

FORM 10-Q

(Mark One)

Quarterly Report Pursuant to Section 13 or 15(d) of the Securities  
Exchange Act of 1934

For the quarterly period ended JUNE 30, 2002

or

Transition Report Pursuant to Section 13 or 15(d) of the Securities  
Exchange Act of 1934

Commission File No. 1-3548

ALLETE, INC.

A Minnesota Corporation  
IRS Employer Identification No. 41-0418150  
30 West Superior Street  
Duluth, Minnesota 55802-2093  
Telephone - (218) 279-5000

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months and (2) has been subject to such filing requirements for the past 90 days.

Yes      X      No  
-----      -----

Common Stock, no par value,  
85,226,304 shares outstanding  
as of July 31, 2002

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## DEFINITIONS

The following abbreviations or acronyms are used in the text. References in this report to "we," "us" and "our" are to ALLETE, Inc. and its subsidiaries, collectively.

ABBREVIATION OR ACRONYM	TERM
2001 Form 10-K	ALLETE's Annual Report on Form 10-K for the Year Ended December 31, 2001
ADESA	ADESA Corporation
AFC	Automotive Finance Corporation
ALLETE Company	ALLETE, Inc.
EBITDAL	ALLETE, Inc. and its subsidiaries
	Earnings Before Interest, Taxes, Depreciation, Amortization and Lease Expense
Electric Odyssey	Electric Outlet, Inc.
Enventis Telecom	Enventis Telecom, Inc.
ESOP	Employee Stock Ownership Plan
FERC	Federal Energy Regulatory Commission
FGUA	Florida Governmental Utility Authority
Florida Water	Florida Water Services Corporation
FPSC	Florida Public Service Commission
Georgia Water Heater	Georgia Water Services Corporation
Minnesota Power	Heater Utilities, Inc.
Minnkota	An operating division of ALLETE, Inc.
MPUC	Minnkota Power Cooperative, Inc.
MW	Minnesota Public Utilities Commission
NCUC	Megawatt(s)
NRG Energy	North Carolina Utilities Commission
PSCW	NRG Energy, Inc.
SEC	Public Service Commission of Wisconsin
SFAS	Securities and Exchange Commission
	Statement of Financial Accounting Standards No.
Split Rock Energy	Split Rock Energy LLC
Square Butte	Square Butte Electric Cooperative

SAFE HARBOR STATEMENT  
UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, ALLETE is hereby filing cautionary statements identifying important factors that could cause ALLETE's actual results to differ materially from those projected in forward-looking statements (as such term is defined in the Private Securities Litigation Reform Act of 1995) made by or on behalf of ALLETE in this Quarterly Report on Form 10-Q, in presentations, in response to questions or otherwise. Any statements that express, or involve discussions as to, expectations, beliefs, plans, objectives, assumptions or future events or performance (often, but not always, through the use of words or phrases such as "anticipates," "believes," "estimates," "expects," "intends," "plans," "projects," "will likely result," "will continue" or similar expressions) are not statements of historical facts and may be forward-looking.

Forward-looking statements involve estimates, assumptions, risks and uncertainties and are qualified in their entirety by reference to, and are accompanied by, the following important factors, which are difficult to predict, contain uncertainties, are beyond the control of ALLETE and may cause actual results or outcomes to differ materially from those contained in forward-looking statements:

- war and acts of terrorism;
- prevailing governmental policies and regulatory actions, including those of the United States Congress, state legislatures, the FERC, the MPUC, the FPSC, the NCUC, the PSCW and various county regulators, about allowed rates of return, financings, industry and rate structure, acquisition and disposal of assets and facilities, operation and construction of plant facilities, recovery of purchased power and capital investments, and present or prospective wholesale and retail competition (including but not limited to transmission costs) as well as general vehicle-related laws, including vehicle brokerage and auction laws;
- unanticipated impacts of restructuring initiatives in the electric industry;
- economic and geographic factors, including political and economic risks;
- changes in and compliance with environmental and safety laws and policies;
- weather conditions;
- population growth rates and demographic patterns;
- the effects of competition, including the competition for retail and wholesale customers, as well as suppliers and purchasers of vehicles;
- pricing and transportation of commodities;
- market demand, including structural market changes;
- changes in tax rates or policies or in rates of inflation;
- unanticipated project delays or changes in project costs;
- unanticipated changes in operating expenses and capital expenditures;
- capital market conditions;
- competition for economic expansion or development opportunities;
- our ability to manage expansion and integrate recent acquisitions; and
- the outcome of legal and administrative proceedings (whether civil or criminal) and settlements that affect the business and profitability of ALLETE.

Any forward-looking statement speaks only as of the date on which that statement is made, and ALLETE undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date on which that statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time and it is not possible for management to predict all of those factors, nor can it assess the impact of each of those factors on the businesses of ALLETE or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statement.



PART I. FINANCIAL INFORMATION  
ITEM 1. FINANCIAL STATEMENTS

ALLETE  
CONSOLIDATED BALANCE SHEET  
Millions

	JUNE 30, 2002	DECEMBER 31, 2001
<hr/>		
ASSETS		
Current Assets		
Cash and Cash Equivalents	\$ 232.8	\$ 220.2
Trading Securities	157.2	155.6
Accounts Receivable (Less Allowance of \$31.5 and \$29.3)	476.8	431.2
Inventories	31.1	32.0
Prepayments and Other	25.6	28.7
Discontinued Operations	34.6	42.2
<hr/>		
Total Current Assets	958.1	909.9
Property, Plant and Equipment	1,368.6	1,323.3
Investments	129.2	141.0
Goodwill	501.0	494.4
Other Intangible Assets	40.0	34.8
Other Assets	74.7	68.8
Discontinued Operations	330.3	310.3
<hr/>		
TOTAL ASSETS	\$3,401.9	\$3,282.5
<hr/>		
LIABILITIES AND SHAREHOLDERS' EQUITY		
LIABILITIES		
Current Liabilities		
Accounts Payable	\$ 373.0	\$ 239.8
Accrued Taxes, Interest and Dividends	32.7	38.1
Notes Payable	209.9	267.4
Long-Term Debt Due Within One Year	8.8	6.9
Other	93.5	106.4
Discontinued Operations	36.0	45.9
<hr/>		
Total Current Liabilities	753.9	704.5
Long-Term Debt	935.2	933.8
Accumulated Deferred Income Taxes	117.7	107.0
Other Liabilities	149.2	163.5
Discontinued Operations	160.7	154.9
<hr/>		
Total Liabilities	2,116.7	2,063.7
<hr/>		
Company Obligated Mandatorily Redeemable Preferred Securities of Subsidiary ALLETE Capital I Which Holds Solely Company Junior Subordinated Debentures	75.0	75.0
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SHAREHOLDERS' EQUITY		
Common Stock Without Par Value, 130.0 Shares Authorized 85.2 and 83.9 Shares Outstanding	799.9	770.3
Unearned ESOP Shares	(50.9)	(52.7)
Accumulated Other Comprehensive Loss	(10.5)	(14.5)
Retained Earnings	471.7	440.7
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Total Shareholders' Equity	1,210.2	1,143.8
-----		
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	\$3,401.9	\$3,282.5
-----		

The accompanying notes are an integral part of these statements.

ALLETE  
CONSOLIDATED STATEMENT OF INCOME  
Millions Except Per Share Amounts - Unaudited

	QUARTER ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2002	2001	2002	2001
<hr/>				
OPERATING REVENUE				
Energy Services	\$ 154.1	\$ 147.5	\$ 297.0	\$ 306.5
Automotive Services	217.6	214.7	431.1	419.6
Investments	5.0	42.9	21.6	55.9
<hr/>				
Total Operating Revenue	376.7	405.1	749.7	782.0
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OPERATING EXPENSES				
Fuel and Purchased Power	59.2	56.8	108.6	119.2
Operations	244.5	262.2	495.8	505.0
Interest	16.2	18.8	32.1	38.1
<hr/>				
Total Operating Expenses	319.9	337.8	636.5	662.3
<hr/>				
OPERATING INCOME FROM CONTINUING OPERATIONS	56.8	67.3	113.2	119.7
<hr/>				
DISTRIBUTIONS ON REDEEMABLE PREFERRED SECURITIES OF ALLETE CAPITAL I	1.5	1.5	3.0	3.0
<hr/>				
INCOME TAX EXPENSE	22.1	26.3	43.6	46.5
<hr/>				
INCOME FROM CONTINUING OPERATIONS	33.2	39.5	66.6	70.2
INCOME FROM DISCONTINUED OPERATIONS	5.6	3.0	7.4	5.2
<hr/>				
NET INCOME	\$ 38.8	\$ 42.5	\$ 74.0	\$ 75.4
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AVERAGE SHARES OF COMMON STOCK				
Basic	81.0	73.7	80.7	72.7
Diluted	81.7	74.3	81.3	73.3
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EARNINGS PER SHARE OF COMMON STOCK				
Basic				
Continuing Operations	\$0.41	\$0.54	\$0.83	\$0.97
Discontinued Operations	0.07	0.04	0.09	0.07
<hr/>				
	\$0.48	\$0.58	\$0.92	\$1.04
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Diluted				
Continuing Operations	\$0.40	\$0.53	\$0.82	\$0.96
Discontinued Operations	0.07	0.04	0.09	0.07
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	\$0.47	\$0.57	\$0.91	\$1.03
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DIVIDENDS PER SHARE OF COMMON STOCK	\$0.275	\$0.2675	\$0.55	\$0.535
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The accompanying notes are an integral part of these statements.



ALLETE  
CONSOLIDATED STATEMENT OF CASH FLOWS  
Millions - Unaudited

	SIX MONTHS ENDED JUNE 30,	
	2002	2001
<b>OPERATING ACTIVITIES</b>		
Net Income	\$ 74.0	\$ 75.4
Depreciation and Amortization	39.9	50.9
Deferred Income Taxes	9.5	5.8
Changes In Operating Assets and Liabilities		
Trading Securities	(1.6)	(68.8)
Accounts Receivable	(42.2)	(164.3)
Inventories	1.8	(3.3)
Accounts Payable	130.6	110.9
Other Current Assets and Liabilities	(21.8)	(6.9)
Other - Net	5.0	16.4
Cash from Operating Activities	195.2	16.1
<b>INVESTING ACTIVITIES</b>		
Proceeds from Sale of Investments	1.9	2.6
Additions to Investments	(2.9)	(9.6)
Additions to Property, Plant and Equipment	(97.5)	(78.3)
Acquisitions - Net of Cash Acquired	(17.2)	(56.4)
Other - Net	(9.7)	16.3
Cash for Investing Activities	(125.4)	(125.4)
<b>FINANCING ACTIVITIES</b>		
Issuance of Common Stock	28.2	164.3
Issuance of Long-Term Debt	8.6	126.1
Changes in Notes Payable - Net	(57.1)	(73.1)
Reductions of Long-Term Debt	(5.7)	(13.1)
Dividends on Common Stock	(43.0)	(38.0)
Cash from (for) Financing Activities	(69.0)	166.2
EFFECT OF EXCHANGE RATE CHANGES ON CASH	9.9	(1.6)
CHANGE IN CASH AND CASH EQUIVALENTS	10.7	55.3
CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD	234.2	219.3
CASH AND CASH EQUIVALENTS AT END OF PERIOD	\$ 244.9	\$ 274.6
<b>SUPPLEMENTAL CASH FLOW INFORMATION</b>		
Cash Paid During the Period For		
Interest - Net of Capitalized	\$36.8	\$41.7
Income Taxes	\$33.7	\$33.1

Included cash from discontinued operations.

The accompanying notes are an integral part of these statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

The accompanying unaudited consolidated financial statements and notes should be read in conjunction with our 2001 Form 10-K. In our opinion all adjustments necessary for a fair statement of the results for the interim periods have been included. The results of operations for an interim period may not give a true indication of results for the year. The financial information for prior periods has been reclassified to reflect as discontinued operations our Water Services businesses, our auto transport business, and our retail business-Electric Odyssey.

NOTE 1. BUSINESS SEGMENTS

Millions

	CONSOLIDATED	ENERGY SERVICES	AUTOMOTIVE SERVICES	INVESTMENTS AND CORPORATE CHARGES
-----				
FOR THE QUARTER ENDED JUNE 30, 2002				
Operating Revenue	\$376.7	\$154.1	\$217.6	\$ 5.0
Operation and Other Expense	276.6	119.4	149.6	7.6
Depreciation and Amortization Expense	20.1	12.2	7.8	0.1
Lease Expense	7.0	1.1	5.9	-
Interest Expense	16.2	4.7	5.7	5.8
-----				
Operating Income (Loss) from Continuing Operations	56.8	16.7	48.6	(8.5)
Distributions on Redeemable Preferred Securities of Subsidiary	1.5	0.6	-	0.9
Income Tax Expense (Benefit)	22.1	6.4	19.4	(3.7)
-----				
Income (Loss) from Continuing Operations	33.2	\$ 9.7	\$ 29.2	\$ (5.7)
-----				
Income from Discontinued Operations	5.6			
-----				
Net Income	\$ 38.8			
-----				
EBITDAL from Continuing Operations	\$100.1	\$34.7	\$68.0	\$(2.6)
-----				
FOR THE QUARTER ENDED JUNE 30, 2001				
Operating Revenue	\$405.1	\$147.5	\$214.7	\$ 42.9
Operation and Other Expense	290.3	113.3	154.5	22.5
Depreciation and Amortization Expense	21.7	11.4	10.1	0.2
Lease Expense	7.0	0.8	6.2	-
Interest Expense	18.8	5.3	10.0	3.5
-----				
Operating Income from Continuing Operations	67.3	16.7	33.9	16.7
Distributions on Redeemable Preferred Securities of Subsidiary	1.5	0.6	-	0.9
Income Tax Expense	26.3	6.3	13.4	6.6
-----				
Income from Continuing Operations	39.5	\$ 9.8	\$ 20.5	\$ 9.2
-----				
Income from Discontinued Operations	3.0			
-----				
Net Income	\$ 42.5			
-----				
EBITDAL from Continuing Operations	\$114.8	\$34.2	\$60.2	\$20.4
-----				

Included \$40.2 million of Canadian operating revenue in 2002 (\$38.2 million in 2001).

NOTE 1. BUSINESS SEGMENTS CONTINUED  
Millions

	CONSOLIDATED	ENERGY SERVICES	AUTOMOTIVE SERVICES	INVESTMENTS AND CORPORATE CHARGES
-----				
FOR THE SIX MONTHS ENDED JUNE 30, 2002				
Operating Revenue	\$749.7	\$ 297.0	\$431.1	\$ 21.6
Operation and Other Expense	550.4	229.0	302.4	19.0
Depreciation and Amortization Expense	39.8	24.1	15.6	0.1
Lease Expense	14.2	2.2	12.0	-
Interest Expense	32.1	9.4	11.4	11.3
-----				
Operating Income (Loss) from Continuing Operations	113.2	32.3	89.7	(8.8)
Distributions on Redeemable Preferred Securities of Subsidiary	3.0	1.2	-	1.8
Income Tax Expense (Benefit)	43.6	12.3	35.8	(4.5)
-----				
Income (Loss) from Continuing Operations	66.6	\$ 18.8	\$ 53.9	\$ (6.1)
-----				
Income from Discontinued Operations	7.4			
-----				
Net Income	\$ 74.0			
-----				
EBITDAL from Continuing Operations	\$199.3	\$68.0	\$128.7	\$2.6
Total Assets	\$3,401.9	\$971.2	\$1,654.3	\$411.5
Property, Plant and Equipment	\$1,368.6	\$892.1	\$472.4	\$4.1
Accumulated Depreciation and Amortization	\$854.1	\$715.3	\$136.6	\$2.2
Capital Expenditures	\$97.5	\$44.9	\$26.3	-
-----				
FOR THE SIX MONTHS ENDED JUNE 30, 2001				
Operating Revenue	\$782.0	\$ 306.5	\$419.6	\$ 55.9
Operation and Other Expense	567.3	234.1	301.9	31.3
Depreciation and Amortization Expense	43.4	23.0	20.1	0.3
Lease Expense	13.5	1.4	12.1	-
Interest Expense	38.1	10.2	20.6	7.3
-----				
Operating Income from Continuing Operations	119.7	37.8	64.9	17.0
Distributions on Redeemable Preferred Securities of Subsidiary	3.0	1.2	-	1.8
Income Tax Expense	46.5	14.4	26.3	5.8
-----				
Income from Continuing Operations	70.2	\$ 22.2	\$ 38.6	\$ 9.4
-----				
Income from Discontinued Operations	5.2			
-----				
Net Income	\$ 75.4			
-----				
EBITDAL from Continuing Operations	\$214.7	\$72.4	\$117.7	\$24.6
Total Assets	\$3,293.8	\$1,021.3	\$1,619.3	\$303.9
Property, Plant and Equipment	\$1,248.3	\$791.5	\$452.5	\$4.3
Accumulated Depreciation and Amortization	\$795.8	\$682.5	\$111.0	\$2.3
Capital Expenditures	\$78.3	\$29.3	\$33.9	-
-----				

Discontinued Operations represented \$364.9 million of total assets in 2002 (\$349.3 million in 2001); and \$26.3 million of capital expenditures in 2002 (\$15.1 million in 2001). Included \$74.5 million of Canadian operating revenue in 2002 (\$73.0 million in 2001). Included \$228.1 million of Canadian assets in 2002 (\$212.2 million in 2001).

NOTE 2. OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES

AFC, through a wholly owned subsidiary, sells certain finance receivables through a revolving private securitization structure. On May 31, 2002 AFC and the subsidiary entered into a revised securitization agreement that allows for the revolving sale by the subsidiary to third parties of up to \$500 million in undivided interests in eligible finance receivables. The revised agreement expires in 2005. The securitization agreement in place prior to May 31, 2002 limited the sale of undivided interests to \$325 million. In conjunction with the revised securitization agreement and in accordance with SFAS 140 "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities," AFC, for accounting purposes, began consolidating the subsidiary used in the securitization structure on June 1, 2002 and reclassified prior periods to conform to the current year presentation. Previously, AFC's interest in this subsidiary was recorded as residual interest in other current assets (\$103.0 million at December 31, 2001) net of the subsidiary's allowance for doubtful accounts.

AFC managed total receivables of \$535.7 million at June 30, 2002; \$215.9 million represent receivables which were included in accounts receivable on our consolidated balance sheet and \$319.8 million represent receivables sold in undivided interests through the securitization agreement (\$267 million at December 31, 2001) which are off-balance sheet. AFC's proceeds from the sale of the receivables to third parties were used to repay borrowings from ALLETE and fund new loans to AFC's customers. AFC and the subsidiary must each maintain certain financial covenants such as minimum tangible net worth to comply with the terms of the securitization agreement.

NOTE 3. GOODWILL AND OTHER INTANGIBLE ASSETS

We adopted SFAS 142, "Goodwill and Other Intangible Assets," in January 2002 and accordingly no longer amortize goodwill. We completed the required goodwill impairment testing in the first quarter of 2002 with no resulting impairment. No event or change has occurred that would indicate the carrying amount has been impaired since our annual test. SFAS 142 requires disclosure of what reported net income and earnings per share would have been in all periods presented exclusive of amortization expense recognized in those periods related to goodwill or other intangible assets that are no longer being amortized. All goodwill amortization related to continuing operations.

