipment"**: all "Equipment" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Excluded Equipment and Fixtures"**: all Equipment and Fixtures, now owned or at any time hereafter acquired by the Debtor, which are not located at U.S. Manufacturing Facilities; provided, that no Equipment or Fixtures now owned or at any time hereafter acquired by the Debtor (a) located at a U.S. Manufacturing Facility or (b) transferred to a Non-U.S. Manufacturing Property other than (i) in the ordinary course of business or (ii) for a business purpose of the Debtor and its Subsidiaries (as determined in good faith by the Debtor) and not primarily for the purpose of (1) reducing the security for the Obligations or (2) making such Equipment and Fixtures available to other creditors, shall constitute Excluded Equipment and Fixtures.

**"Fixtures"**: all "Fixtures" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"General Intangible"**: a "General intangible" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Governmental Authority"**: any nation or government, any state, province, municipality or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of government including the European Central Bank.

**"Grantors"**: a collective reference to the Debtor and Saturn Corporation, and each other direct or indirect wholly-owned domestic Subsidiary of the Debtor that at the option of the Debtor becomes a party to the Collateral Agreement, the Credit Agreement and each other relevant Loan Document, in each case by executing a joinder agreement in form and substance reasonably acceptable to the Agent.

**"Lender"**: each Lender party to the Credit Agreement.

**"Lien"**: any mortgage, pledge, lien, security interest, charge, statutory deemed trust, conditional sale or other title retention agreement or other similar encumbrance.

**"Loan"**: a loan made by a Lender to the Debtor pursuant to the Credit Agreement.

**"Loan Documents"**: the Credit Agreement, the Security Documents, the Notes and any amendment, waiver, supplement or other modification to any of the foregoing.

**"Non-U.S. Manufacturing Property"**: any real property of a Grantor that is not part of a U.S. Manufacturing Facility.

**"Note"**: a promissory note, executed and delivered by the Debtor with respect to the Loans, substantially in the form of Exhibit B to the Credit Agreement.

**"Obligations"**: all obligations of any Grantor in respect of any unpaid Loans and any interest thereon (including interest accruing after the maturity of any Loan and interest

accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to any Grantor, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) and all other obligations and liabilities of any Grantor to the Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with the Credit Agreement, any other Loan Document or any other document made, delivered or given in connection therewith, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise.

**"Person"**: an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

**"Proceeds"**: all "Proceeds" as such term is defined in Section 9-102 of the UCC as in effect on November 29, 2006.

**"Secured Parties"**: the collective reference to the Agent, each Lender and each other Person to which any Obligations are owed.

**"Security Documents"**: the Collateral Agreement and all other security documents delivered to the Agent granting or purporting to grant a Lien on any property of any Person to secure the Obligations, including financing statements or financing change statements under the applicable Uniform Commercial Code.

**"Subsidiary"**: as to any Person (the "parent"), any other Person of which at least a majority of the outstanding stock or other equity interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or comparable governing body of such Person (irrespective of whether or not at the time stock or other equity interests of any other class or classes of such Person shall have or might have voting power by reason of the happening of any contingency) is at the time owned by the parent, or by one or more Subsidiaries, or by the parent and one or more Subsidiaries.

**"UCC"**: the Uniform Commercial Code as from time to time in effect in the State of New York; provided, however, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Agent's and the Secured Parties' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

**"U.S. Manufacturing Facility"**: (a) any plant or facility of a Grantor listed on Schedule I hereto, including all related or appurtenant land, buildings, Equipment and Fixtures, and (b) any plant or facility of a Grantor, including all related or appurtenant land, buildings, Equipment and Fixtures, acquired or leased by a Grantor after the date hereof which is located within the continental United States of America and at which manufacturing, production, assembly or processing activities are conducted.