	QUARTER ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2002	2001	2002	2001
-----				
Millions Except Per Share Amounts				
NET INCOME				
Reported	\$38.8	\$42.5	\$74.0	\$75.4
Goodwill Amortization	-	2.8	-	5.6
Adjusted	\$38.8	\$45.3	\$74.0	\$81.0
-----				
EARNINGS PER SHARE				
Basic				
Reported	\$0.48	\$0.58	\$0.92	\$1.04
Goodwill Amortization	-	0.04	-	0.08
Adjusted	\$0.48	\$0.62	\$0.92	\$1.12
-----				
Diluted				
Reported	\$0.47	\$0.57	\$0.91	\$1.03
Goodwill Amortization	-	0.04	-	0.08
Adjusted	\$0.47	\$0.61	\$0.91	\$1.11
-----				

NOTE 4. DISCONTINUED OPERATIONS

In September 2001 we began a process of systematically evaluating our businesses to determine the strategic value of our assets and explore ways to unlock that value. As a result, our management and Board of Directors committed to a plan to sell our Water Services businesses and our auto transport business. Water Services includes water and wastewater services operated by several wholly owned subsidiaries in Florida, North Carolina and Georgia. We anticipate selling our Water Services businesses by the end of 2002 or early 2003. During the first half of 2002 we exited our nonregulated water subsidiaries, our auto transport business, and our retail business-Electric Odyssey. The financial results for all of these businesses have been accounted for as discontinued operations. Accordingly, we ceased depreciation of assets related to these businesses in the fourth quarter of 2001.

INCOME STATEMENT	QUARTER ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2002	2001	2002	2001
-----				
Millions				
Operating Revenue	\$34.4	\$37.9	\$68.6	\$74.0
Pre-Tax Income from Operations	\$10.7	\$4.9	\$17.4	\$8.5
Income Tax Expense	4.3	1.9	6.9	3.3
	6.4	3.0	10.5	5.2
Loss on Disposal	(1.3)	-	(4.9)	-
Income Tax Benefit	0.5	-	1.8	-
	(0.8)	-	(3.1)	-
-----				
Income from Discontinued Operations	\$ 5.6	\$3.0	\$ 7.4	\$5.2
-----				

BALANCE SHEET INFORMATION	JUNE 30,	DECEMBER 31,
	2002	2001
-----		
Millions		
Assets of Discontinued Operations		
Cash and Cash Equivalents	\$ 12.1	\$ 14.0
Other Current Assets	22.5	28.2
Property, Plant and Equipment	299.8	280.8
Other Assets	30.5	29.5
	\$ 364.9	\$ 352.5
-----		
Liabilities of Discontinued Operations		
Current Liabilities	\$ 36.0	\$ 45.9
Long-Term Debt	128.0	128.7
Other Liabilities	32.7	26.2
	\$ 196.7	\$ 200.8
-----		

## NOTE 5. INCOME TAX EXPENSE

	QUARTER ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2002	2001	2002	2001
-----				
Millions				
Current Tax				
Federal	\$ 12.7	\$ 17.2	\$ 27.4	\$ 35.9
Foreign	3.9	0.4	6.7	1.2
State	1.8	1.9	3.5	4.0
	-----	-----	-----	-----
	18.4	19.5	37.6	41.1
Deferred Tax				
Federal	4.3	6.0	6.2	4.8
Foreign	-	(0.2)	0.2	(0.4)
State	(0.3)	1.2	0.2	1.6
	-----	-----	-----	-----
	4.0	7.0	6.6	6.0
Deferred Tax Credits	(0.3)	(0.2)	(0.6)	(0.6)
Income Taxes on Continuing Operations	22.1	26.3	43.6	46.5
Income Taxes on Discontinued Operations	3.8	1.9	5.1	3.3
	-----	-----	-----	-----
Total Income Tax Expense	\$ 25.9	\$ 28.2	\$ 48.7	\$ 49.8
-----				

## NOTE 6. EARNINGS PER SHARE

The difference between basic and diluted earnings per share arises from outstanding stock options and performance share awards granted under our Executive and Director Long-Term Incentive Compensation Plans.

## RECONCILIATION OF BASIC AND DILUTED EARNINGS PER SHARE

Millions Except Per Share Amounts

	QUARTER ENDED JUNE 30, 2002			SIX MONTHS ENDED JUNE 30, 2002		
	BASIC EPS	DILUTIVE SECURITIES	DILUTED EPS	BASIC EPS	DILUTIVE SECURITIES	DILUTED EPS
Net Income	\$38.8	-	\$38.8	\$74.0	-	\$74.0
Common Shares	81.0	0.7	81.7	80.7	0.6	81.3
Per Share	\$0.48	-	\$0.47	\$0.92	-	\$0.91
-----						
	QUARTER ENDED JUNE 30, 2001			SIX MONTHS ENDED JUNE 30, 2001		
	BASIC EPS	DILUTIVE SECURITIES	DILUTED EPS	BASIC EPS	DILUTIVE SECURITIES	DILUTED EPS
Net Income	\$42.5	-	\$42.5	\$75.4	-	\$75.4
Common Shares	73.7	0.6	74.3	72.7	0.6	73.3
Per Share	\$0.58	-	\$0.57	\$1.04	-	\$1.03
-----						

NOTE 7. TOTAL COMPREHENSIVE INCOME

For the quarter ended June 30, 2002 total comprehensive income was \$44.8 million (\$52.8 million for the quarter ended June 30, 2001). For the six months ended June 30, 2002 total comprehensive income was \$78.0 million (\$79.2 million for the six months ended June 30, 2001). Total comprehensive income includes net income, unrealized gains and losses on securities classified as available-for-sale, changes in the fair value of an interest rate swap and foreign currency translation adjustments.

NOTE 8. NEW ACCOUNTING STANDARDS

SFAS 143, "Accounting for Asset Retirement Obligations," requires the recognition of a liability for an asset retirement obligation in the period in which it is incurred. When the liability is initially recorded, the carrying amount of the related long-lived asset is correspondingly increased. Over time, the liability is accreted to its present value and the related capitalized charge is depreciated over the useful life of the asset. SFAS 143 is effective for fiscal years beginning after June 15, 2002. Currently, decommissioning amounts collected in Minnesota Power's rates are reported in accumulated depreciation, which upon adoption of SFAS 143 will require a reclassification to a liability. We are reviewing what additional assets, if any, may have associated retirement costs as defined by SFAS 143 and anticipate no material impact on the Company's financial position and results of operations.

NOTE 9. SQUARE BUTTE POWER PURCHASED CONTRACT

Minnesota Power has a power purchase agreement with Square Butte that extends through 2026 (Agreement). It provides a long-term supply of low-cost energy to customers in our electric service territory and enables Minnesota Power to meet power pool reserve requirements. Square Butte, a North Dakota cooperative corporation, owns a 455-MW coal-fired generating unit (Unit) near Center, North Dakota. The Unit is adjacent to a generating unit owned by Minnkota, a North Dakota cooperative corporation whose Class A members are also members of Square Butte. Minnkota serves as the operator of the Unit and also purchases power from Square Butte.

Minnesota Power is entitled to approximately 71 percent of the Unit's output under the Agreement. After 2005 and upon compliance with a two-year advance notice requirement, Minnkota has the option to reduce Minnesota Power's entitlement by 5 percent annually, to a minimum of 50 percent. Minnesota Power is obligated to pay its pro rata share of Square Butte's costs based on Minnesota Power's entitlement to Unit output. Minnesota Power's payment obligation is suspended if Square Butte fails to deliver any power, whether produced or purchased, for a period of one year. Square Butte's fixed costs consist primarily of debt service. At June 30, 2002 Square Butte had total debt outstanding of \$299.1 million. Total annual debt service for Square Butte is expected to be approximately \$36 million in each of the years 2002 and 2003, and \$23 million in each of the years 2004 through 2006. Variable operating costs include the price of coal purchased from BNI Coal, Ltd., our subsidiary, under a long-term contract. Minnesota Power's payments to Square Butte are approved as purchased power expense for ratemaking purposes by both the MPUC and FERC.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL  
CONDITION AND RESULTS OF OPERATIONS

ALLETE's core operations are focused on two business segments. ENERGY SERVICES includes electric and gas services, coal mining and telecommunications. AUTOMOTIVE SERVICES includes a network of wholesale and total loss vehicle auctions, a finance company, a vehicle remarketing company, a company that provides vehicle inspection services to the automotive industry and its lenders, and a company that provides Internet-based automotive parts location and insurance claim audit services nationwide. INVESTMENTS AND CORPORATE CHARGES include our real estate operations, investments in emerging technologies related to the electric utility industry and corporate charges. Corporate charges represent general corporate expenses, including interest, not specifically related to any one business segment. Also included in Investments and Corporate Charges is our trading securities portfolio which we began liquidating in July 2002 through a process we anticipate completing by the end of September 2002. DISCONTINUED OPERATIONS includes our Water Services businesses, our auto transport business, and our retail business-Electric Odyssey.

CONSOLIDATED OVERVIEW

Net income and earnings per share for the quarter ended June 30, 2002 decreased 9 percent and 18 percent, respectively, from the same period in 2001. For the six months ended June 30, 2002, net income was down 2 percent and earnings per share were down 12 percent from the same period in 2001. EXIT CHARGES. Net income in 2002 included charges related to our exit from non-strategic businesses (\$1.6 million for the second quarter; \$3.9 million for the six months). Excluding these charges, earnings per share would have been \$0.50 for the quarter ended June 30, 2002 (\$0.96 for the six months ended June 30, 2002). GOODWILL. Earnings for the quarter ended June 30, 2001 included \$2.8 million, or \$0.04 per share, of goodwill amortization expense (\$5.6 million, or \$0.08 per share for the six months ended June 30, 2001). REAL ESTATE TRANSACTION. Earnings for the quarter and six months ended June 30, 2001 included an \$11.1 million, or \$0.15 per share, gain associated with the Company's largest ever single real estate transaction. COMMON STOCK ISSUANCE. The issuance of 6.6 million shares of our common stock in the second quarter of 2001 also impacted earnings per share for 2002.

	QUARTER ENDED JUNE 30,		SIX MONTHS ENDED JUNE 30,	
	2002	2001	2002	2001
-----				
Millions Except Per Share Amounts				
-----				
Operating Revenue				
Energy Services	\$154.1	\$147.5	\$ 297.0	\$306.5
Automotive Services	217.6	214.7	431.1	419.6
Investments	5.0	42.9	21.6	55.9
	-----	-----	-----	-----
	\$376.7	\$405.1	\$749.7	\$782.0
-----				
Operating Expenses				
Energy Services	\$137.4	\$130.8	\$264.7	\$268.7
Automotive Services	169.0	180.8	341.4	354.7
Investments and Corporate Charges	13.5	26.2	30.4	38.9
	-----	-----	-----	-----
	\$319.9	\$337.8	\$636.5	\$662.3
-----				
Net Income				
Energy Services	\$ 9.7	\$ 9.8	\$ 18.8	\$ 22.2
Automotive Services	29.2	20.5	53.9	38.6
Investments and Corporate Charges	(5.7)	9.2	(6.1)	9.4
	-----	-----	-----	-----
	33.2	39.5	66.6	70.2
Discontinued Operations	5.6	3.0	7.4	5.2
	-----	-----	-----	-----
	\$ 38.8	\$ 42.5	\$ 74.0	\$ 75.4
-----				
Diluted Average Shares of Common Stock	81.7	74.3	81.3	73.3
-----				
Diluted Earnings Per Share of Common Stock				
Continuing Operations	\$0.40	\$0.53	\$0.82	\$0.96
Discontinued Operations	0.07	0.04	0.09	0.07
	-----	-----	-----	-----
	\$0.47	\$0.57	\$0.91	\$1.03
-----				



## NET INCOME

The following net income discussion summarizes a comparison of the six months ended June 30, 2002 to the six months ended June 30, 2001.

ENERGY SERVICES' net income in 2002 decreased \$3.4 million, or 15 percent, primarily due to weaker wholesale market conditions. Last year's stronger economy and colder winter weather resulted in higher wholesale prices. Total retail megawatthour sales were similar to last year.

AUTOMOTIVE SERVICES reported a \$15.3 million, or 40 percent, increase in net income and a 9 percent increase in EBITDAL over 2001. The continued growth in net income was primarily due to higher conversion rates (the percentage of vehicles sold from those that were offered at auction), improved cost efficiencies, a mandated accounting change which resulted in the discontinuance of goodwill amortization and lower interest rates. The conversion rate related to wholesale vehicles sold was 63 percent for the six months ended June 30, 2002 (61 percent for the same period in 2001). In 2002 the number of vehicles sold at our wholesale auction facilities were similar to last year. Fleet downsizing by rental car companies after September 11, 2001 resulted in increased sales of factory vehicles at our auction facilities during the fourth quarter of 2001 to the detriment of the first six months of 2002. Vehicle sales in other higher margin categories and strong conversion rates in 2002 helped mitigate the reduction in sales of factory vehicles. Vehicles sold at our total loss vehicle auction facilities were up 36 percent from 2001. AFC contributed 30 percent of the net income for Automotive Services in 2002 (33 percent in 2001) and reported a 5 percent increase in the number of vehicles financed. Net income in 2002 also included a \$0.8 million charge associated with the exit from our 44 percent ownership in a Canadian auto transport business.

INVESTMENTS AND CORPORATE CHARGES reported \$15.5 million less net income in 2002 due to smaller real estate transactions in 2002 and lower returns on our securities portfolio. In June 2001 our real estate operations reported an \$11.1 million gain on its largest single sale ever. Our securities portfolio earned a negative 0.33 percent after-tax annualized return in 2002 compared to a positive 10.02 percent in 2001. This decrease was partially offset by more income from our emerging technology investments.

DISCONTINUED OPERATIONS was up \$2.2 million primarily due to the suspension of depreciation on our Water Services assets. Our Water Services businesses also reported a 12 percent increase in water consumption as a result of drier weather conditions and a 4 percent increase in customers. These increases were partially offset by \$3.1 million of exit charges associated with the auto transport business and the retail business-Electric Odyssey.

## COMPARISON OF THE QUARTERS ENDED JUNE 30, 2002 AND 2001

### ENERGY SERVICES

OPERATING REVENUE was up \$6.6 million, or 4 percent, in 2002 primarily due to increased revenue from power marketing activities and Enventis Telecom. Revenue from power marketing activities was \$9.2 million higher in 2002 reflecting the inclusion of \$8.1 million of revenue from merchant generation operations (non-rate base generation sold at market-based rates pursuant to FERC authority), and \$5.3 million for mark-to-market income related to energy contracts (\$1.5 million in 2001). The increase in revenue from power marketing activities, however, was negatively impacted by weak wholesale market conditions which reduced wholesale prices in 2002. Revenue from Enventis Telecom was \$3.3 million higher in 2002 reflecting the July 2001 acquisition of Enventis, Inc. These increases were partially offset by a \$5.5 million decrease in revenue from retail electric sales which was primarily attributed to lower fuel clause recovery because of lower fuel costs in 2002. Total retail megawatthour sales were similar to last year.

Revenue from electric sales to taconite customers accounted for 10 percent of consolidated operating revenue in both 2002 and 2001. Electric sales to paper and pulp mills accounted for 4 percent of consolidated operating revenue in both 2002 and 2001. Sales to other power suppliers accounted for 4 percent of consolidated operating revenue in 2002 (5 percent in 2001).

OPERATING EXPENSES were up \$6.6 million, or 5 percent, in 2002 reflecting the inclusion of merchant generation and Enventis, Inc. operations. These increases were partially offset by reduced maintenance expenses. In 2001 the Company had higher plant maintenance expenses and additional costs incurred as a result of a severe ice storm.

## AUTOMOTIVE SERVICES

OPERATING REVENUE was up \$2.9 million, or 1 percent, in 2002 reflecting strong conversion rates at wholesale auction facilities. At ADESA, 454,000 wholesale vehicles were sold in 2002 (458,000 in 2001). The number of vehicles sold was impacted by a reduction in factory vehicles brought to auction. Stronger sales in other vehicle categories helped mitigate the reduction in factory vehicles. In addition, at our total loss vehicle auctions, 47,000 vehicles were sold in 2002 (34,000 in 2001), an increase of 38 percent.

Operating revenue from AFC was higher in 2002 reflecting a 4 percent increase in vehicles financed through its loan production offices. AFC financed approximately 241,000 vehicles in 2002 (232,000 in 2001) and managed total receivables of \$536 million at June 30, 2002 (\$480 million at June 30, 2001).

OPERATING EXPENSES were down \$11.8 million, or 7 percent, in 2002 primarily due to improved cost efficiencies, reduced interest expense (\$4.3 million) as a result of lower interest rates, and the discontinuance of goodwill amortization (\$3.3 million). These decreases were partially offset by an increase in operating expenses incurred to standardize operations at all our total loss auction facilities and expenditures for information technology initiatives.

## INVESTMENTS AND CORPORATE CHARGES

OPERATING REVENUE was down \$37.9 million, or 88 percent, in 2002 primarily due to a large real estate transaction recorded in 2001. In 2002 our real estate operations reported no large real estate sales, while in 2001 two large real estate sales contributed \$30.4 million to revenue, one of which was our real estate operations' largest single transaction ever. Income from our securities portfolio and emerging technology investments was also lower in 2002.

OPERATING EXPENSES were down \$12.7 million, or 48 percent, in 2002 primarily due to expenses associated with larger real estate sales in 2001.

## COMPARISON OF THE SIX MONTHS ENDED JUNE 30, 2002 AND 2001

### ENERGY SERVICES

OPERATING REVENUE was down \$9.5 million, or 3 percent, in 2002 primarily due to a \$16.9 million decrease in revenue from retail electric and gas sales. This decrease was attributed to warmer winter weather and lower fuel clause recovery due to lower fuel costs in 2002. Total retail megawatthour sales were similar to last year. Revenue from power marketing activities was down \$2.1 million in 2002 due to weak wholesale market conditions which reduced wholesale prices in 2002. This decrease was partially offset by the inclusion of \$8.1 million of revenue from merchant generation operations, and \$5.3 million for mark-to-market income related to energy contracts in 2002 (\$1.5 million in 2001). Revenue in 2002 also included \$8.0 million more revenue from Enventis Telecom reflecting the July 2001 acquisition of Enventis, Inc.

Revenue from electric sales to taconite customers accounted for 10 percent of consolidated operating revenue in both 2002 and 2001. Electric sales to paper and pulp mills accounted for 4 percent of consolidated operating revenue in both 2002 and 2001. Sales to other power suppliers accounted for 4 percent of consolidated operating revenue in 2002 (6 percent in 2001).

OPERATING EXPENSES were down \$4.0 million, or 1 percent, in 2002 due to decreased purchased power and maintenance expenses. Purchased power expense was down \$15.0 million in 2002 because prices paid for purchased power were lower, Company generation was up 6 percent and 2 percent fewer megawatthours were sold. Purchased gas expense was lower in 2002 because in 2001 prices paid were at record highs. In 2001 the Company had higher plant maintenance expenses and additional costs incurred as a result of a severe ice storm. These decreases were partially offset by the inclusion of merchant generation and Enventis, Inc. operations.

## AUTOMOTIVE SERVICES

OPERATING REVENUE was up \$11.5 million, or 3 percent, in 2002 reflecting strong conversion rates at wholesale auction facilities. At ADESA, 915,000 wholesale vehicles were sold in 2002 (924,000 in 2001). The number of vehicles sold was impacted by a reduction in factory vehicles brought to auction. Stronger sales in other vehicle categories helped mitigate the reduction in factory vehicles. In addition, at our total loss vehicle auctions, 94,000 vehicles were sold in 2002 (69,000 in 2001), an increase of 36 percent.

Operating revenue from AFC was higher in 2002 reflecting a 5 percent increase in vehicles financed through our loan production offices. AFC financed approximately 478,000 vehicles in 2002 (453,000 in 2001) and managed total receivables of \$536 million at June 30, 2002 (\$480 million at June 30, 2001).

OPERATING EXPENSES were down \$13.3 million, or 4 percent, in 2002 primarily due to improved cost efficiencies, reduced interest expense (\$9.2 million) as a result of lower interest rates, and the discontinuance of goodwill amortization (\$6.6 million). These decreases were partially offset by an increase in operating expenses incurred to standardize operations at all our total loss auction facilities and expenditures for information technology initiatives. Also, operating expenses in 2001 reflected additional expenses for utility and labor costs incurred as a result of inclement weather conditions.

## INVESTMENTS AND CORPORATE CHARGES

OPERATING REVENUE was down \$34.3 million, or 61 percent, in 2002 primarily due to a large real estate transaction recorded in 2001. Two large real estate sales in 2002 contributed \$4.9 million to revenue, while in 2001 four large real estate sales contributed \$33.1 million to revenue, one of which was our real estate operations' largest single transaction ever. Operating revenue also reflected less income from the securities portfolio due to lower returns in 2002. Operating revenue from our emerging technology investments was up \$0.5 million in 2002.

OPERATING EXPENSES were down \$8.5 million, or 22 percent, in 2002 primarily due to expenses associated with larger real estate sales in 2001.

## CRITICAL ACCOUNTING POLICIES

Certain accounting measurements under applicable generally accepted accounting principles involve management's judgment about subjective factors and estimates, the effects of which are inherently uncertain. The following summarizes those accounting measurements we believe are most critical to our reported results of operations and financial condition.

ACCOUNTING POLICY	JUDGMENTS/UNCERTAINTIES AFFECTING APPLICATION	SEE ADDITIONAL DISCUSSION AT
Uncollectible Receivables and Allowance for Doubtful Accounts	<ul style="list-style-type: none"><li>- Economic conditions affecting customers, suppliers and market prices</li><li>- Outcome of negotiations, litigation and bankruptcy proceedings</li><li>- Current sales, payment and write-off histories</li></ul>	Liquidity and Capital Resources - Working Capital on page 18
Goodwill Impairment	<ul style="list-style-type: none"><li>- Economic conditions affecting market valuations</li><li>- Changes in business strategy</li><li>- Forecast of future operating cash flows and earnings</li></ul>	Note 3. Goodwill and Other Intangible Assets on page 9
Fair Value of Energy Contracts	<ul style="list-style-type: none"><li>- Economic conditions affecting energy supply, demand and market prices</li></ul>	Item 3. Quantitative and Qualitative Disclosures about Market Risk - Power Marketing on page 20

## OUTLOOK

Based on a mid-year review of our businesses, we have revised our 2002 earnings per share estimate to be in the range of \$2.00 to \$2.10, excluding \$0.05 per share of charges related to the exit from the auto transport business and the retail business-Electric Odyssey, and any potential gain recognized on the sale of our Water Services businesses. This estimate reflects the goodwill accounting change and incorporates our year to date performance and our revised expectations for the second half of 2002 which include the liquidation of our trading securities portfolio and lower wholesale power prices.

We have decided to liquidate our trading securities portfolio to reduce our exposure to increased volatility in the securities market. At June 30, 2002 the fair value of our trading securities portfolio was \$157.2 million. Our revised earnings estimate for 2002 reflects a \$0.10 per share income reduction due to no contribution from our trading securities portfolio. No gain or loss on liquidation is expected. With the proceeds we plan to reduce debt. The cash generated from this decision as well as from our continuing operations and the expected sale of our Water Services' assets will fuel our future growth. Our balance sheet remains strong. We continue to focus on our two core competencies-Energy Services and Automotive Services, and work toward positioning each of them to continue our earnings growth track record.

**ENERGY SERVICES.** Our new merchant generation facilities at the Taconite Harbor Energy Center in northern Minnesota and in Kendall County near Chicago, Illinois, became fully operational by the second quarter of 2002. The third quarter is typically the highest net income quarter for our Energy Services' business, and the third quarter of 2002 is expected to follow the historical pattern. While our base retail electric business remains stable, we do not expect that wholesale power margins will return to the high levels of a few years ago, but we do expect improvement during the third quarter of 2002 compared to the first half of 2002. The extent of our profitability will be impacted by wholesale power prices during the third quarter of 2002.

**AUTOMOTIVE SERVICES.** The second quarter 2002 performance of our Automotive Services business demonstrated our ability to drive efficiencies at our auctions acquired since January 2000 and generate profits. We expect to continue EBITDAL and revenue improvement, and double digit earnings growth into 2003. We also expect that the factory vehicle volume at our auctions will return to normal levels later this year. We remain on target to achieve our previously stated goal of 30 percent earnings growth (20 percent excluding the goodwill accounting change) over 2001. In addition, we anticipate continued growth in the number of vehicles sold and financed at auction. We expect a 5 percent increase in total vehicles both sold and financed over 2001.

**INVESTMENTS AND CORPORATE CHARGES.** We anticipate net income from Investments and Corporate Charges to decline in 2002 due to the liquidation of our trading securities portfolio and, as expected, a lower contribution from our real estate operations.

**DISCONTINUED OPERATIONS.** We remain engaged in discussions relating to the planned sale of our Water Services businesses. The FGUA has delayed taking any action on the proposed purchase of Florida Water assets until September 2002. The FGUA has stated its intent to advise Florida Water which utility systems it desires to purchase and the purchase price for these utility systems, and to seek finalized definitive agreements. We continue to work with them at the same time that we explore other sales opportunities. ALLETE has hired an investment banker to facilitate the sale of Heater Utilities and Georgia Water Services. We expect to close these transactions in late 2002 or early 2003. In June 2002 we completed our exit from the auto transport business.

## LIQUIDITY AND CAPITAL RESOURCES

### CASH FLOW ACTIVITIES

During the first six months of 2002 cash flow from operating activities reflected strong operating results and continued focus on working capital management. Cash flow from operating activities was higher in 2002 due to the timing of the collection of certain finance receivables outstanding at December 31, 2001 and changes in trading securities. In 2001 additional trading securities were purchased with a portion of the proceeds from a common stock issuance. Cash flow from operations was also affected by a number of factors representative of normal operations.

**WORKING CAPITAL.** Additional working capital, if and when needed, generally is provided by the sale of commercial paper. In July 2002 we began liquidating our trading securities portfolio through a process we anticipate completing by the end of September 2002. With the proceeds we plan to reduce debt. Approximately 5.0 million original issue shares of our common stock are available for issuance through INVEST DIRECT, our direct stock purchase and dividend reinvestment plan.

A substantial amount of ADESA's working capital is generated internally from payments for services provided. However, ADESA has arrangements to use proceeds from the sale of commercial paper issued by ALLETE to meet short-term working capital requirements arising from the timing of payment obligations to vehicle sellers and the availability of funds from vehicle purchasers. During the sales process, ADESA does not typically take title to vehicles.

AFC offers short-term on-site financing for dealers to purchase vehicles at auctions in exchange for a security interest in each vehicle. The financing is provided through the earlier of the date the dealer sells the vehicle or a general borrowing term of 30 to 45 days. AFC has arrangements to use proceeds from the sale of commercial paper issued by ALLETE to meet its working capital requirements.

AFC, through a wholly owned subsidiary, sells certain finance receivables through a revolving private securitization structure. On May 31, 2002 AFC and the subsidiary entered into a revised securitization agreement that allows for the revolving sale by the subsidiary to third parties of up to \$500 million in undivided interests in eligible finance receivables. The revised agreement expires in 2005. The securitization agreement in place prior to May 31, 2002 limited the sale of undivided interests to \$325 million. In conjunction with the revised securitization agreement and in accordance with SFAS 140 "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities," AFC, for accounting purposes, began consolidating the subsidiary used in the securitization structure on June 1, 2002 and reclassified prior periods to conform to the current year presentation. Previously, AFC's interest in this subsidiary was recorded as residual interest in other current assets (\$103.0 million at December 31, 2001) net of the subsidiary's allowance for doubtful accounts.

AFC managed total receivables of \$535.7 million at June 30, 2002; \$215.9 million represent receivables which were included in accounts receivable on our consolidated balance sheet and \$319.8 million represent receivables sold in undivided interests through the securitization agreement (\$267 million at December 31, 2001) which are off-balance sheet. AFC's proceeds from the sale of the receivables to third parties were used to repay borrowings from ALLETE and fund new loans to AFC's customers. AFC and the subsidiary must each maintain certain financial covenants such as minimum tangible net worth to comply with the terms of the securitization agreement.

Significant changes in accounts receivable and accounts payable balances at June 30, 2002 compared to December 31, 2001 were due to increased sales and financing activity at Automotive Services. Typically auction volumes are down during the winter months and in December because of the holidays. As a result, Automotive Services had higher receivables and higher payables at June 30, 2002.

We provide up to \$50 million in credit support to facilitate the power marketing activities of Split Rock Energy, and had \$36.1 million in outstanding support at June 30, 2002 (\$36.0 million at December 31, 2001).

SECURITIES. In March 2001 ALLETE, ALLETE Capital II and ALLETE Capital III, jointly filed a registration statement with the SEC pursuant to Rule 415 under the Securities Act of 1933. The registration statement, which has been declared effective by the SEC, relates to the possible issuance of an aggregate amount of \$500 million of securities which may include ALLETE common stock, first mortgage bonds and other debt securities, and ALLETE Capital II and ALLETE Capital III preferred trust securities, of which approximately \$387 million remains available to be issued. ALLETE also previously filed a registration statement, which has been declared effective by the SEC, relating to the possible issuance of \$25 million of first mortgage bonds and other debt securities. We may sell all or a portion of the remaining registered securities if warranted by market conditions and our capital requirements. Any offer and sale of the above mentioned securities will be made only by means of a prospectus meeting the requirements of the Securities Act of 1933 and the rules and regulations thereunder.

INVESTMENTS. As investments in emerging technology companies are sold, we recognize a gain or loss. Our investment in the companies that have gone public had a cost basis of approximately \$12 million at June 30, 2002 and December 31, 2001. The aggregate market value of our investment in these companies at June 30, 2002 was \$7 million (\$24 million at December 31, 2001). At this time the Company does not believe there is a permanent impairment. These investments provide us with access to developing technologies before their commercial debut, as well as potential financial returns. We view these investments as a source of capital for redeployment in existing businesses.

#### CAPITAL REQUIREMENTS

As a result of new construction and expansions at Automotive Services, consolidated capital expenditures for 2002 are now expected to be \$235 million. Consolidated capital expenditures for the quarter ended June 30, 2002 totaled \$97.5 million (\$78.3 million in 2001). Expenditures for 2002 included \$44.9 million for Energy Services and \$26.3 million for Automotive Services. Expenditures for 2002 also included \$26.3 million related to discontinued operations (\$22.4 million to maintain our Water Services businesses while they are in the process of being sold; \$3.9 million to buy previously leased auto transportation trucks). Internally generated funds were the primary sources of funding for these expenditures.

#### NEW ACCOUNTING STANDARDS

SFAS 143, "Accounting for Asset Retirement Obligations," requires the recognition of a liability for an asset retirement obligation in the period in which it is incurred. When the liability is initially recorded, the carrying amount of the related long-lived asset is correspondingly increased. Over time, the liability is accreted to its present value and the related capitalized charge is depreciated over the useful life of the asset. SFAS 143 is effective for fiscal years beginning after June 15, 2002. Currently, decommissioning amounts collected in Minnesota Power's rates are reported in accumulated depreciation, which upon adoption of SFAS 143 will require a reclassification to a liability. We are reviewing what additional assets, if any, may have associated retirement costs as defined by SFAS 143 and anticipate no material impact on the Company's financial position and results of operations.

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READERS ARE CAUTIONED THAT FORWARD-LOOKING STATEMENTS INCLUDING THOSE CONTAINED ABOVE, SHOULD BE READ IN CONJUNCTION WITH OUR DISCLOSURES UNDER THE HEADING: "SAFE HARBOR STATEMENT UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995" LOCATED ON PAGE 3 OF THIS FORM 10-Q.

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

#### SECURITIES PORTFOLIO

In July 2002 we began liquidating our trading securities portfolio through a process we anticipate completing by the end of September 2002. With the proceeds we plan to reduce our debt. At June 30, 2002 available-for-sale securities consisted of the common stock of publicly traded companies and equity securities in a grantor trust established to fund certain employee benefits.

Our trading securities portfolio had a fair value of \$157.2 million at June 30, 2002 (\$155.6 million at December 31, 2001). Our available-for-sale securities portfolio had a fair value of \$19.0 million at June 30, 2002 (\$26.5 million at December 31, 2001).

#### FOREIGN CURRENCY

Our foreign currency exposure is limited to the conversion of operating results of our Canadian subsidiaries and, therefore, we have not entered into any foreign exchange contracts to hedge the conversion of our Canadian operating results into United States dollars.

#### POWER MARKETING

Minnesota Power purchases power for retail sales in our retail service territory and occasionally sells excess generation in the wholesale market. At the end of second quarter of 2002 we also had 500 MW of merchant generation (non-rate base generation sold at market-based rates pursuant to FERC authority) available for sale to the wholesale market. Our merchant generation includes 225 MW from our Taconite Harbor Energy Center in northern Minnesota that was acquired in October 2001. It also includes 275 MW of generation secured through a 15-year tolling agreement, which commenced in May 2002, with NRG Energy at the Kendall County facility near Chicago, Illinois. Under the Kendall County tolling agreement, the Company pays a fixed capacity charge for the right, but not the obligation, to utilize one 275 MW generating unit. We are responsible for arranging the natural gas fuel supply and are entitled to the electricity produced. Our strategy is to sell the majority of merchant generation through long-term contracts of various durations. The balance will be sold in the spot market, through short-term agreements, or possibly utilized as a source of low-cost supply for our regulated operations if the need exists. The services of Split Rock Energy may be utilized to broker or market merchant generation. We currently have two long-term forward capacity and energy contracts related to generation secured by the NRG Energy tolling agreement. Each is for 50 MW, with one having a 10-year term and the other a 15-year term.

The services of Split Rock Energy are used to fulfill purchase requirements for retail load and to market excess generation. We own 50 percent of Split Rock Energy which was formed in 2000 with Great River Energy to provide us with least cost supply, maximize the value of our generation assets and maximize marketing revenue within prescribed limits. Split Rock Energy operates in the wholesale energy markets, and engages in marketing activities by entering into forward and option contracts for the purchase and sale of electricity. These contracts are primarily short-term in nature with maturities of less than one year. Although Split Rock Energy generally attempts to balance its purchase and sale positions, commodity price risk sometimes exists or is created. This risk is actively managed through a risk management program that includes policies, procedures and limits established by the Split Rock Energy Board of Governors.

Revenue for the quarter and six months ended June 30, 2002 included \$5.3 million for mark-to-market income attributable to the power marketing activities of Split Rock Energy and our merchant generation operations (\$1.5 million for the quarter and six months ended June 30, 2001). Included in the \$5.3 million of mark-to-market income in 2002 is \$5.6 million of mark-to-market income for future fixed margins associated with the Kendall County contracts.

PART II. OTHER INFORMATION

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

- (a) We held our Annual Meeting of Shareholders on May 14, 2002.
- (b) Included in (c) below.
- (c) The election of directors, the appointment of independent accountants and the reservation of an additional three million shares of ALLETE common stock for issuance under the Executive Long-Term Incentive Compensation Plan were voted on at the Annual Meeting of Shareholders.

The results were as follows:

	VOTES FOR	VOTES WITHHELD OR AGAINST	ABSTENTIONS	BROKER NONVOTES
<b>DIRECTORS</b>				
Kathleen A. Brekken	72,931,311	924,410	-	-
Wynn V. Bussmann	72,961,877	893,844	-	-
Dennis E. Evans	72,945,815	909,906	-	-
David G. Gartzke	73,053,319	802,402	-	-
Glenda E. Hood	72,654,381	1,201,340	-	-
Peter J. Johnson	72,666,159	1,189,562	-	-
George L. Mayer	72,695,734	1,159,987	-	-
Jack I. Rajala	73,021,920	833,801	-	-
Nick Smith	72,956,767	898,954	-	-
Bruce W. Stender	72,703,354	1,152,367	-	-
Donald C. Wegmiller	72,948,613	907,108	-	-
<b>INDEPENDENT ACCOUNTANTS</b>				
PricewaterhouseCoopers LLP	70,418,228	2,785,483	652,010	-
<b>ALLETE EXECUTIVE LONG-TERM INCENTIVE COMPENSATION PLAN</b>				
Reservation of additional shares to be issued	59,119,239	12,804,480	1,932,002	-

- (d) Not applicable.



ITEM 5. OTHER INFORMATION

Reference is made to our 2001 Form 10-K for background information on the following updates. Unless otherwise indicated, cited references are to our 2001 Form 10-K.

Ref. Page 18. - Insert after the Second Full Paragraph

In June 2002 Minnkota received a Notice of Violation from the Environmental Protection Agency (EPA) regarding alleged New Source Review violations at the M.R. Young Station which includes the Square Butte generating unit. The EPA claims certain capital projects completed by Minnkota should have gone through the New Source Review process potentially resulting in new air permit operating conditions. The Company is unable to predict the outcome of this matter. Minnesota Power is obligated to pay its pro rata share of Square Butte's costs based on Minnesota Power's entitlement to the Square Butte generating unit output.

Ref. Page 11. - Sixth Paragraph

Ref. Page 30. - Third Paragraph

Ref. Form 8-K dated and filed February 28, 2002 - Second Paragraph

Ref. Form 8-K dated and filed March 28, 2002

Ref. 10-Q for the quarter ended March 31, 2002, Page 18. - Fifth Paragraph

The Company remains engaged in discussions relating to the planned sale of our Water Services businesses. The FGUA has delayed taking any action on the proposed purchase of Florida Water assets until September 2002. The FGUA has stated its intent to advise Florida Water which utility systems it desires to purchase and the purchase price for these utility systems, and to seek finalized definitive agreements. We continue to work with them at the same time that we explore other sales opportunities. ALLETE has hired an investment banker to facilitate the sale of Heater Utilities and Georgia Water Services. We expect to close these transactions in late 2002 or early 2003. In June 2002 we completed our exit from the auto transport business.

ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibits.

Exhibit  
Number  
-----

- 10(a) Receivables Purchase Agreement dated as of May 31, 2002, among AFC Funding Corporation, as Seller, Automotive Finance Corporation, as Servicer, Fairway Finance Corporation, as initial Purchaser, BMO Nesbitt Burns Corp., as initial Agent and as Purchaser Agent for Fairway Finance Corporation and XL Capital Assurance Inc., as Insurer. [Portions of this exhibit have been omitted pursuant to a request for confidential treatment and filed separately with the Securities and Exchange Commission.]
- 10(b) Amended and Restated Purchase and Sale Agreement dated as of May 31, 2002, between AFC Funding Corporation and Automotive Finance Corporation. [Portions of this exhibit have been omitted pursuant to a request for confidential treatment and filed separately with the Securities and Exchange Commission.]
- 99(a) Certification of Periodic Report dated August 5, 2002, signed by David G. Gartzke.
- 99(b) Certification of Periodic Report dated August 5, 2002, signed by James K. Vizanko.

(b) Reports on Form 8-K.

Report on Form 8-K filed July 19, 2002 with respect to Item 7. Financial Statements and Exhibits.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ALLETE, INC.