**Schedule 1  
to Annex I to UCC-1 Financing Statement**

<b>Num</b>	<b>Facility</b>	<b>City</b>	<b>State</b>
1	GM ASSEMBLY ARLINGTON	ARLINGTON	TX
2	GM ASSEMBLY BOWLING GREEN	BOWLING GREEN	KY
3	GM ASSEMBLY DETROIT-HAMTRAMCK	DETROIT	MI
4	GM ASSEMBLY FAIRFAX	KANSAS CITY	KS
5	GM ASSEMBLY FLINT	FLINT	MI
6	GM ASSEMBLY FORT WAYNE	FORT WAYNE	IN
7	GM ASSEMBLY JANESVILLE	JANESVILLE	WI
8	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING	MI
9	GM ASSEMBLY LANSING GRAND RIVER	LANSING	MI
10	GM ASSEMBLY LORDSTOWN	LORDSTOWN	OH
11	GM ASSEMBLY MORLAINE	DAYTON	OH
12	GM ASSEMBLY ORION	LAKE ORION	MI
13	GM ASSEMBLY PONTIAC EAST	PONTIAC	MI
14	GM ASSEMBLY SATURN WILMINGTON	WILMINGTON	DE
15	GM ASSEMBLY SHREVEPORT	SHREVEPORT	LA
16	GM ASSEMBLY WENTZVILLE	WENTZVILLE	MO
17	GM MFD AMT (BAMCO)	NEW HUDSON	MI
18	GM MFD FLINT	FLINT	MI
19	GM MFD FLINT TOOL & DIE	FLINT	MI
20	GM MFD GRAND BLANC	GRAND BLANC	MI
21	GM MFD GRAND RAPIDS	WYOMING	MI
22	GM MFD INDIANAPOLIS	INDIANAPOLIS	IN
23	GM MFD LANSING REGIONAL STAMPING	LANSING	MI
24	GM MFD LORDSTOWN	LORDSTOWN	OH
25	GM MFD MANSFIELD	MANSFIELD	OH
26	GM MFD MARION	MARION	IN
27	GM MFD PARMA	PARMA	OH
28	GM MFD PONTIAC	PONTIAC	MI
29	GM MFD SHREVEPORT	SHREVEPORT	LA
30	GM POWERTRAIN ALLISON BALTIMORE	WHITE MARSH	MD
31	GM POWERTRAIN BAY CITY	BAY CITY	MI
32	GM POWERTRAIN BEDFORD	BEDFORD	IN
33	GM POWERTRAIN DEFIANCE	DEFIANCE	OH
34	GM POWERTRAIN FLINT ENGINE SOUTH	FLINT	MI
35	GM POWERTRAIN LIVONIA	LIVONIA	MI
36	GM POWERTRAIN MASSENA	MASSENA	NY
37	GM POWERTRAIN PARMA	PARMA	OH
38	GM POWERTRAIN ROMULUS ENGINE	ROMULUS	MI
39	GM POWERTRAIN TOLEDO	TOLEDO	OH
40	GM POWERTRAIN TONAWANDA	BUFFALO	NY
41	GM POWERTRAIN WARREN TRANSMISSION	WARREN	MI
42	GM POWERTRAIN WILLOW RUN	YPSILANTI	MI

# **EXHIBIT 2**

**UCC FINANCING STATEMENT AMENDMENT**

FOLLOW INSTRUCTIONS (Read and Re-read CAREFULLY)

DELAWARE DEPARTMENT OF STATE  
 U.C.C. FILING SECTION  
 FILED 07:22 PM 10/30/2008  
 INITIAL FILING # 6416808-4  
 AMENDMENT # 2008-3561491  
 SRV: 061081602

**A. NAME & PHONE OF CONTACT AT FILER (optional)**

**B. SEND ACKNOWLEDGMENT TO: (Name and Address)**

Bryan Khuever  
 CT  
 208 South LaSalle Street  
 Suite B14  
 Chicago, IL 60604

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**1. INITIAL FINANCING STATEMENT FILE #**  
 6416808 4 on 11.30.06

**1b. This FINANCING STATEMENT AMENDMENT is to be filed for record (or recorded) in the PUBLIC UTILITY RECORDS.**

**2.  TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.

**3.  CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

**4.  ASSIGNMENT (put or pending):** Give names of assignee in Item 7a or 7b and address of assignee in Item 7c, and also give names of assignor in Item 8.

**5. AMENDMENT (PARTY INFORMATION):** This Amendment affects  Debtor  Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in Item 9 (Article 7):

CHANGE name and/or address: If name refers to the amended individual, a business or other entity, check the appropriate box.

DELETE name: Give record name to be deleted in Item 8a or 8b.

ADD name: Complete Item 7a or 7b and also Item 7c. (Check only Item 7a or 7b.)

**6. CURRENT RECORD INFORMATION:**

**6a. ORGANIZATION'S NAME**  
 GENERAL MOTORS CORPORATION

**OR**

**6b. INDIVIDUAL'S LAST NAME** **FIRST NAME** **MIDDLE NAME** **SUFFIX**

**7. CHANGED (NEW) OR ADDED INFORMATION:**

**7a. ORGANIZATION'S NAME**

**OR**

**7b. INDIVIDUAL'S LAST NAME** **FIRST NAME** **MIDDLE NAME** **SUFFIX**

**7c. MAILING ADDRESS** **CITY** **STATE** **POSTAL CODE** **COUNTRY**

**7d. SUBSEQUENTIONS** **ADD. INFO RE ORGANIZATION DEBTOR** **7e. TYPE OF ORGANIZATION** **7f. JURISDICTION OF ORGANIZATION** **7g. ORGANIZATIONAL ID #, if any**  SECRET

**8. AMENDMENT (COLLATERAL CHANGE):** check only one box.

Describe collateral  revised or  added, or give entire  amended collateral description, or describe collateral  assigned.