August 5, 2002

James K. Vizanko

-----

James K. Vizanko  
Vice President,  
Chief Financial Officer and Treasurer

August 5, 2002

Mark A. Schober

-----

Mark A. Schober  
Vice President and Controller

EXHIBIT INDEX

EXHIBIT  
NUMBER

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CONFIDENTIAL TREATMENT

AMENDED AND RESTATED  
RECEIVABLES PURCHASE AGREEMENT

dated as of May 31, 2002

among

AFC FUNDING CORPORATION,

as Seller,

AUTOMOTIVE FINANCE CORPORATION,

as Servicer,

FAIRWAY FINANCE CORPORATION  
and such other entities from time to time  
as may become Purchasers hereunder,

BMO NESBITT BURNS CORP.,

as the initial Agent  
and as Purchaser Agent for Fairway Finance Corporation

and

XL CAPITAL ASSURANCE INC.,

as Insurer

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\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

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CONFIDENTIAL TREATMENT

AMENDED AND RESTATED  
RECEIVABLES PURCHASE AGREEMENT

This AMENDED AND RESTATED RECEIVABLES PURCHASE AGREEMENT, originally dated as of December 31, 1996 and amended and restated as of May 31, 2002 (as further amended, supplemented or otherwise modified from time to time, the "AGREEMENT") is entered into among AFC FUNDING CORPORATION, an Indiana corporation, as seller (the "SELLER"), AUTOMOTIVE FINANCE CORPORATION, an Indiana corporation ("AFC"), as initial servicer (in such capacity, together with its successors and permitted assigns in such capacity, the "SERVICER"), FAIRWAY FINANCE CORPORATION, a Delaware corporation ("FAIRWAY"), as initial purchaser (together with its successors and permitted assigns and such other entities as may become party hereto from time to time as purchasers, the "PURCHASERS"), BMO NESBITT BURNS CORP., a Delaware corporation ("BMO Nesbitt Burns") as agent for the Purchasers (in such capacity, together with its successors and assigns in such capacity, the "AGENT") and as Purchaser Agent for Fairway (in such capacity, together with its successors and assigns and such other financial institutions as may become party hereto from time to time each as a purchaser agent, a "PURCHASER AGENT") and XL CAPITAL ASSURANCE INC., a New York stock insurance company (the "INSURER").

PRELIMINARY STATEMENTS. Certain terms that are capitalized and used throughout this Agreement are defined in EXHIBIT I to this Agreement. References in the Exhibits hereto to "the Agreement" refer to this Agreement, as amended, modified or supplemented from time to time.

Fairway, the Agent, the Seller and the Servicer are party to that certain Receivables Purchase Agreement, dated as of December 31, 1996, pursuant to which the Seller has sold, transferred and assigned an undivided variable percentage interest in a pool of receivables, and Fairway has acquired such undivided variable percentage interest.

[ \* ].

The parties hereto additionally wish to amend and restate the Receivables Purchase Agreement in its entirety, in order to allow the Seller to sell, transfer and assign undivided variable percentage interests in a pool of receivables to one or several Purchasers, and to allow one or several Purchasers to acquire such undivided variable percentage interests, each of which shall be adjusted from time to time based upon, in part, reinvestment payments which are made by the Purchasers and additional incremental payments which are made to the Seller.

The parties hereto additionally wish to amend and restate the Receivables Purchase Agreement in its entirety in order to make certain other changes set forth herein.

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

CONFIDENTIAL TREATMENT

In consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

ARTICLE I.

AMOUNTS AND TERMS OF THE PURCHASES

Section 1.1. PURCHASE FACILITY. (a) On the terms and conditions hereinafter set forth, (i) each Revolving Purchaser hereby agrees to purchase and make reinvestments of undivided percentage ownership interests with regard to its Participation from the Seller from time to time (but not on a Purchaser Termination Day for such Revolving Purchaser) during the period from the date hereof or the date set forth in the Joinder Agreement to which it is a party, as applicable, to the Termination Date and (ii) each Term Purchaser hereby agrees to make a purchase with regard to its Participation from Seller on the date set forth in the Joinder Agreement to which it is a party. Under no circumstances shall any (A) Revolving Purchaser make any such purchase or reinvestment if, after giving effect to such purchase or reinvestment, either (1) the aggregate outstanding Investment of all Revolving Purchasers would exceed the Revolving Purchase Limit or (2) the aggregate Investment of such Revolving Purchaser would exceed its Maximum Purchase Amount or (B) Purchaser make any such purchase or reinvestment if, after giving effect to such purchase or reinvestment, the aggregate outstanding Investment of all Purchasers would exceed the Maximum Insured Amount.

(b) The Seller may, upon at least 30 days' notice to the Agent, the Purchaser Agents and the Insurer, terminate the purchase facility provided in SECTION 1.1(a)(i) in whole or, from time to time, irrevocably reduce in part the unused portion of the Revolving Purchase Limit; PROVIDED that each partial reduction shall be in the amount of [ \* ], or an [ \* ] in excess thereof and shall not reduce the Revolving Purchase Limit [ \* ]. Any reductions in the Revolving Purchase Limit shall reduce the Maximum Purchase Amounts of the Revolving Purchasers ratably according to their respective Revolving Pro Rata Share.

Section 1.2. MAKING PURCHASES. (a) Each purchase (but not reinvestment) of undivided ownership interests with regard to any Participation of any Revolving Purchaser hereunder shall be made upon the Seller's irrevocable written notice in the form of ANNEX A delivered to the Agent (who will forward such notice to the applicable Purchaser Agent) and the Insurer in accordance with SECTION 5.2 (which notice must be received by such Purchaser Agent prior to 11:00 a.m., Chicago time) on the second Business Day next preceding the date of such proposed purchase. Each such notice of any such proposed purchase shall specify the desired amount and date of such purchase and the desired duration of the initial Yield Period for the related Portion of the Investment of such Participation; PROVIDED each proposed purchase shall be in the amount of [ \* ] or [ \* ] in excess thereof. Each Purchaser Agent shall select the duration of such initial Yield Period with respect to the Portion of the Investment funded by the Purchaser(s) for which it is acting as Purchaser Agent and each

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subsequent Yield Period in connection with such Portion of Investment in its discretion; PROVIDED that it shall use reasonable efforts, taking into account market conditions, to accommodate Seller's preferences. Each purchase of undivided ownership interests with regard to any Participation of any Term Purchaser shall be made in accordance with the terms set forth in the related Joinder Agreement.

(b) On the date of each purchase (but not reinvestment) of undivided ownership interests with regard to the Participation of any Purchaser, such Purchaser shall, upon satisfaction of the applicable conditions set forth in EXHIBIT II hereto and (if applicable) set forth in the related Joinder Agreement, make available to its Purchaser Agent (at its address set forth on the signature pages hereto or of the applicable Joinder Agreement) the amount of such purchase in same day funds, and after such Purchaser Agent's receipt of such funds, such Purchaser Agent shall make such funds immediately available to the Seller at such office.

(c) The Seller hereby sells and assigns to the Agent, for the benefit of the Secured Parties, an undivided percentage ownership interest equal to the Aggregate Participation in (i) each Pool Receivable then existing and thereafter arising, (ii) all Related Security with respect to such Pool Receivables, and (iii) Collections with respect to, and other proceeds of, such Pool Receivables and Related Security.

(d) To secure all of the Seller's obligations (monetary or otherwise) under this Agreement, the Insurance Agreement and the other Transaction Documents to which it is a party, whether now or hereafter existing or arising, due or to become due, direct or indirect, absolute or contingent, including to secure the obligation of the Servicer that Collections be applied to the Participations as provided in this Agreement, the Seller hereby grants to the Agent, for the benefit of the Secured Parties, a security interest in all of the Seller's right, title and interest (including, without limitation, any undivided interest of the Seller) in, to and under all of the following, whether now or hereafter owned, existing or arising: (A) all Pool Receivables, (B) all Related Security with respect to each such Pool Receivable, (C) all Collections with respect to each such Pool Receivable, (D) the Deposit Accounts, the Liquidation Account and the Cash Reserve Account and all amounts on deposit therein and all certificates and instruments, if any, from time to time evidencing the Deposit Accounts, the Liquidation Account and the Cash Reserve Account, all amounts on deposit therein, all investments (including any investment property) made with such funds, all claims thereunder or in connection therewith, and all interest, dividends, moneys, instruments, securities and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the foregoing, (E) all rights of the Seller under the Purchase and Sale Agreement, and (F) all proceeds of, and all amounts received or receivable under any or all of, the foregoing. The Agent, for the benefit of the Secured Parties, shall have, with respect to the property described in this SECTION 1.2(d), and in addition to all the other rights and remedies available under this Agreement, all the rights and remedies of a secured party under any applicable UCC.

Section 1.3. PARTICIPATION COMPUTATION. Each Participation shall be initially computed on the date of the initial purchase hereunder. Thereafter until the Termination Date, each Participation shall be automatically recomputed (or deemed to be recomputed) on each Business Day other than a Termination Day. Each Participation, as computed (or deemed recomputed) as of the day immediately preceding the Termination Date, shall thereafter remain constant. The Participations shall all become zero when the aggregate Investment and Discount thereon shall have been paid in full, all the amounts owed by the Seller hereunder, under the Insurance Agreement and under any other Transaction Documents to the Purchasers, the Purchaser Agents, the Insurer, the Agent, and any other Indemnified Party or Affected Person are paid in full and the Servicer shall have received the accrued Servicing Fee.

Section 1.4. SETTLEMENT PROCEDURES. (a) Collection of the Pool Receivables shall be administered by the Servicer in accordance with the terms of this Agreement. The Seller shall provide to the Servicer on a timely basis all information needed for such administration, including notice of the occurrence of any Termination Date or Revolving Paydown Day and current computations of the Participations.

(b) The Servicer shall segregate and hold all Collections in trust for the benefit of the Seller, the Purchasers and the Insurer and, within one Business Day of the receipt (or deemed receipt) of Collections of Pool Receivables by the Seller or Servicer, deposit such Collections into a Deposit Account. With respect to such Collections on the day deposited into the Deposit Accounts:

(i) out of the percentage of such Collections represented by the Aggregate Participation, FIRST the Servicer shall transfer from the Deposit Accounts to the Liquidation Account, and the Agent shall hold therein for the benefit of the Insurer, an amount equal to the Premium accrued through such day and not previously transferred to the Liquidation Account and SECOND, out of each Purchaser's Distribution Percentage of the remainder of such Collections, the Servicer shall transfer from the Deposit Accounts to the Liquidation Account, and the Agent shall hold therein for the benefit of each Purchaser, an amount equal to the sum of the Discount accrued through such day on each Portion of Investment of such Purchaser's Participation and not previously transferred to the Liquidation Account and the Program Fees accrued through such day with respect to such Purchaser and not previously transferred to the Liquidation Account (provided that the amount allocated pursuant to this priority SECOND shall not exceed [ \* ]) and third, out of the remainder of such Collections, the Servicer shall transfer from the Deposit Accounts to the Liquidation Account, and the Agent shall hold therein for the benefit of the Servicer (if AFC or any Affiliate thereof is not the Servicer), an amount equal to the Servicing Fee accrued through such day and not previously transferred to the Liquidation Account;

(ii) if such day is not a Termination Day, (A) if the amount on deposit in the Cash Reserve Account on such day is less than the Cash Reserve, the Servicer shall transfer

from the Deposit Accounts out of the remainder of the percentage of such Collections represented by the Aggregate Participation to the Cash Reserve Account funds sufficient to increase the amount on deposit therein to equal the Cash Reserve; (B) if such day is a Revolving Paydown Day, Purchaser Termination Day or any date on which a reduction is occurring pursuant to SECTION 1.4(f), out of the remainder (after giving effect to clause (A)) of the percentage of such Collections represented by the Aggregate Participation, the Servicer and the Agent shall apply such Collections in accordance with SECTION 1.4(g), SECTION 1.4(f) and SECTION 1.4(h) (in the order of priority listed); (C) the Servicer shall transfer from the Deposit Accounts to the Liquidation Account out of the remainder (after giving effect to CLAUSES (A) and (B) above) of the percentage of such Collections represented by the Aggregate Participation an amount equal to the sum of the Discount accrued through such day on each Portion of Investment of such Purchaser's Participation and not previously transferred to the Liquidation Account and the Program Fees accrued through such day with respect to such Purchaser and not previously transferred to the Liquidation Account, in each case, to the extent not transferred pursuant to CLAUSE SECOND in SECTION 1.4(b)(i) above; (D) the Servicer shall transfer (after giving effect to CLAUSES (A), (B) and (C) above) from the Deposit Accounts to the Liquidation Account, and the Agent shall promptly apply (ratably in proportion to the respective amounts owed to each such Person) for the account of any Indemnified Party that is owed any amounts hereunder, under the [ \* ] Transaction Document not consisting of Discount, Investment, Program Fees or Premium, an amount equal to the sum of such amounts; and (E) the Servicer shall remit to the Seller, on behalf of the Purchasers, the remainder of the percentage of such Collections represented by the Aggregate Participation (after giving effect to CLAUSES (A), (B), (C) and (D) above); such Collections remitted to the Seller shall first be used, if the Originator or any Affiliate of the Seller is the Servicer, to pay any accrued but unpaid Servicing Fee to the Servicer and the remainder shall be automatically reinvested in Pool Receivables and in the Related Security;

(iii) if such day is a Termination Day, (A) the Servicer shall transfer to the Liquidation Account, out of the Collections in the Deposit Accounts (first out of the Seller's share of such Collections, and then out of the portion of such Collections represented by the Aggregate Participation) an amount equal to the costs and expenses incurred by the Agent and the Insurer in enforcing their rights and the rights of the other Indemnified Parties hereunder and reported to the Servicer by the Agent, (B) the Servicer shall transfer to the Liquidation Account, and the Agent shall hold therein for each Purchaser, such Purchaser's Distribution Percentage of the entire remainder of the percentage of the Collections represented by the Aggregate Participation, and (C) the Servicer shall transfer to the Liquidation Account, and the Agent shall hold therein for each Purchaser, such Purchaser's Termination Share of the entire remainder of the Collections in the Deposit Accounts represented by the Seller's share of the Collections, if any; and

(iv) if such day is not a Termination Day, out of the Seller's share of Collections, the Servicer shall FIRST, remit to the Servicer in the event that AFC is not the Servicer, the Servicing Fee and SECOND, remit to the Seller the remainder of such Collections.

(c) On each Settlement Date, funds being held on deposit in the Liquidation Account shall be distributed by the Agent as follows:

(i) If such Settlement Date is not a Termination Day, Collections held on deposit in the Liquidation Account for the benefit of any Purchaser pursuant to SECTIONS 1.4(b)(i), 1.4(b)(ii)(C) and 1.4(b)(ii)(D) shall be paid on behalf of Seller [ \* ] SECOND to the applicable Purchaser Account in an amount equal to the sum of any accrued and unpaid Program Fees payable on such Settlement Date (if any) and accrued and unpaid Discount payable on each Portion of the Investment of such Purchaser with a Yield Period ending on such Settlement Date (if any) (provided that the amount payable pursuant to this priority second shall not exceed the [ \* ]), THIRD, to the applicable Purchaser Account in an amount equal to sum of any accrued and unpaid Program Fees payable on such Settlement Date (if any) and accrued and unpaid Discount payable on each Portion of Investment of such Purchaser with a Yield Period ending on such Settlement Date (to extent not paid pursuant to clause second above) and FOURTH, to the account of the applicable Indemnified Party in an amount equal to the amount owed to such Indemnified Party not consisting of Discount, Investment, Program Fees or Premium;

(ii) If such Settlement Date is not a Termination Day and is a Settlement Date associated with the last day of any Yield Period of any Portion of the Investment of any Purchaser, the Collections held on deposit in the Liquidation Account for the benefit of such Purchaser pursuant to SECTIONS 1.4(f), 1.4(g) or 1.4(h) shall be paid on behalf of Seller to the applicable Purchaser Account in an amount equal to the lesser of (A) such Portion of the Investment and (B) the amount of such Collections;

(iii) If such Settlement Date is a Termination Day, Collections held on deposit in the Liquidation Account for the benefit of any Purchaser pursuant to SECTIONS 1.4(b)(i), 1.4(b)(ii), 1.4(b)(iii), 1.4(f), 1.4(g) or 1.4(h) shall be applied FIRST, to the Agent and the Insurer such Purchaser's Termination Share of the costs and expenses incurred by the Agent and the Insurer in enforcing their rights and the rights of the other Indemnified Parties hereunder (provided that the amount payable pursuant to this priority FIRST shall not exceed \$100,000 per annum); SECOND, [ \* ]; THIRD, to such Purchaser's Account in an amount equal to the sum of accrued and unpaid Discount payable on each Portion of the Investment of such

CONFIDENTIAL TREATMENT

Purchaser and accrued and unpaid Program Fees payable on such Settlement Date to such Purchaser (if any) (provided that the amount payable pursuant to this priority THIRD [ \* ]); FOURTH, to such Purchaser's Account in an amount equal to such Purchaser's outstanding Investment; FIFTH, [ \* ] SIXTH, to such Purchaser's Account in an amount equal to the sum of accrued and unpaid Discount payable on each Portion of the Investment of such Purchaser and any accrued and unpaid Program Fees (to the extent not paid pursuant to clause THIRD above) and SEVENTH, to the Agent and the Insurer such Purchaser's Termination Share of the costs and expenses of the Agent and [ \* ] in enforcing their rights and the rights of the Indemnified Parties hereunder (to the extent not paid pursuant to clause FIRST above);

(iv) [ \* ];

(v) if such Settlement Date is a Servicer Payment Date and neither AFC nor any of its Affiliates are the Servicer, Collections held on deposit in the Liquidation Account for the benefit of the Servicer pursuant to SECTION 1.4(b)(i) in respect of accrued and unpaid Servicing Fees for the prior calendar month shall be paid as the Servicer shall direct;

(vi) if the Investment and accrued Discount with respect to each Portion of Investment of each Purchaser have been reduced to zero, [ \* ], and all accrued Servicing Fees payable to the Servicer (if other than AFC or any of its Affiliates) have been paid in full, any amount remaining in the Liquidation Account after the application of CLAUSES (i)-(v) above shall be distributed to the Purchasers, [ \* ], the Agent, the Purchaser Agents and any other Indemnified Party or Affected Person in payment in full of any other amounts owed thereto hereunder [ \* ] or any other Transaction Document (ratably in proportion to the respective amounts owed to each such Person); and

(vii) if such Settlement Date is a Fee Payment Date, Collections held on deposit in the Liquidation Account for the benefit of the Purchasers in respect of accrued and unpaid Program Fees for the prior calendar month shall be paid to the applicable Purchaser's Account.

(d) Upon receipt of funds deposited into any Purchaser's Account pursuant to SECTION 1.4(c) with respect to such Purchaser's Participation, the applicable Purchaser Agent shall cause such funds to be distributed as follows:

(i) if such distribution occurs on a day that is not a Termination Day, FIRST to the payment in full (on a PARI PASSU basis) of all Discount and Program Fees with respect to such Purchaser's Participation previously due and remaining unpaid, SECOND, to the payment in full (on a PARI PASSU basis) of all accrued and unpaid Discount with respect to any Portion of Investment of such Purchaser with a Yield Period ending on the applicable Settlement Date and all accrued and unpaid Program Fees due on the applicable Settlement Date and THIRD to the payment in full of any Portion of the Investment of such Purchaser with a Yield Period ending on the applicable Settlement Date; and

(ii) if such distribution occurs on a day that is a Termination Day, FIRST to the payment in full (on a PARI PASSU basis) of all Discount and Program Fees with respect to such Purchaser's Participation previously due and remaining unpaid, SECOND, to the payment in full (on a PARI PASSU basis) of all accrued and unpaid Discount with respect to any Portion of Investment of such Purchaser with a Yield Period ending on the applicable Settlement Date and all accrued and unpaid Program Fees due on the applicable Settlement Date, THIRD, to the payment in full of such Purchaser's Investment, FOURTH, if the Investment and accrued Discount with respect to each Portion of Investment of such Purchaser have been reduced to zero, to the payment in full of any other amounts owed by the Seller hereunder to such Purchaser.

If a Purchaser so directs, any of the foregoing payments owed to such Purchaser may be paid to its Purchaser Agent on its behalf.

(e) For the purposes of this SECTION 1.4:

(i) if on any day the Outstanding Balance of any Pool Receivable is reduced or adjusted as a result of any discount, rebate or other adjustment made by the Originator, Seller or Servicer, or any setoff or dispute between the Seller, Originator or the Servicer and an Obligor, the Seller shall be deemed to have received on such day a Collection of such Pool Receivable in the amount of such reduction or adjustment;

(ii) if on any day any of the representations or warranties in PARAGRAPHS A.(g) or A.(o) of EXHIBIT III is not true with respect to any Pool Receivable, the Seller shall be deemed to have received on such day a Collection of such Pool Receivable in full;

(iii) except as provided in PARAGRAPH (i) or (ii) of this SECTION 1.4(e), or as otherwise required by applicable law or the relevant Contract, all Collections received from an Obligor of any Receivable shall be applied in accordance with the Contract with such Obligor and the Credit and Collection Policy; and



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(iv) if and to the extent any Purchaser Agent, the Agent, [ \* ] or any Purchaser shall be required for any reason to pay over to an Obligor (or any trustee, receiver, custodian or similar official in any Insolvency Proceeding) any amount received by it hereunder, such amount shall be deemed not to have been so received but rather to have been retained by the Seller and, accordingly, such Purchaser Agent, the Agent, [ \* ] or such Purchaser, as the case may be, shall have a claim against the Seller for such amount, payable when and to the extent that any distribution from or on behalf of such Obligor is made in respect thereof.

(f) If at any time the Seller shall wish to cause the reduction of the aggregate of the Investment of the Participations of the Revolving Purchasers (but not to commence the liquidation, or reduction to zero, of the entire Investment of the Participations), the Seller may do so as follows:

(i) the Seller shall give each Purchaser Agent, [ \* ] and the Agent at least two Business Days' prior written notice thereof (including the amount of such proposed reduction and the proposed date on which such reduction will commence),

(ii) on the proposed date of commencement of such reduction and on each day thereafter, the Servicer shall cause each Revolving Purchaser's Distribution Percentages of the remainder of the Collections represented by the Aggregate Participation (after giving effect to SECTION 1.4(b)(i), SECTION 1.4(b)(ii)(A) and SECTION 1.4(g)) to be transferred to the Liquidation Account and the Agent shall hold therein such amounts until the aggregate amount thereof not so reinvested shall equal the desired amount of reduction, and

(iii) the Agent shall hold such Collections in the Liquidation Account for the benefit of the Revolving Purchasers, and for payment to each Revolving Purchaser on a pari passu basis on the next Settlement Date relating to any Portion of the Investment of such Revolving Purchaser [ \* ] pursuant to SECTION 1.4(c)(ii) or (iii);

provided that,

A. unless otherwise agreed by the Agent the amount of any such reduction with respect to each Purchaser shall be not less than \$1,000,000 and shall be an integral multiple of \$100,000, and the entire Investment (if any) of the Participation after giving effect to such reduction shall be not less than \$2,000,000,

B. the Seller shall use reasonable efforts to choose a reduction amount, and the date of commencement thereof, so that to the extent practicable such reduction shall commence and conclude in the same Yield Period, and

C. if two or more Portions of Investment shall be outstanding with respect to any Purchaser at the time of any proposed reduction, such proposed reduction shall be applied, unless the Seller shall otherwise specify in the notice given pursuant to SECTION 1.4(f)(i), to the Portion of Investment of such Purchaser with the shortest remaining Yield Period.

(g) On each Purchaser Termination Day, the applicable Purchaser's Distribution Percentage of the remainder of the Collections represented by the Aggregate Participation (after giving effect to SECTION 1.4(b)(i)) and SECTION 1.4(b)(ii)(A) shall be transferred by the Servicer from the Deposit Accounts to the Liquidation Account and held therein by the Agent for the benefit of such Purchaser and then, on each Settlement Date related to such Purchaser, paid to such Purchaser [ \* ] in accordance with SECTIONS 1.4(c)(ii) or (iii); IT BEING UNDERSTOOD that solely for the purposes of this SECTION 1.4(g), such Purchaser's Distribution Percentage shall be deemed to remain constant on any day that is not a Termination Day from (i) the occurrence of the first Purchaser Termination Day with respect to such Purchaser or (ii), to the extent a Termination Date has occurred after the date in CLAUSE (i) hereof, the first Business Day after such Termination Date that is not a Termination Day, in each case until the date such Purchaser's Investment shall be paid in full. To the extent that amounts have been transferred to the Liquidation Account pursuant to this SECTION 1.4(g) but not distributed to the applicable Purchaser [ \* ] prior to the occurrence of a Termination Date, the Agent shall hold each Purchaser's Termination Share of such amounts for distribution to such Purchaser pursuant to SECTION 1.4(c)(iii) until the first day that is not a Termination Day, at which time the Agent shall hold any such amounts for the benefit of the Purchaser whose Purchaser Termination Day preceded the occurrence of the most recent Termination Date (or, if the Investment of such Purchaser has been reduced to zero, the Agent shall transfer such amounts to the Seller for reinvestment pursuant to SECTION 1.4(b)(ii)(E)).

(h) On each Revolving Paydown Day that is not also a Termination Day, the remainder of the Collections represented by the Aggregate Participation (after giving effect to SECTIONS 1.4(b)(i), 1.4(b)(ii)(A), 1.4(g) and 1.4(f)) shall be transferred by the Servicer from the Deposit Accounts to the Liquidation Account and held therein by the Agent for the benefit of the Revolving Purchasers (other than any Revolving Purchasers for whom such day is a Purchaser Termination Day) until the earliest of (i) the first day that is not a Revolving Paydown Day, at which point the Agent shall transfer such funds from the Liquidation Account to the Seller, who shall reinvest such funds pursuant to SECTION 1.4(b)(ii)(E) to the maximum extent permitted under this Agreement, (ii) the Termination Date (at which time the Agent shall hold each Purchaser's Termination Share of such amounts for distribution to such Purchaser [ \* ] pursuant to SECTION 1.4(c)(iii) until the first day that is not a Termination Day, at which time the remainder of such amounts shall either be held for the benefit of the Revolving Purchasers pursuant to this SECTION 1.4(h) or, if such day is also not a Revolving Paydown Day, reinvested pursuant to CLAUSE (i) of this SECTION 1.4(h)) and (iii) the first Settlement Date related to the end of the Yield Period with respect to any Portion of Investment of a Revolving Purchaser (other than any Purchasers for whom such day is a Purchaser Termination Day) shall occur (at which

point a portion of such funds equal to such Portion of the Investment (but only to the extent such application would not result in such Revolving Purchaser having received an amount pursuant to this CLAUSE (iii) of this SECTION 1.4(h) in excess of such Purchaser's Distribution Percentage of the aggregate of all amounts held in the Liquidation Account pursuant to this SECTION 1.4(h) and not reinvested or held in the Liquidation Account pursuant to CLAUSES (i) and (ii) above) shall be held in trust for the benefit of the applicable Revolving Purchaser and paid to such Revolving Purchaser in accordance with SECTION 1.4(c)(ii) on such Settlement Date.

(i) If on any Draw Date (A) insufficient funds are on deposit in the Liquidation Account to make in full the distributions required under ITEM SECOND of CLAUSE (i) of SECTION 1.4(c) or ITEM THIRD of CLAUSE (iii) of SECTION 1.4(c) and (B) since the prior Draw Date funds have been released to the Seller and not used by the Seller to acquire Receivables, the Seller shall deposit into the Liquidation Account on or before such Draw Date the lesser of the amounts described in CLAUSES (A) and (B) above for the benefit of the applicable Purchasers. If on any Draw Date insufficient funds are on deposit in the Liquidation Account (after giving effect to any deposits made by the Seller as described in the preceding sentence) to make in full the distributions required under ITEM SECOND of CLAUSE (i) of SECTION 1.4(c) or ITEM THIRD of CLAUSE (iii) of SECTION 1.4(c) for such Draw Date, the Agent shall distribute funds from the Cash Reserve Account pursuant to ITEM SECOND of CLAUSE (i) of SECTION 1.4(c) and ITEM THIRD of CLAUSE (iii) of SECTION 1.4(c) as if such funds were funds on deposit in the Liquidation Account held for the benefit of the applicable Purchaser. On any Termination Day, to the extent directed by the Control Party, the Agent shall distribute funds from the Cash Reserve Account pursuant to ITEM FOURTH of CLAUSE (iii) of SECTION 1.4(c) as if such funds were funds on deposit in the Liquidation Account held for the benefit of the applicable Purchaser .

Section 1.5. FEES. (a) The Seller shall pay to the Agent certain fees in the amounts and on the dates set forth in a letter dated May 31, 2002 between the Seller and the Agent delivered pursuant to SECTION 1(n) of EXHIBIT II, as such letter agreement may be amended, supplemented or otherwise modified from time to time in accordance with the terms thereof with the prior written consent of the Insurer.

(b) The Seller shall pay to any Purchaser Agent (other than the Agent) such fees as may be set forth in a fee letter executed by the Seller and such Purchaser Agent, and consented to by the Insurer, in contemplation of the applicable Purchaser becoming an additional party hereto (each such letter, as the same may be amended, amended and restated, supplemented or modified and together with the letter referred to in PARAGRAPH (a) above, a "FEE LETTER"), such fees to be payable in the amounts and on the dates set forth in such letter, as such letter agreement may be amended, supplemented or otherwise modified from time to time with the consent of the Insurer.

(c) [ \* ].

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Section 1.6. PAYMENTS AND COMPUTATIONS, ETC. (a) All amounts to be paid or deposited by the Seller or the Servicer to, or for the benefit of, any Purchaser Agent, any Purchaser, the Agent or the Insurer hereunder shall be paid or deposited no later than noon (Chicago time) on the day when due in same day funds to the applicable Purchaser's Account or to the Insurer's Account (as appropriate). All amounts received after noon (Chicago time) will be deemed to have been received on the immediately succeeding Business Day.

(b) The Seller shall, to the extent permitted by law, pay interest on any amount not paid or deposited by the Seller or Servicer to the applicable Purchaser's Account or Insurer's Account when due hereunder, at an interest rate equal to [ \* ].

(c) All computations of interest under SUBSECTION (b) above and all computations of Discount, fees, premiums and other amounts hereunder shall be made on the basis of a year of 360 days for the actual number of days elapsed. Whenever any payment or deposit to be made hereunder shall be due on a day other than a Business Day, such payment or deposit shall be made no later than the next succeeding Business Day and such extension of time shall be included in the computation of such payment or deposit.

Section 1.7. DIVIDING OR COMBINING PORTIONS OF THE INVESTMENT OF ANY REVOLVING PARTICIPATION. The Seller may, on the last day of any Yield Period, either (i) divide the Investment of any Revolving Purchaser into two or more portions (each, with respect to the applicable Participation, a "PORTION OF INVESTMENT") equal, in aggregate, to the Investment of such Revolving Purchaser, PROVIDED that after giving effect to such division the amount of each such Portion of Investment shall be not less than \$1,000,000, or (ii) combine any two or more Portions of Investment outstanding on such last day and having Yield Periods ending on such last day into a single Portion of Investment equal to the aggregate of the Investment of such Portions of Investment.

Section 1.8. INCREASED COSTS. (a) If any Purchaser Agent, any Purchaser, the Agent, the Insurer, any Liquidity Bank, any other Program Support Provider or any of their respective Affiliates (each an "AFFECTED PERSON") determines that the existence of or compliance with (i) any law or regulation or any change therein or in the interpretation or application thereof, in each case adopted, issued or occurring after the date hereof or (ii) any request, guideline or directive from any central bank or other Governmental Authority (whether or not having the force of law) issued or occurring after the date of this Agreement affects or would affect the amount of capital required or expected to be maintained by such Affected Person and such Affected Person determines that the amount of such capital is increased by or based upon the existence of any commitment to make purchases of or otherwise to maintain the investment in Pool Receivables related to this Agreement or any related liquidity facility or credit enhancement facility and other commitments of the same type, then, upon written demand by such Affected Person (with a copy to the Insurer, the Agent and the applicable Purchaser Agent (if any)), the Seller shall immediately pay to the Agent, for the account of such Affected Person, from time to time as

specified by such Affected Person, additional amounts sufficient to compensate such Affected Person in the light of such circumstances, to the extent that such Affected Person reasonably determines such increase in capital to be allocable to the existence of any of such commitments or maintenance of its investment in the Pool Receivables; PROVIDED that within 30 days of an Affected Person's knowledge of any such circumstance such Affected Person shall notify the Seller in writing of the same and whether such Affected Person will request that the Seller indemnify it for such circumstance. A certificate as to such amounts submitted to the Insurer, the Seller, the Agent and the applicable Purchaser Agent (if any) by such Affected Person shall be conclusive and binding for all purposes, absent manifest error.

(b) If, due to either (i) the introduction of or any change (other than any change by way of imposition or increase of reserve requirements referred to in SECTION 1.9) in or in the interpretation of any law or regulation or (ii) compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), there shall be any increase in the cost to any Affected Person of agreeing to purchase or purchasing, or maintaining the ownership of the related Participation(s) in respect of which Discount is computed by reference to the Eurodollar Rate, then, upon written demand by such Affected Person, the Seller shall immediately pay to such Affected Person, from time to time as specified, additional amounts sufficient to compensate such Affected Person for such increased costs; PROVIDED that within 30 days of an Affected Person's knowledge of any such circumstance such Affected Person shall notify the Seller in writing of the same and whether such Affected Person will request that the Seller indemnify it for such circumstance. A certificate as to such amounts submitted to the Seller, the Insurer, the Agent and the applicable Purchaser Agent (if any), by such Affected Person shall be conclusive and binding for all purposes, absent manifest error.

Section 1.9. ADDITIONAL DISCOUNT ON PORTIONS OF PARTICIPATION BEARING A EURODOLLAR RATE. The Seller shall pay to any Affected Person, so long as such Affected Person shall be required under regulations of the Board of Governors of the Federal Reserve System to maintain reserves with respect to liabilities or assets consisting of or including "Eurocurrency Liabilities", additional Discount on the unpaid Investment of the applicable Portion of Investment during each Yield Period in respect of which Discount is computed by reference to the Eurodollar Rate, for such Yield Period, at a rate per annum equal at all times during such Yield Period to the remainder obtained by subtracting (i) the Eurodollar Rate for such Yield Period from (ii) the rate obtained by dividing such Eurodollar Rate referred to in clause (i) above by that percentage equal to 100% minus the Eurodollar Rate Reserve Percentage for such Yield Period, payable on each date on which Discount is payable on the applicable Portion of Investment; PROVIDED that within 30 days of an Affected Person's knowledge of any such circumstance such Affected Person shall notify the Seller of the same and whether such Affected Person will request that the Seller indemnify it for such circumstance. Such additional Discount shall be determined by the Affected Person and notified to the Seller through such Affected Person (or its Purchaser Agent or the Agent) within 30 days after any Discount payment is made with respect to which such additional Discount is requested. A certificate as to such additional Discount submitted to the

Seller by the Affected Person shall be conclusive and binding for all purposes, absent manifest error.

Section 1.10. REQUIREMENTS OF LAW. In the event that any Affected Person determines that the existence of or compliance with (i) any law or regulation or any change therein or in the interpretation or application thereof, in each case adopted, issued or occurring after the date hereof or (ii) any request, guideline or directive from any central bank or other Governmental Authority (whether or not having the force of law) issued or occurring after the date of this Agreement:

(i) does or shall subject such Affected Person to any tax of any kind whatsoever with respect to this Agreement, any increase in the applicable Participation(s) or in the amount of Investment relating thereto, or does or shall change the basis of taxation of payments to such Affected Person on account of Collections, Discount or any other amounts payable hereunder (excluding taxes imposed on the overall net income of such Affected Person, and franchise taxes imposed on such Affected Person, by the jurisdiction under the laws of which such Affected Person is organized or a political subdivision thereof);

(ii) does or shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement against assets held by, or deposits or other liabilities in or for the account of, purchases, advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Affected Person which are not otherwise included in the determination of the Eurodollar Rate or the Base Rate hereunder; or

(iii) does or shall impose on such Affected Person any other condition;

and the result of any of the foregoing is (x) to increase the cost to such Affected Person of acting as a Purchaser Agent, Insurer or Agent or of agreeing to purchase or purchasing or maintaining the ownership of undivided ownership interests with regard to the applicable Participation or any Portion of Investment (or interests therein) in respect of which Discount is computed by reference to the Eurodollar Rate or the Base Rate or (y) to reduce any amount receivable hereunder (whether directly or indirectly) funded or maintained by reference to the Eurodollar Rate or the Base Rate, then, in any such case, upon written demand by such Affected Person the Seller shall pay such Affected Person any additional amounts necessary to compensate such Affected Person for such additional cost or reduced amount receivable. All such amounts shall be payable as incurred. A certificate from such Affected Person to the Seller certifying, in reasonably specific detail, the basis for, calculation of, and amount of such additional costs or reduced amount receivable shall be conclusive in the absence of manifest error; PROVIDED, however, that no Affected Person shall be required to disclose any confidential or tax planning information in any such certificate.

Section 1.11. INABILITY TO DETERMINE EURODOLLAR RATE. In the event that any Purchaser Agent shall have determined prior to the first day of any Yield Period for the Participation of its Purchaser (which determination shall be conclusive and binding upon the parties hereto) by reason of circumstances affecting the interbank Eurodollar market, either (a) dollar deposits in the relevant amounts and for the relevant Yield Period are not available, (b) adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Yield Period or (c) the Eurodollar Rate determined pursuant hereto does not accurately reflect the cost (as conclusively determined by such Purchaser Agent) to any Purchaser for which such Purchaser Agent acts as agent of maintaining each such Portion of Investment of such Purchaser during such Yield Period, such Purchaser Agent shall promptly give telephonic notice of such determination, confirmed in writing, to the Seller and the Insurer prior to the first day of such Yield Period. Upon delivery of such notice (a) no Portion of Investment of such Purchaser shall be funded thereafter at the Bank Rate determined by reference to the Eurodollar Rate, unless and until the applicable Purchaser Agent shall have given notice to the Seller that the circumstances giving rise to such determination no longer exist, and (b) with respect to any outstanding Portions of Investment then funded at the Bank Rate determined by reference to the Eurodollar Rate, such Bank Rate shall automatically be converted to the Bank Rate determined by reference to the Base Rate at the respective last days of the then-current Yield Periods relating to such Portions of Investment.

Section 1.12. ADDITIONAL AND REPLACEMENT PURCHASERS, INCREASE IN REVOLVING PURCHASE LIMIT. (a) The Seller shall have the right, at any time and from time to time, with the prior written consent of the Agent and the Insurer (the consent of the Insurer not to be unreasonably withheld), to add any entity as a Purchaser hereunder (which addition may increase the Revolving Purchase Limit if a Revolving Purchaser is added) or increase the Maximum Purchase Amount of any existing Revolving Purchaser. Each such addition of a new Purchaser hereunder shall be effected by delivery to the Insurer, the Seller, the Servicer, the Agent and each Purchaser Agent, of a (i) Joinder Agreement executed by the Seller, the Servicer, the Agent, such new Purchaser, its Purchaser Agent (if different from the Purchaser) and the Insurer in substantially the form of ANNEX D hereto and (ii) in the case of any new Purchaser that is a Term Purchaser an opinion of counsel to such new Term Purchaser as to tax matters in a form reasonably satisfactory to the Insurer. Upon receipt of a Joinder Agreement, if such Joinder Agreement has been fully executed and completed and is substantially in the form of ANNEX D, the Servicer shall, not less than five (5) Business Days prior to the effectiveness of such Joinder Agreement give prompt written notice to all Purchaser Agents, the Agent, the Insurer and Purchasers as to (i) the name, identity and address for receiving notices of the new Purchaser(s) and Purchaser Agent(s) becoming party hereto, (ii) the Maximum Purchase Amount (if such Purchaser is a Revolving Purchaser) of such new Purchaser, (iii) the change in the Revolving Purchase Limit (if any) and (iv) the effective date of such Joinder Agreement. Immediately upon the effectiveness of such Joinder Agreement, such additional Purchaser shall purchase, by wire transfer of immediately available funds its Participation and, if such Purchasers shall agree, a portion of the other Purchasers' outstanding Portion of Investment. Effective with the payment of such

amounts, such new Purchaser and its Purchaser Agent designated in the applicable Joinder Agreement shall each become parties hereto.