**9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT** (name of assignor, if this is an Assignment; if this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here  and enter name of DEBTOR authorizing this Amendment)

**9a. ORGANIZATION'S NAME**

**OR**

**9b. INDIVIDUAL'S LAST NAME** **FIRST NAME** **MIDDLE NAME** **SUFFIX**

JPMORGAN CHASE BANK, AS ADMINISTRATIVE AGENT

**10. OPTIONAL FILER REFERENCE DATA**

File with DE SOS [Matter No. 00652500] [General-13] [Doc. No. 1457978] **SE 741846-5** **log**

FILING OFFICE COPY -- UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 06/22/02)

**Open Adversary Case****U.S. Bankruptcy Court****Southern District of New York**

## Notice of Electronic Filing

The following transaction was received from Fisher, Eric entered on 7/31/2009 at 5:22 PM and filed on 7/31/2009

**Case Name:** Official Committee of Unsecured Creditors of Gener v. JPMORGAN CHASE BANK, N.A, et al.

**Case Number:** [09-00504-reg](#)

**Document Number:** [1](#)

**Case Name:** Motors Liquidation Company

**Case Number:** [09-50026-reg](#)

**Document Number:** [3593](#)

**Docket Text:**

Adversary case 09-00504. Complaint against JPMORGAN CHASE BANK, N.A, et al. . Nature(s) of Suit: (21 (Validity, priority or extent of lien or other interest in property)), (12 (Recovery of money/property - 547 preference)), (14 (Recovery of money/property - other)) Filed by Eric Fisher, Official Committee of Unsecured Creditors of General Motors Corporation on behalf of Official Committee of Unsecured Creditors of General Motors Corporation. (Attachments: # (1) Exhibit Exhibit 1# (2) Exhibit Exhibit 2) (Fisher, Eric)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**C:\F. Capria Butzel Cases Documents\141216 - Creditors Com GM\Adversary Complaint\Complaint\GM Bankruptcy Adversary Complaint 7-31-09.pdf

**Electronic document Stamp:**

[STAMP NYSBStamp\_ID=842906028 [Date=7/31/2009] [FileNumber=7493677-0]  
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**Document description:**Exhibit Exhibit 1

**Original filename:**C:\F. Capria Butzel Cases Documents\141216 - Creditors Com GM\Adversary Complaint\Complaint\Exhibits\Exhibit 1.pdf

**Electronic document Stamp:**

[STAMP NYSBStamp\_ID=842906028 [Date=7/31/2009] [FileNumber=7493677-1]  
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**Document description:**Exhibit Exhibit 2

**Original filename:**C:\F. Capria Butzel Cases Documents\141216 - Creditors Com GM\Adversary Complaint\Complaint\Exhibits\Exhibit 2.pdf

**Electronic document Stamp:**

[STAMP NYSBStamp\_ID=842906028 [Date=7/31/2009] [FileNumber=7493677-2]  
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**Document description:**Main Document

**Original filename:**C:\F. Capria Butzel Cases Documents\141216 - Creditors Com GM\Adversary Complaint\Complaint\GM Bankruptcy Adversary Complaint 7-31-09.pdf

**Electronic document Stamp:**

[STAMP NYSBStamp\_ID=842906028 [Date=7/31/2009] [FileNumber=7493678-0]  
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**Document description:**Exhibit Exhibit 1

**Original filename:**C:\F. Capria Butzel Cases Documents\141216 - Creditors Com GM\Adversary Complaint\Complaint\Exhibits\Exhibit 1.pdf

**Electronic document Stamp:**

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**Document description:**Exhibit Exhibit 2

**Original filename:**C:\F. Capria Butzel Cases Documents\141216 - Creditors Com GM\Adversary Complaint\Complaint\Exhibits\Exhibit 2.pdf

**Electronic document Stamp:**

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43871ed1f9f4d222449ab8101ef4a2b61f05bf7c80017699dce91cd24e4]]

**09-00504-reg Notice will be electronically mailed to:**

Eric Fisher on behalf of Plaintiff Official Committee of Unsecured Creditors of General Motors Corporation  
fishere@butzel.com

**09-00504-reg Notice will not be electronically mailed to:**

JPMORGAN CHASE BANK, N.A, et al.

**09-50026-reg Notice will be electronically mailed to:**

David B. Aaronson on behalf of Creditor QEK Global Solutions (US) LP  
david.aaronson@dbr.com

Letitia Accarrino on behalf of Unknown Bob Maguire Chevrolet, Inc.  
laccarrino@wilentz.com

Anna Conlon Aguilar on behalf of Creditor Anna Exponent, Inc.  
aaguilar@conlonaguilar.com

Martin Alaniz on behalf of Unknown Cardenas Autoplex, Inc.  
martin.alaniz@gmail.com