(b) By executing and delivering a Joinder Agreement, each new Purchaser and Purchaser Agent confirms to and agrees with the Insurer, the Agent and each other Purchaser and Purchaser Agent party hereto as follows: (A) such new Purchaser has received a copy of this Agreement, the Purchase and Sale Agreement, the Insurance Agreement, and the Policy, together with copies of such financial statements and other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Joinder Agreement; (B) such new Purchaser has made and will continue to make, independently and without reliance upon the Insurer, the Agent, any Purchaser Agent or any other Purchaser and based on such documents and information as it shall deem appropriate at the time, its own credit decisions in taking or not taking action under this Agreement; (C) such new Purchaser appoints and authorizes the Control Party, Insurer and the Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Control Party, Insurer and the Agent by the terms hereof, together with such powers as are reasonably incidental thereto; and (D) such new Purchaser and its Purchaser Agent agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement are required to be performed by it as a Purchaser or Purchaser Agent.

(c) In addition to the foregoing, in the event that any Purchaser or Purchaser Agent (i) does not consent to an amendment of clause (ii) of the definition of Termination Date to which the Seller, the Servicer and the Insurer have otherwise consented; or (ii) does not consent to any amendment or modification of this Agreement agreed to by the Seller, the Servicer, the Agent and the Control Party and the Majority Purchasers but which requires the consent of such Purchaser, then, in any such event, the Seller shall have the right, with the prior written consent of the Control Party and the Agent, to require such Purchaser to assign its interests in its Participation and the Pool Receivables and all of its rights and obligations under this Agreement to a replacement Purchaser acceptable to the Control Party, the Agent and the Seller. Any such assignment shall be without recourse, representation or warranty of any kind on the part of the assigning Purchaser, except that such assignment is free and clear of any Adverse Claims created by such Purchaser, and shall be consummated pursuant to documentation reasonably satisfactory to the assignor and assignee on not less than ten days' prior written notice, at a purchase price equal to the sum of (w) the aggregate outstanding Investment of the Purchaser being so replaced; (x) all accrued and unpaid Discount on such Investment; (y) all accrued and unpaid Program Fees owed to or on behalf of such Purchaser; and (z) all other accrued and unpaid expenses, indemnities and other amounts owing under this Agreement to such Purchaser, including any Termination Fees caused by the above-described assignment. Concurrently with any such assignment, the Seller, the Servicer, such replacement Purchaser, its Purchaser Agent (if different from the Purchaser) and the Insurer shall execute a Joinder Agreement to evidence the terms and conditions under which such replacement Purchaser has agreed to become a Purchaser hereunder.



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Section 1.13. [ \* ]

Section 1.14. [ \* ]

(a) [ \* ]

(b) [ \* ]

(c) [ \* ]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

[ \* ]

Section 1.15. [ \* ]

ARTICLE II.

REPRESENTATIONS AND WARRANTIES; COVENANTS;  
TERMINATION EVENTS

Section 2.1. REPRESENTATIONS AND WARRANTIES; COVENANTS. Each of the Seller, AFC and the Servicer hereby makes the representations and warranties, and hereby agrees to perform and observe the covenants of such Person, set forth in EXHIBITS III, IV and VII, respectively hereto.

Section 2.2. TERMINATION EVENTS. If any of the Termination Events set forth in EXHIBIT V hereto shall occur, the Control Party may, by notice to the Seller, each Purchaser Agent, the Agent and the Insurer, declare the Termination Date to have occurred (in which case the Termination Date shall be deemed to have occurred); PROVIDED that, automatically upon the occurrence of any event (without any requirement for the passage of time or the giving of notice) described in SUBSECTION (g), (h), (k) or (m) of EXHIBIT V, the Termination Date shall occur. Upon any such declaration, the occurrence or the deemed occurrence of the Termination Date, the Purchasers, the Purchaser Agents, the Insurer and the Agent shall have, in addition to the rights and remedies which they may have under this Agreement, all other rights and remedies provided after default under the UCC and under other applicable law, which rights and remedies shall be cumulative.

ARTICLE III.

INDEMNIFICATION

Section 3.1. INDEMNITIES BY THE SELLER. Without limiting any other rights that the Agent, the Insurer, the Purchaser Agents or the Purchasers or any of their respective Affiliates,

employees, agents, successors, transferees or assigns (each, an "INDEMNIFIED PARTY") may have hereunder or under applicable law, the Seller hereby agrees to indemnify each Indemnified Party from and against any and all claims, damages, expenses, losses and liabilities (including Attorney Costs) (all of the foregoing being collectively referred to as "INDEMNIFIED AMOUNTS") arising out of or resulting from this Agreement or other Transaction Documents (whether directly or indirectly) or the use of proceeds of purchases or reinvestments or the ownership of any Participation, or any interest therein, or in respect of any Receivable or any Contract regardless of whether any such Indemnified Amounts result from an Indemnified Party's negligence or strict liability or other acts or omissions of an Indemnified Party, excluding, however, (a) Indemnified Amounts to the extent resulting from gross negligence or willful misconduct on the part of such Indemnified Party, (b) recourse (except as otherwise specifically provided in this Agreement) for uncollectible Receivables to be written off consistent with the Credit and Collection Policy, (c) any overall net income taxes or franchise taxes imposed on such Indemnified Party by the jurisdiction under the laws of which such Indemnified Party is organized or any political subdivision thereof or (d) if the Insurer is the Indemnified Party, Indemnified Amounts to the extent resulting, directly or indirectly, from an Insurer Default. Without limiting or being limited by the foregoing, and subject to the exclusions set forth in the preceding sentence, the Seller shall pay on demand to each Indemnified Party any and all amounts necessary to indemnify such Indemnified Party from and against any and all Indemnified Amounts relating to or resulting from any of the following:

(i) the failure of any Receivable included in the calculation of the Net Receivables Pool Balance as an Eligible Receivable to be an Eligible Receivable, the failure of any information contained in a Servicer Report or a Portfolio Certificate to be true and correct, or the failure of any other information provided to any Purchaser, any Purchaser Agent, the Insurer or the Agent with respect to Receivables or this Agreement to be true and correct;

(ii) the failure of any representation or warranty or statement made or deemed made by the Seller (or any of its officers) under or in connection with this Agreement to have been true and correct in all respects when made;

(iii) the failure by the Seller to comply with any applicable law, rule or regulation with respect to any Pool Receivable or the related Contract; or the failure of any Pool Receivable or the related Contract to conform to any such applicable law, rule or regulation;

(iv) the failure (A) to vest in the Agent (for the benefit of the Secured Parties) a valid and enforceable perfected undivided percentage ownership interest, to the extent of the Aggregate Participation, in the Receivables in, or purporting to be in, the Receivables Pool and the Related Security and Collections with respect thereto and (B) the failure to vest in the Agent (for the benefit of the Secured Parties) a first priority perfected security

interest in the items described in SECTION 1.2(d), in each case, free and clear of any Adverse Claim;

(v) the failure to have filed, or any delay in filing, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other applicable laws with respect to any Receivables in, or purporting to be in, the Receivables Pool and the Related Security and Collections in respect thereof, whether at the time of any purchase or reinvestment or at any subsequent time;

(vi) any dispute, claim, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Receivable in, or purporting to be in, the Receivables Pool (including, without limitation, a defense based on such Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from or relating to the transaction giving rise to such Receivable or relating to collection activities with respect to such Receivable (if such collection activities were performed by the Seller or any of its Affiliates acting as Servicer or by any agent or independent contractor retained by the Seller or any of its Affiliates);

(vii) any failure of the Seller to perform its duties or obligations in accordance with the provisions hereof or to perform its duties or obligations under the Contracts;

(viii) any products liability or other claim, investigation, litigation or proceeding arising out of or in connection with goods, insurance or services that are the subject of or secure any Contract;

(ix) the commingling of Collections of Pool Receivables at any time with other funds;

(x) any investigation, litigation or proceeding related to this Agreement or the use of proceeds of purchases or reinvestments or the ownership of any Participation or in respect of any Receivable, Related Security or Contract;

(xi) any reduction in Investment as a result of the distribution of Collections pursuant to SECTION 1.4(d), in the event that all or a portion of such distributions shall thereafter be rescinded or otherwise must be returned for any reason;

(xii) any tax or governmental fee or charge (other than any tax upon or measured by net income or gross receipts), all interest and penalties thereon or with respect thereto, and all reasonable out-of-pocket costs and expenses, including the reasonable fees and expenses of counsel in defending against the same, which may arise by reason of the purchase or ownership of any Participation, or other interests in the Receivables Pool or in any Related Security or Contract;

(xiii) the failure by the Seller or the Servicer to pay when due any taxes payable by it, including without limitation, the franchise taxes and sales, excise or personal property taxes payable in connection with the Receivables;

(xiv) the failure by the Seller or the Servicer to be duly qualified to do business, to be in good standing or to have filed appropriate fictitious or assumed name registration documents in any jurisdiction; or

(xv) the failure of any Deposit Account Bank to remit any amounts held in its Deposit Account pursuant to the instructions of the Servicer whether by reason of the exercise of setoff rights or otherwise.

If for any reason the indemnification provided above in this SECTION 3.1 is unavailable to an Indemnified Party or is insufficient to hold such Indemnified Party harmless, then the Seller shall contribute to such Indemnified Party the amount otherwise payable by such Indemnified Party as a result of such loss, claim, damage or liability to the maximum extent permitted under applicable law.

The obligations of the Seller under this SECTION 3.1 are limited recourse obligations payable solely from the Collections, the Receivables and Related Security in accordance with the priority of payments set forth in SECTION 1.4.

Section 3.2. INDEMNITIES BY AFC. Without limiting any other rights that the Insurer, the Agent, any Purchaser or Purchaser Agent or any other Indemnified Party may have hereunder under applicable law, AFC hereby agrees to indemnify each Indemnified Party, forthwith on demand, from and against any and all Indemnified Amounts, regardless of whether any such Indemnified Amounts result from an Indemnified Party's negligence or strict liability or other acts or omissions of an Indemnified Party, awarded against or incurred by any of them arising out of or relating to:

(i) the failure of any Receivable included in the calculation of the Net Receivables Pool Balance as an Eligible Receivable to be an Eligible Receivable, the failure of any information contained in a Servicer Report or a Portfolio Certificate to be true and correct, or the failure of any other information provided (directly or indirectly) by AFC or the Seller to the Purchasers, the Insurer, the Agent, or any Purchaser Agent with respect to Receivables or this Agreement to be true and correct;

(ii) any representation or warranty made by AFC under or in connection with any Transaction Document in its capacity as Servicer or any information or report delivered by or on behalf of AFC in its capacity as Servicer pursuant hereto, which shall have been false, incorrect or misleading in any material respect when made or deemed made;

(iii) the failure by AFC, in its capacity as Servicer, to comply with any applicable law, rule or regulation (including truth in lending, fair credit billing, usury, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy) with respect to any Pool Receivable or other related contract;

(iv) any failure of AFC to perform its duties, covenants and obligations in accordance with the applicable provisions of this Agreement;

(v) any dispute, claim, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Receivable in, or purporting to be in, the Receivables Pool resulting from or relating to collection activities with respect to such Receivable (if such collection activities were performed by the Seller or any of its Affiliates acting as Servicer or by any agent or independent contractor retained by the Seller or any of its Affiliates);

(vi) the commingling of Collections of Pool Receivables at any time with other funds; or

(vii) any investigation, litigation or proceeding related to AFC's activities as Servicer under this Agreement.

If for any reason the indemnification provided above in this SECTION 3.2 is unavailable to an Indemnified Party or is insufficient to hold such Indemnified Party harmless, then AFC shall contribute to such Indemnified Party the amount otherwise payable by such Indemnified Party as a result of such loss, claim, damage or liability to the maximum extent permitted under applicable law.

#### ARTICLE IV.

##### ADMINISTRATION AND COLLECTIONS

Section IV.1. APPOINTMENT OF SERVICER. (a) The servicing, administering and collection of the Pool Receivables shall be conducted by the Person so designated from time to time as Servicer in accordance with this SECTION 4.1. Until the Control Party gives notice to the Seller, the Insurer and the Servicer (in accordance with this SECTION 4.1) of the designation of a new Servicer, AFC is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms hereof. Upon the occurrence of a Termination Event, the Control Party may designate as Servicer any Person (including the Agent) to succeed the Servicer or any successor Servicer, on the condition in each case that any such Person so designated shall agree to perform the duties and obligations of the Servicer pursuant to the terms hereof.

(b) Upon the designation of a successor Servicer as set forth in SECTION 4.1(a) hereof, the Servicer agrees that it will terminate its activities as Servicer hereunder in a manner which the Control Party determines will facilitate the transition of the performance of such activities to the new Servicer, and the Servicer shall cooperate with and assist such new Servicer. Such cooperation shall include (without limitation) access to and transfer of records and use by the new Servicer of all licenses, hardware or software necessary or desirable to collect the Pool Receivables and the Related Security.

(c) The Servicer acknowledges that, in making its decision to execute and deliver this Agreement, the Purchaser Agents, the Agent, the Insurer and the Purchasers have relied on the Servicer's agreement to act as Servicer hereunder. Accordingly, the Servicer agrees that it will not voluntarily resign as Servicer.

(d) The Servicer may delegate its duties and obligations hereunder to any subservicer (each, a "SUB-SERVICER"); provided that, in each such delegation, (i) such Sub-Servicer shall agree in writing to perform the duties and obligations of the Servicer pursuant to the terms hereof, (ii) the Servicer shall remain primarily liable to the Purchasers, the Insurer, the Agent and the Purchaser Agents for the performance of the duties and obligations so delegated, (iii) the Seller, the Purchaser Agents, the Agent, the Insurer and the Purchasers shall have the right to look solely to the Servicer for such performance and (iv) the terms of any agreement with any Sub-Servicer shall provide that the Control Party may terminate such agreement upon the termination of the Servicer hereunder in accordance with SECTION 4.1(a) above by giving notice of its desire to terminate such agreement to the Servicer (and the Servicer shall provide appropriate notice to such Sub-Servicer); provided further, no such delegation shall be effective without the prior written consent of the Control Party.

Section 4.2. DUTIES OF SERVICER. (a) The Servicer shall take or cause to be taken all such action as may be necessary or advisable to collect each Pool Receivable from time to time, all in accordance with this Agreement, accepted industry standards and all applicable laws, rules and regulations, with reasonable care and diligence, and in accordance with the Credit and Collection Policy. The Servicer shall set aside for the accounts of the Seller, the Insurer and the Purchasers the amount of the Collections to which each is entitled in accordance with SECTION 1.4. The Seller shall deliver to the Servicer and the Servicer shall hold for the benefit of the Seller, the Insurer and (for the benefit of the Purchasers and individually) the Agent and the Purchaser Agents in accordance with their respective interests, all records and documents (including without limitation computer tapes or disks) with respect to each Pool Receivable. Notwithstanding anything to the contrary contained herein, the Control Party may direct the Servicer to commence or settle any legal action to enforce collection of any Pool Receivable or to foreclose upon or repossess any Related Security; PROVIDED, HOWEVER, that no such direction may be given unless a Termination Event has occurred.

(b) The Servicer's obligations hereunder shall terminate on the Final Payout Date.

After such termination, the Servicer shall promptly deliver to the Seller all books, records and related materials that the Seller previously provided to the Servicer in connection with this Agreement.

Section 4.3. DEPOSIT ACCOUNTS; ESTABLISHMENT AND USE OF CERTAIN ACCOUNTS.

(a) DEPOSIT ACCOUNTS. On or prior to the date hereof, the Servicer agrees to transfer ownership and control of each Deposit Account to the Seller. Seller has granted a valid security interest in each Deposit Account to the Agent (for the benefit of the Secured Parties) pursuant to SECTION 1.2(d) and shall take all actions reasonably requested by the Agent and the Insurer to cause the security interest to be perfected under the applicable UCC.

(b) CASH RESERVE ACCOUNT. The Agent agrees to establish the Cash Reserve Account on or before May 31, 2002. The Cash Reserve Account shall be used to hold the Cash Reserve and for such other purposes described in the Transaction Documents.

(c) LIQUIDATION ACCOUNT. The Agent agrees to establish the Liquidation Account on or before May 31, 2002. The Liquidation Account shall be used to receive Collections from the Deposit Accounts pursuant to SECTION 1.4(b) and to hold amounts set aside for the Purchasers, the Insurer and (if the Servicer is not AFC or an Affiliate of AFC) the Servicer out of the Collections of Pool Receivables prior to the applicable Settlement Dates and for such other purposes described in the Transaction Documents. No funds other than those transferred in accordance with SECTION 1.4 shall be intentionally transferred into the Liquidation Account.

(d) PERMITTED INVESTMENTS. Any amounts in the Liquidation Account or the Cash Reserve Account, as the case may be, may be invested by the Liquidation Account Bank or the Cash Reserve Account Bank, respectively, at the Agent's direction, in Permitted Investments, so long as the Agent's interest (for the benefit of the Secured Parties) in such Permitted Investments is perfected in a manner satisfactory to the Agent and the Insurer and such Permitted Investments are subject to no Adverse Claims other than those of the Agent provided hereunder.

(e) CONTROL OF ACCOUNTS. The Agent may (with notice to the Control Party) and shall (at the direction of the Control Party) following any Termination Event (or an Unmatured Termination Event of the type described in PARAGRAPH (g) of EXHIBIT V) at any time give notice to any Deposit Account Bank that the Agent is exercising its rights under the applicable Deposit Account Agreement to do any or all of the following: (i) to have the exclusive ownership and control of such Deposit Account transferred to the Agent and to exercise exclusive dominion and control over the funds deposited therein and (ii) to take any or all other actions permitted under the applicable Deposit Account Agreement. The Seller hereby agrees that if the Agent at any time takes any action set forth in the preceding sentence, the Agent shall have exclusive control of the proceeds (including Collections) of all Pool Receivables and the Seller hereby further agrees to take any other action that the Agent may reasonably request to transfer such control. Any proceeds of Pool Receivables received by the Seller, the Servicer or AFC (as Servicer or



otherwise), thereafter shall be sent immediately to an account designated by the Agent and approved by the Control Party and held by the Agent for the benefit of the Secured Parties.

(f) LOCATION OF LIQUIDATION ACCOUNT AND CASH RESERVE ACCOUNT. [ \* ], the Agent shall promptly establish a new Liquidation Account and a new Cash Reserve Account at a financial institution which is rated at least A-1+ by S&P [ \* ].

Section 4.4. ENFORCEMENT RIGHTS. (a) At any time following the occurrence of a Termination Event:

(i) the Control Party may (and if the Control Party is the Majority Purchasers, with the consent of the Agent) direct the Obligors that payment of all amounts payable under any Pool Receivable be made directly to the Agent or its designee (for the benefit of the Secured Parties);

(ii) the Control Party may (and if the Control Party is the Majority Purchasers, with the consent of the Agent) instruct the Seller or the Servicer to give notice of the Agent's interest (for the benefit of the Secured Parties) in Pool Receivables to each Obligor, which notice shall direct that payments be made directly to the Agent or its designee (for the benefit of the Secured Parties), and upon such instruction from the Control Party, the Seller or the Servicer, as applicable, shall give such notice at the expense of the Seller; PROVIDED, that if the Seller or the Servicer fails to so notify each Obligor, the Control Party or the Agent may so notify the Obligors; and

(iii) the Control Party may (and if the Control Party is the Majority Purchasers, with the consent of the Agent) request the Seller or the Servicer to, and upon such request the Seller or the Servicer, as applicable, shall, (A) assemble all of the records necessary or desirable to collect the Pool Receivables and the Related Security, and transfer or license to any new Servicer the use of all software necessary or desirable to collect the Pool Receivables and the Related Security, and make the same available to the Agent or its designee at a place selected by the Control Party (or if the Control Party is the Majority Purchasers, the Agent) and (B) segregate all cash, checks and other instruments received by it from time to time constituting Collections with respect to the Pool Receivables in a manner acceptable to the Control Party (or if the Control Party is the Majority Purchasers, the Agent) and, promptly upon receipt, remit all such cash, checks and instruments, duly endorsed or with duly executed instruments of transfer, to the Agent or its designee (for the benefit of the Secured Parties).

(b) The Seller hereby authorizes the Control Party (or if the Control Party is the Majority Purchasers, the Agent) (for the benefit of the Secured Parties), and irrevocably appoints the Control Party (or if the Control Party is the Majority Purchasers, the Agent) (acting on behalf of the Secured Parties) as its attorney-in-fact with full power of substitution and with full authority in the place and stead of the Seller, which appointment is coupled with an interest, to take any and all steps in the name of the Seller and on behalf of the Seller necessary or desirable, in the determination of the Control Party (or if the Control Party is the Majority Purchasers, the Agent), to collect any and all amounts or portions thereof due under any and all Pool Receivables or Related Security, including, without limitation, endorsing the name of the Seller on checks and other instruments representing Collections and enforcing such Pool Receivables, Related Security and the related Contracts. The Control Party (or if the Control Party is the Majority Purchasers, the Agent) shall only exercise the powers conferred by this SUBSECTION (b) after the occurrence of a Termination Event. Notwithstanding anything to the contrary contained in this SUBSECTION (b), none of the powers conferred upon such attorney-in-fact pursuant to the immediately preceding sentence shall subject such attorney-in-fact to any liability if any action taken by it shall prove to be inadequate or invalid, nor shall they confer any obligations upon such attorney-in-fact in any manner whatsoever.

Section 4.5. RESPONSIBILITIES OF THE SELLER. Anything herein to the contrary notwithstanding, the Seller shall (i) perform all of its obligations, if any, under the Contracts related to the Pool Receivables to the same extent as if interests in such Pool Receivables had not been transferred hereunder, and the exercise by the Agent, the Insurer, any Purchaser or any Purchaser Agent of its rights hereunder shall not relieve the Seller from such obligations and (ii) pay when due any taxes, including, without limitation, any sales taxes payable in connection with the Pool Receivables and their creation and satisfaction. The Agent, the Insurer, the Purchaser Agents and the Purchasers shall not have any obligation or liability with respect to any Pool Receivable, any Related Security or any related Contract, nor shall any of them be obligated to perform any of the obligations of the Seller or AFC under any of the foregoing.

Section 4.6. SERVICING FEE. The Servicer shall be paid a fee, through distributions contemplated by SECTION 1.4, equal to (a) at any time AFC or an Affiliate of AFC is the Servicer, [ \* ] and (b) at any time a Person other than AFC or an Affiliate of AFC is the Servicer, the amount set forth in clause (a) above or such other amount as the Control Party and such Servicer shall agree. The Servicing Fee shall not be payable to the extent funds are not available to pay the Servicing Fee pursuant to SECTION 1.4.

ARTICLE V.

THE AGENTS

Section V.1. APPOINTMENT AND AUTHORIZATION. The Insurer and each Purchaser and Purchaser Agent (including each Purchaser and Purchaser Agent that may from time to time become a party hereto) hereby irrevocably designates and appoints BMO Nesbitt Burns Corp. the "Agent" hereunder and authorizes the Agent to take such actions and to exercise such powers as are delegated to the Agent hereby and to exercise such other powers as are reasonably incidental thereto. The Agent shall hold, in its name, for the benefit of the Secured Parties, amounts on deposit in the Liquidation Account and Cash Reserve Account. The Agent shall not have any duties other than those expressly set forth herein or any fiduciary relationship with any Indemnified Party, and no implied obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist, against the Agent. The Agent does not assume, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with, the Seller or Servicer. Notwithstanding any provision of this Agreement or any other Transaction Document to the contrary, in no event shall the Agent ever be required to take any action which exposes the Agent to personal liability or which is contrary to the provision of any Transaction Document or applicable law.

(a) Each Purchaser hereby irrevocably designates and appoints the respective institution identified as the Purchaser Agent for such Purchaser on the signature pages hereto or in any agreement pursuant to which such Purchaser becomes a party hereto, and each authorizes such Purchaser Agent to take such action on its behalf under the provisions of this Agreement and to exercise such powers and perform such duties as are expressly delegated to such Purchaser Agent by the terms of this Agreement, if any, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, no Purchaser Agent shall have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with the Insurer, any Purchaser or other Purchaser Agent or the Agent, and no implied covenants, functions, responsibilities, duties, obligations or liabilities on the part of such Purchaser Agent shall be read into this Agreement or otherwise exist against such Purchaser Agent.

(b) Except as otherwise specifically provided in this Agreement, the provisions of this ARTICLE V are solely for the benefit of the Purchaser Agents, the Insurer, the Agent and the Purchasers, and none of the Seller or Servicer shall have any rights as a third-party beneficiary or otherwise under any of the provisions of this ARTICLE V, except that this ARTICLE V shall not affect any obligations which any Purchaser Agent, the Insurer, the Agent or any Purchaser may have to the Seller or the Servicer under the other provisions of this Agreement. Furthermore, no Purchaser shall have any rights as a third-party beneficiary or otherwise under any of the provisions hereof in respect of a Purchaser Agent which is not the Purchaser Agent for such Purchaser.

(c) In performing its functions and duties hereunder, the Agent shall act solely as the agent of the Secured Parties, and the Agent does not assume nor shall be deemed to have assumed any obligation or relationship of trust or agency with or for the Seller or Servicer or any of their successors and assigns. In performing its functions and duties hereunder, each Purchaser

Agent shall act solely as the agent of its respective Purchasers and does not assume nor shall be deemed to have assumed any obligation or relationship of trust or agency with or for the Seller, the Servicer, the Insurer, any other Purchaser, any other Purchaser Agent or the Agent, or any of their respective successors and assigns.

Section 5.2. DELEGATION OF DUTIES. The Agent may, with the prior written consent of the Control Party, execute any of its duties 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 to the Purchaser Agents, the Insurer or any Purchaser for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

Section 5.3. EXCULPATORY PROVISIONS. None of the Purchaser Agents, the Agent or any of their directors, officers, agents or employees shall be liable for any action taken or omitted (i) with the consent or at the direction of the Control Party (or in the case of any Purchaser Agent, the Purchaser relating to such Purchaser Agent) or (ii) in the absence of such Person's gross negligence or willful misconduct. The Agent shall not be responsible to any Purchaser, the Insurer or Purchaser Agent for (i) any recitals, representations, warranties or other statements made by the Seller, Servicer, the Originator or any of their Affiliates, (ii) the value, validity, effectiveness, genuineness, enforceability or sufficiency of any Transaction Document, (iii) any failure of the Seller, the Servicer, the Originator or any of their Affiliates to perform any obligation it may have under any Transaction Document to which it is a party or (iv) the satisfaction of any condition specified in EXHIBIT II. The Agent shall not have any obligation to the Insurer, any Purchaser or any Purchaser Agent to ascertain or inquire about the observance or performance of any agreement contained in any Transaction Document or to inspect the properties, books or records of the Seller, Servicer, the Originator or any of their Affiliates.

Section 5.4. RELIANCE BY AGENTS. Each Purchaser Agent and the Agent shall in all cases be entitled to rely, and shall be fully protected in relying, upon any document or other writing or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person and upon advice and statements of legal counsel (including counsel to the Seller, Insurer or Servicer), independent accountants and other experts selected by the Agent or any such Purchaser Agent. Each Purchaser Agent and the Agent shall in all cases be fully justified in failing or refusing to take any action under any Transaction Document unless it shall first receive such advice or concurrence of the Control Party (or in the case of any Purchaser Agent, the Purchaser relating to such Purchaser Agent) and it shall first be indemnified to its satisfaction by the Control Party against any and all liability and expense which may be incurred by reason of taking or continuing to take any such action.

(a) With regard to the Purchasers and the Purchaser Agents, the Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of the Control Party, the Insurer, the Purchasers and the Purchaser Agents, and such request and any action taken or failure to act pursuant thereto shall be binding upon all Purchasers, the Insurer, the Agent and Purchaser Agents.

(b) Purchasers that have a common Purchaser Agent and that have a majority of the Investment of all such related Purchasers shall be entitled to request or direct the related Purchaser Agent to take action, or refrain from taking action, under this Agreement on behalf of such Purchasers. With regard to the Purchasers and the Purchaser Agents, such Purchaser Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of such Majority Purchasers, and such request and any action taken or failure to act pursuant thereto shall be binding upon all of such Purchaser Agent's related Purchasers.

(c) Unless otherwise advised in writing by a Purchaser Agent or by any Purchaser on whose behalf such Purchaser Agent is purportedly acting, each party to this Agreement may assume that (i) such Purchaser Agent is acting for the benefit of each of the Purchasers for which such Purchaser Agent is identified herein (or in any Joinder Agreement or assignment agreement) as being the Purchaser Agent, as well as for the benefit of each assignee or other transferee from any such Person, and (ii) each action taken by such Purchaser Agent has been duly authorized and approved by all necessary action on the part of the Purchasers on whose behalf it is purportedly acting. Each Purchaser Agent and its Purchaser(s) shall agree amongst themselves as to the circumstances and procedures for removal, resignation and replacement of such Purchaser Agent.

Section 5.5. NOTICE OF TERMINATION DATE. Neither any Purchaser Agent nor the Agent shall be deemed to have knowledge or notice of the occurrence of any Termination Event or Unmatured Termination Event unless such Person has received notice from any Purchaser, Purchaser Agent, the Insurer, the Servicer or the Seller stating that a Termination Event or Unmatured Termination Event has occurred hereunder and describing such Termination Event or Unmatured Termination Event. If the Agent receives such a notice, it shall promptly give notice thereof to the Insurer and each Purchaser Agent whereupon each such Purchaser Agent shall promptly give notice thereof to its Purchasers. If a Purchaser Agent receives such a notice (other than from the Agent), it shall promptly give notice thereof to the Agent. The Agent may take such action concerning a Termination Event or Unmatured Termination Event as may be directed by the Control Party (unless the Control Party is the Majority Purchasers and such action otherwise requires the consent of all Purchasers), but until the Agent receives such directions (if the Control Party is the Majority Purchasers), the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, as the Agent deems advisable and in the best interests of the Secured Parties.

Section 5.6. NON-RELIANCE ON AGENT, PURCHASER AGENTS AND OTHER PURCHASERS. Each Purchaser and the Insurer expressly acknowledges that none of the Agent, the Purchaser Agents nor any of their respective officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Agent, or any Purchaser Agent hereafter taken, including any review of the affairs of the Seller, Servicer or the Originator, shall be deemed to constitute any representation or warranty by the Agent or such Purchaser Agent, as applicable. Each Purchaser and the Insurer represents and warrants to the Agent and

the Purchaser Agents that, independently and without reliance upon the Agent, Purchaser Agents or any other Purchaser and based on such documents and information as it has deemed appropriate, it has made and will continue to make its own appraisal of and investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of the Seller, Servicer or the Originator, and the Receivables and its own decision to enter into this Agreement and to take, or omit, action under any Transaction Document. Except for items specifically required to be delivered hereunder, the Agent shall not have any duty or responsibility to provide any Purchaser Agent with any information concerning the Seller, Servicer or the Originator or any of their Affiliates or the Receivables that comes into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

Section 5.7. AGENT, PURCHASER AGENTS AND PURCHASERS. Each of the Purchasers, the Agent, the Purchaser Agents and their Affiliates may extend credit to, accept deposits from and generally engage in any kind of banking, trust, debt or other business with the Seller, ADESA, ALLETE, Servicer or the Originator or any of their Affiliates. With respect to the acquisition of the Eligible Receivables pursuant to this Agreement, any of the Purchaser Agents and the Agent shall, to the extent they become Purchasers hereunder, have the same rights and powers under this Agreement as any Purchaser and may exercise the same as though it were not such an agent, and the terms "Purchaser" and "Purchasers" shall, in such case, include such Purchaser Agent or the Agent in their individual capacities.

Section 5.8. INDEMNIFICATION. Each Purchaser shall indemnify and hold harmless the Agent (but solely in its capacity as Agent) and its officers, directors, employees, representatives and agents (to the extent not reimbursed by the Seller or Servicer and without limiting the obligation of the Seller or Servicer to do so), ratably in accordance with their respective Investment from and against any and all liabilities, obligations, losses, damages, penalties, judgments, settlements, costs, expenses and disbursements of any kind whatsoever (including in connection with any investigative or threatened proceeding, whether or not the Agent or such Person shall be designated a party thereto) that may at any time be imposed on, incurred by or asserted against the Agent or such Person as a result of, or related to, any of the transactions contemplated by the Transaction Documents or the execution, delivery or performance of the Transaction Documents or any other document furnished in connection therewith (but excluding any such liabilities, obligations, losses, damages, penalties, judgments, settlements, costs, expenses or disbursements resulting solely from the gross negligence or willful misconduct of the Agent or such Person as finally determined by a court of competent jurisdiction); PROVIDED, that in the case of each Purchaser that is a commercial paper conduit, such indemnity shall be provided solely to the extent of amounts received by such Purchaser under this Agreement which exceed the amounts required to repay such Purchaser's outstanding commercial paper. The obligations of any Note Issuer under this SECTION 5.8 shall be subject to the restrictions of SECTION 6.5.

Section 5.9. SUCCESSOR AGENT. The Agent may, upon at least thirty (30) days notice to the Seller, the Insurer and each Purchaser and Purchaser Agent, resign as Agent. Such resignation shall not become effective until a successor Agent is appointed by the Control Party and has accepted such appointment. Upon such acceptance of its appointment as Agent hereunder by a successor Agent, such successor Agent shall succeed to and become vested with all the rights and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under the Transaction Documents. After any retiring Agent's resignation hereunder, the provisions of SECTIONS 3.1 and 3.2 and this ARTICLE V shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Agent.

ARTICLE VI.

MISCELLANEOUS

Section 6.1. AMENDMENTS, ETC. No amendment or waiver of any provision of this Agreement or consent to any departure by the Seller or Servicer therefrom shall be effective unless in a writing signed by the Agent, the Control Party, the Majority Purchasers, and, in the case of any amendment, by the Seller and the Servicer and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; PROVIDED, HOWEVER, that no such amendment or waiver shall materially adversely affect the Insurer without the prior written consent of the Insurer; PROVIDED, FURTHER, that (i) other than an amendment to extend the scheduled Termination Date and/or the applicable scheduled Purchaser Termination Date, no amendment shall be effective unless each Note Issuer that is a Purchaser (or the Agent or applicable Purchaser Agent on its behalf) shall have received written confirmation by the Rating Agencies that such amendment shall not cause the rating on the then outstanding Notes of such Note Issuer to be downgraded or withdrawn; (ii) no amendment shall be effective which would reduce the amount of Investment or Discount, or fees payable to any Purchaser or amounts payable to the Insurer hereunder, or delay any scheduled date for payment thereof (including any scheduled occurrence of the Termination Date) absent the prior written consent of the Insurer or such Purchaser (as applicable); (iii) no increase in a Revolving Purchaser's Maximum Purchase Amount shall be effective without the prior written consent of such Revolving Purchaser, and no increase in the sum of the aggregate of the Investment of all Term Purchasers and the Revolving Purchase Limit above the Maximum Insured Amount shall be effective without the prior written consent of the Insurer; (iv) no amendment or waiver which would release the Insurer from any of its obligations under the Policy, or delay any scheduled payment date for payment thereunder, shall be effective without prior written consent of each Purchaser; (v) no amendments or modifications to any required recourse or reserves hereunder for uncollectible Receivables may be modified without the prior written consent of the Insurer; and (vi) no amendments to this Section 6.1 or to the definitions of Majority Purchasers or Control Party shall be effective without the prior written consent of all Purchasers and the Insurer. No failure on the part of the Insurer, the Agent, any Purchaser, or any Purchaser Agent to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor

shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

Section 6.2. NOTICES, ETC. All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include facsimile and electronic mail communication) and sent or delivered, to each party hereto, at its address set forth under its name on the signature pages hereof or at such other address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by facsimile or electronic mail shall be effective when sent (and shall, unless such delivery is waived by the recipient by electronic mail or other means, be followed by hard copy sent by first class mail), and notices and communications sent by other means shall be effective when received.

Section 6.3. ASSIGNABILITY. (a) This Agreement and any Purchaser's rights and obligations herein (including ownership of its Participation) shall be assignable, in whole or in part, by such Purchaser and its successors and assigns with the prior written consent of the Seller, the Agent [ \* ] ; PROVIDED, HOWEVER, that such consent shall not be unreasonably withheld; and PROVIDED, FURTHER, that no such consent shall be required if the assignment is made to (i) any Affiliate of such Purchaser, (ii) any Liquidity Bank (or any Person who upon such assignment would be a Liquidity Bank) of such Purchaser or (iii) other Program Support Provider (or any Person who upon such assignment would be a Program Support Provider) of such Purchaser. Each assignor may, in connection with the assignment, disclose to the applicable assignee any information relating to the Seller or the Pool Receivables furnished to such assignor by or on behalf of the Seller, [ \* ], the Agent, the Purchasers or the Purchaser Agents.

Upon the assignment by a Purchaser in accordance with this SECTION 6.3, the assignee receiving such assignment shall have all of the rights of such Purchaser with respect to the Transaction Documents and the Investment (or such portion thereof as has been assigned).

(b) Each Purchaser may at any time grant to one or more banks or other institutions (each a "LIQUIDITY BANK") party to a Liquidity Agreement or to any other Program Support Provider participating interests or security interests in its Participation. In the event of any such grant by a Purchaser of a participating interest to a Liquidity Bank or other Program Support Provider, the Purchaser shall remain responsible for the performance of its obligations hereunder. The Seller agrees that each Liquidity Bank or other Program Support Provider shall be entitled to the benefits of SECTIONS 1.8, 1.9 and 1.10.

(c) This Agreement and the rights and obligations of any Purchaser Agent hereunder shall be assignable, in whole or in part, by such Purchaser Agent and its successors and assigns; PROVIDED, HOWEVER, that if such assignment is to any Person that is not an Affiliate of the assigning Purchaser Agent, such Purchaser Agent must receive the prior written consent of the Agent, [ \* ] and the Seller (which consent shall not be unreasonably withheld).



(d) Except as provided in SECTION 4.1(d), neither the Seller nor the Servicer may assign its rights or delegate its obligations hereunder or any interest herein without the prior written consent of [ \* ], the Agent and the Majority Purchasers.

(e) Without limiting any other rights that may be available under applicable law, the rights of any Purchaser may be enforced through it or by its Purchaser Agent or its other agents.

(f) [ \* ].

Section 6.4. COSTS, EXPENSES AND TAXES. (a) In addition to the rights of indemnification granted under SECTION 3.1 hereof, the Seller agrees to pay on demand all reasonable costs and expenses in connection with the preparation, execution, delivery and administration (including periodic auditing of Pool Receivables) of this Agreement, the Liquidity Agreement, the Insurance Agreement, the Purchase and Sale Agreement and the other documents and agreements to be delivered hereunder or in connection herewith, including all reasonable costs and expenses relating to the amending, amending and restating, modifying or supplementing of this Agreement, the Liquidity Agreement, the Insurance Agreement, the Purchase and Sale Agreement and the other documents and agreements to be delivered hereunder or in connection herewith and the waiving of any provisions thereof, and including in all cases, without limitation, Attorney Costs for the Agent, each Purchaser, each Program Support Provider, each Purchaser Agent, the Insurer and their respective Affiliates and agents with respect thereto and with respect to advising the Agent, the Purchaser, each Program Support Provider, the Insurer and their respective Affiliates and agents as to their rights and remedies under this Agreement and the other Transaction Documents (PROVIDED that unless a Termination Event or Unmatured Termination Event shall have occurred, the costs and expenses payable in connection with the administration of the Transaction Documents (excluding any costs and expenses in connection with any amendment, amendment and restatement, modification, supplement or waiver and any costs and expenses in connection with enforcement) in any year shall not exceed \$25,000), and all reasonable costs and expenses, if any (including Attorney Costs), of each Purchaser Agent, each Purchaser, each Program Support Provider, the Insurer, the Agent and their respective Affiliates and agents, in connection with the enforcement of this Agreement and the other Transaction Documents.

(b) In addition, the Seller shall pay on demand any and all stamp and other taxes and fees payable in connection with the execution, delivery, filing and recording of this Agreement or the other documents or agreements to be delivered hereunder, and agrees to save each Indemnified Party harmless from and against any liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees.

Section 6.5. NO PROCEEDINGS; LIMITATION ON PAYMENTS. (a) Each of the Seller, the Servicer, the Agent, the Insurer, the Purchaser Agents, the Purchasers, each assignee of a Participation or any interest therein, and each Person which enters into a commitment to purchase or does purchase a Participation or interests therein, hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, any Note Issuer, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or other proceeding under any federal or state bankruptcy or similar law, for one year and one day after the latest maturing Note issued by any such Note Issuer is paid in full.

(b) Notwithstanding any provisions contained in this Agreement to the contrary, no Note Issuer shall, nor shall be obligated to, pay any amount pursuant to this Agreement unless (i) such Note Issuer has excess cash flow from operations or has received funds with respect to such obligation which may be used to make such payment and which funds or excess cash flow are not required to repay the Notes when due and (ii) each "Participation" owned by such Note Issuer pursuant to any receivables purchase agreement (including this Agreement) is less than or equal to 100%. Any amounts which a Note Issuer does not pay pursuant to the operation of the preceding sentence shall not constitute a claim against such Note Issuer for any such insufficiency unless and until the conditions described in clauses (i) and (ii) of the preceding sentence are satisfied. Nothing in this subsection (b) shall be construed to forgive or cancel any obligations of such Note Issuer hereunder.

Section 6.6. CONFIDENTIALITY. Unless otherwise required by applicable law or already known by the general public or the third party to which it is disclosed, the Seller agrees to maintain the confidentiality of this Agreement and the other Transaction Documents (and all drafts thereof) in communications with third parties and otherwise; PROVIDED that this Agreement may be disclosed to (a) third parties to the extent such disclosure is made pursuant to a written agreement of confidentiality in form and substance reasonably satisfactory to the Agent, and (b) the Seller's legal counsel and auditors if they agree to hold it confidential.

Section 6.7. GOVERNING LAW AND JURISDICTION. (a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF INDIANA (WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF), EXCEPT TO THE EXTENT THAT THE PERFECTION (OR THE EFFECT OF PERFECTION OR NON-PERFECTION) OF THE INTERESTS OF THE PURCHASERS AND/OR THE INSURER IN THE POOL RECEIVABLES AND THE OTHER ITEMS DESCRIBED IN SECTION 1.2(d) IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF INDIANA.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF ILLINOIS COOK COUNTY AND CHICAGO OR NEW YORK NEW YORK COUNTY, NEW YORK CITY OR OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS OR THE SOUTHERN DISTRICT OF NEW YORK, AND BY EXECUTION AND DELIVERY OF

THIS AGREEMENT, EACH OF THE PURCHASERS, THE INSURER, THE SELLER, THE SERVICER, THE PURCHASER AGENTS AND THE AGENT CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE PURCHASERS, THE INSURER, THE SELLER, THE SERVICER, THE PURCHASER AGENTS AND THE AGENT IRREVOCABLY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY LAW, ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO.

Section 6.8. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

Section 6.9. SURVIVAL OF TERMINATION. The provisions of SECTIONS 1.8, 1.9, 1.10, 3.1, 3.2, 6.4, 6.5, 6.6, 6.7, 6.10 and 6.13 shall survive any termination of this Agreement.

Section 6.10. WAIVER OF JURY TRIAL. THE PURCHASERS, THE SELLER, THE SERVICER, THE PURCHASER AGENTS, THE INSURER AND THE AGENT EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR PARTIES, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. THE PURCHASERS, THE SELLER, THE SERVICER, THE PURCHASER AGENTS, THE INSURER AND THE AGENT EACH AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, EACH OF THE PARTIES HERETO FURTHER AGREES THAT ITS RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT.

Section 6.11. ENTIRE AGREEMENT. This Agreement embodies the entire agreement and understanding between the Purchasers, the Seller, the Insurer, the Servicer, the Purchaser Agents and the Agent, and supersedes all prior or contemporaneous agreements and understandings of such Persons, verbal or written, relating to the subject matter hereof and thereof, except for any prior arrangements made with respect to the payment by any Purchaser of (or any

CONFIDENTIAL TREATMENT

indemnification for) any fees, costs or expenses payable to or incurred (or to be incurred) by or on behalf of the Seller, the Servicer and the Agent.

Section 6.12. HEADINGS. The captions and headings of this Agreement and in any Exhibit hereto are for convenience of reference only and shall not affect the interpretation hereof or thereof.

Section 6.13. LIABILITIES OF THE PURCHASERS. The obligations of each Purchaser under this Agreement are solely the corporate obligations of such Purchaser. No recourse shall be had for any obligation or claim arising out of or based upon this Agreement against any stockholder, employee, officer, director or incorporator of any Purchaser; and PROVIDED, HOWEVER, that this SECTION 6.13 shall not relieve any such Person of any liability it might otherwise have for its own gross negligence or willful misconduct. The agreements provided in this SECTION 6.13 shall survive termination of this Agreement.

Section 6.14. POLICY TERMINATION DATE. [ \* ].

Section 6.15. TAX TREATMENT. The Participations shall be treated and reported as indebtedness of the Seller for all income and franchise tax purposes. The Seller, the Servicer, the Agent, the Insurer, and Fairway and each Purchaser, by its agreement to make a purchase (and to make reinvestments, if applicable) with regard to its Participation, agrees, and shall cause its assignees to agree, to treat and report the Participations as indebtedness of the Seller for all income and franchise tax purposes.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

AFC FUNDING CORPORATION, as Seller

By: /s/ Curtis L. Phillips

-----  
Name: Curtis L. Phillips  
Title: CFO & Treasurer

310 East 96th Street, Suite 310  
Indianapolis, Indiana 46240

Attention: Curt Phillips  
Telephone: 317-815-9645 ext. 2185  
Facsimile: 317-815-8682  
E-mail: cphillips@autofinance.com  
[Notary]

AUTOMOTIVE FINANCE CORPORATION, as Servicer

By: /s/ Curtis L. Phillips

-----  
Name: Curtis L. Phillips  
Title: CFO & Treasurer

310 East 96th Street, Suite 300  
Indianapolis, Indiana 46240

Attention: Curt Phillips  
Telephone: 317-815-9645 ext. 2185  
Facsimile: 317-815-8682  
E-mail: cphillips@autofinance.com  
[Notary]

BMO NESBITT BURNS CORP., as Agent and as  
Purchaser Agent for Fairway

By: /s/Jeffrey J. Phillips

-----  
Name: Jeffrey J. Phillips  
Title: Executive Managing Director

By: /s/David J. Kucera

-----  
Name: David J. Kucera  
Title: Managing Director

BMO NESBITT BURNS CORP.  
115 S. LaSalle, 13th Floor West  
Chicago, Illinois 60603  
Attention: Conduit Administration  
E-mail: fundingdesk@bmonb.com  
Telephone: (312) 461-5640  
Facsimile: (312) 293-4908

FAIRWAY FINANCE CORPORATION, as a Revolving  
Purchaser

By: /s/Lori Gebron

-----  
Name: Lori Gebron  
Title: Vice President

c/o Lord Securities Corp.  
48 Wall Street, 27th Floor  
New York, New York 10005  
Attention: Dean Christiansen  
Telephone: (212) 346-9008  
Facsimile: (212) 346-9012

Maximum Purchase Amount: [ \* ]

[ \* ]

[Amended and Restated  
S-2 Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS  
BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

XL CAPITAL ASSURANCE INC., as Insurer

By: /s/Richard Pfaltzgraff

-----  
Name: Richard Pfaltzgraff  
Title: Managing Director

Richard Pfaltzgraff  
Managing Director  
XL Capital Assurance Inc.  
250 Park Avenue - 19th Floor  
New York, New York 10177  
Telephone: (646) 435-5820  
Email: rpfaltzgraff@xlserv.com  
Reporting: surveillance@xlserv.com

S-4 [Amended and Restated  
Receivables Purchase Agreement]





CONFIDENTIAL TREATMENT

EXHIBIT I

DEFINITIONS

As used in the Agreement (including its Exhibits), the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined). Unless otherwise indicated, all Section, Annex, Exhibit and Schedule references in this Exhibit are to Sections of and Annexes, Exhibits and Schedules to the Agreement.

"ADESA" means ADESA Corporation, an Indiana corporation.

"ADVERSE CLAIM" means a lien, security interest or other charge or encumbrance, or any other type of preferential arrangement, it being understood that a lien, security interest or other charge or encumbrance, or any other type of preferential arrangement, in favor of the Agent for the benefit of the Secured Parties contemplated by the Agreement shall not constitute an Adverse Claim.

"AFC" has the meaning set forth in the Preamble to this Agreement.

"AFFECTED PERSON" has the meaning set forth in SECTION 1.8.

"AFFILIATE" means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person, except that with respect to a Purchaser, Affiliate shall mean the holder(s) of its capital stock.

"AGENT" has the meaning set forth in the preamble to the Agreement.

"AGGREGATE PARTICIPATION" means, at any time, the sum of the Distribution Percentages of the Purchasers expressed as a percentage.

"AGREEMENT" shall have the meaning set forth in the preamble.

"ALLETE" means ALLETE, Inc., a Minnesota corporation.

"APPLICABLE MARGIN" means [ \* ].

"ATTORNEY COSTS" means and includes all reasonable fees and reasonable disbursements of any law firm or other external counsel, and all reasonable disbursements of internal counsel.

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\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

"BANK RATE" for any Purchaser for any Yield Period for any Portion of Investment means an interest rate PER ANNUM equal to the Applicable Margin above the Eurodollar Rate for such Purchaser for such Yield Period; provided, further, that in the case of

(a) any Yield Period on or after the first day of which the applicable Purchaser Agent shall have been notified by a Liquidity Bank or the related Purchaser that the introduction of or any change in or in the interpretation of any law or regulation makes it unlawful, or any central bank or other Governmental Authority asserts that it is unlawful, for such Liquidity Bank or such Purchaser to fund any Portion of Investment based on the Eurodollar Rate set forth above (and such Liquidity Bank or such Purchaser, as applicable, shall not have subsequently notified such Purchaser Agent that such circumstances no longer exist),

(b) any Yield Period of one to (and including) 13 days, or

(c) any Yield Period as to which (i) the applicable Purchaser Agent does not receive notice, by no later than 12:00 noon (Chicago time) on (w) the second Business Day preceding the first day of such Yield Period that the Seller desires that the related Portion of Investment be funded at the CP Rate, or (x) the third Business Day preceding the first day of such Yield Period that the Seller desires that the related Portion of Investment be funded at the Bank Rate, or (ii) the Seller has given the notice contemplated by clause (w) of this CLAUSE (c) and the applicable Purchaser Agent shall have notified the Seller that funding the related Portion of Investment at the CP Rate is unacceptable to the applicable Purchaser,

the "BANK RATE" for each such Yield Period shall be an interest rate per annum equal to the Base Rate in effect on each day of such Yield Period. Notwithstanding the foregoing, the "BANK RATE" for each day in a Yield Period occurring during the continuance of a Termination Event shall be an interest rate equal to 2% PER ANNUM above the Base Rate in effect on such day.

"BANKRUPTCY CODE" means the United States Bankruptcy Reform Act of 1978 (11U.S.C.ss. 101, ET SEQ.), as amended and in effect from time to time.

"BASE RATE" means for any Purchaser for any day, a fluctuating interest rate per annum equal to the higher of: (a) the rate of interest most recently announced by the applicable Reference Bank as its prime commercial rate for loans made in Dollars in the United States or (b) 0.50% PER ANNUM above the latest Federal Funds Rate. The rate referred to in CLAUSE (a) is not necessarily intended to be the lowest rate of interest determined by the applicable Reference Bank in connection with extensions of credit.

"BUSINESS DAY" means any day on which (i) (A) the Agent at its branch office in Chicago, Illinois is open for business, (B) commercial banks in New York City are not

CONFIDENTIAL TREATMENT

authorized or required to be closed for business and (C) the Insurer in New York City is open for business, and (ii) if this definition of "Business Day" is utilized in connection with the Eurodollar Rate, dealings are carried out in the London interbank market.

"BUYER'S FEES" means the fees paid by an Obligor to the auction house in connection with a purchase of a vehicle by such dealer.

"CARRY COSTS" means with respect to any calendar month, the sum of the amounts of the following items that accrued or were incurred during such calendar month: (a) all Discount, (b) the Program Fee, (c) the Servicing Fee, (d) the Premium and (e) all other expenses and fees of the Seller under the Agreement.

"CASH RESERVE" means, at any time, an amount equal to [ \* ].

"CASH RESERVE ACCOUNT" means that certain bank account numbered [ \* ] maintained at [ \* ] and maintained for the benefit of the Secured Parties.

"CASH RESERVE ACCOUNT BANK" means the bank holding the Cash Reserve Account.

"CHANGE IN CONTROL" means

(a) ALLETE shall fail to own, directly or indirectly, at least 80% of the outstanding voting stock of ADESA; or

(b) AFC shall fail to own, free and clear of all Adverse Claims, 100% of the outstanding shares of voting stock of the Seller, except as otherwise provided by the Pledge Agreement; or

(c) Neither ADESA nor ALLETE shall own, directly or indirectly, free and clear of all Adverse Claims, at least 80% of the outstanding shares of voting stock of AFC, on a fully diluted basis.

"COLLATERAL BALANCE" means, at any time, the sum of the Net Receivables Pool Balance on such day plus the amount on deposit in the Liquidation Account (other than the amounts set aside pursuant SECTION 1.4(b)(i), SECTION 1.4(b)(ii) and SECTION 1.4(b)(iii) for the benefit of any Purchaser, the Insurer and/or the Servicer).

"COLLECTIONS" means, with respect to any Pool Receivable, (a) all funds which are received by the Seller, the Originator or the Servicer in payment of any amounts owed in respect of such Receivable (including, without limitation, principal payments, finance charges, interest

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Receivables Purchase Agreement]

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and all other charges), or applied (or to be applied) to amounts owed in respect of such Receivable (including, without limitation, insurance payments and net proceeds of the sale or other disposition of vehicles or other collateral or property of the related Obligor or any other Person directly or indirectly liable for the payment of such Pool Receivable applied (or to be applied) thereto), (b) all Collections deemed to have been received pursuant to SECTION 1.4(e) and (c) all other proceeds of such Receivable.

"COMPANY NOTE" has the meaning set forth in Section 3.2 of the Purchase and Sale Agreement.

"CONTRACT" means, with respect to any Obligor, collectively, the Dealer Note issued by such Obligor, or similar agreement between such Obligor and AFC, any guaranty issued in connection therewith and each other agreement or instrument executed by an Obligor pursuant to or in connection with any of the foregoing.

"CONTROL PARTY" means, (a) [ \* ] and the Agent; PROVIDED, HOWEVER, that upon the occurrence of any Termination Event or Unmatured Termination Event "Control Party" [ \* ] and (b) upon the occurrence and continuation of an Insurer Default or the Policy Termination Date the Majority Purchasers.

"CP RATE" for any Purchaser for any Yield Period for any Portion of Investment means, to the extent such Purchaser funds such Portion of Investment for such Yield Period by issuing Notes, (a) a rate PER ANNUM equal to the sum of (i) the rate (or if more than one rate, the weighted average of the rates) at which Notes of such Purchaser having a term equal to such Yield Period and to be issued to fund such Portion of Investment may be sold by any placement agent or commercial paper dealer selected by the applicable Purchaser Agent on behalf of such Purchaser, as agreed between each such agent or dealer and the applicable Purchaser Agent and notified by the applicable Purchaser Agent to the Servicer; PROVIDED, that if the rate (or rates) as agreed between any such agent or dealer and the applicable Purchaser Agent with regard to any Yield Period for such Portion of Investment is a discount rate (or rates), then such rate shall be the rate (or if more than one rate, the weighted average of the rates) resulting from converting such discount rate (or rates) to an interest-bearing equivalent rate per annum, PLUS (ii) the commissions and charges charged by such placement agent or commercial paper dealer with respect to such Notes, expressed as a percentage of such face amount and converted to an interest-bearing equivalent rate PER ANNUM; or (b) such other rate set forth in the Joinder Agreement pursuant to which such Purchaser becomes a party to the Agreement.

"CREDIT AND COLLECTION POLICY" means those receivables credit and collection policies and practices of the Servicer in effect on the date of the Agreement and described in Schedule I hereto, as modified in compliance with the Agreement.

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"CURTAILMENT DATE" means, with respect to any Receivable, the date defined as such in the Contract for such Receivable.

"DEALER NOTE" means a Demand Promissory Note and Security Agreement, a Promissory Note and Floorplan Agreement and any other promissory note issued by an Obligor in favor of AFC.

"DEBT" means (i) indebtedness for borrowed money (which shall not include, in the case of the Seller or AFC, accounts payable to any Affiliate in the ordinary course of business arising from the provision of goods and services by such Affiliate), (ii) obligations evidenced by bonds, debentures, notes or other similar instruments, (iii) obligations to pay the deferred purchase price of property or services, (iv) obligations as lessee under leases which shall have been or should be, in accordance with generally accepted accounting principles, recorded as capital leases, (v) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of kinds referred to in CLAUSES (i) through (iv) above, and (vi) liabilities in respect of unfunded vested benefits under plans covered by Title IV of ERISA.

"DEFAULT RATIO" means the ratio (expressed as a percentage and rounded upward to the nearest 1/100th of 1%) computed as of the last day of each calendar month by dividing (i) the aggregate Outstanding Balance of all Pool Receivables that became Defaulted Receivables during such month PLUS the aggregate amount of non-cash adjustments that reduced the Outstanding Balance of any Pool Receivable during such month (other than a Pool Receivable that became a Defaulted Receivable during such month) by (ii) the aggregate amount of Pool Receivables that were generated by the Originator during the calendar month that occurred five calendar months prior to the calendar month ending on such day.

"DEFAULTED RECEIVABLE" means a Receivable:

(i) as to which any payment, or part thereof, remains unpaid for [ \* ] after the due date for such payment (such due date being determined without reference to any extension that extends the due date of such Receivable to a date [ \* ] past the date such Receivable arose or, if such Receivable was still an Eligible Receivable after such extension, without reference to any extension that extends the due date [ \* ] past the date such Receivable arose);

(ii) [RESERVED]

(iii) which, consistent with the Credit and Collection Policy, would be written off the Seller's books as uncollectible;  
or

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(iv) which is converted to a long term payment plan in the form of a note or other similar document.

"DEFICIENCY AMOUNT" means with respect to (i) [ \* ] the amount, if any, by which the Discount and Program Fees due [ \* ] exceeds the aggregate amount of funds available and actually paid in respect of such Discount and Program Fees [ \* ] including, without limitation, amounts redeposited by the Seller and amounts withdrawn from the Cash Reserve Account pursuant to Section 1.4(i) and (ii) the Legal Final Maturity Date, the amount, if any, by which the outstanding Investment exceeds the aggregate amount of funds available and actually paid in respect of such Investment on such Legal Final Maturity Date, including, without limitation, amounts redeposited by the Seller and amounts withdrawn from the Cash Reserve Account pursuant to Section 1.4(i).

"DELINQUENCY RATIO" means the ratio (expressed as a percentage and rounded upward to the nearest 1/100 of 1%) computed as of the last day of each calendar month by dividing (i) the aggregate Outstanding Balance of all Pool Receivables (net of all miscellaneous credits) that were Delinquent Receivables on such day by (ii) the aggregate Outstanding Balance of all Pool Receivables on such day.

"DELINQUENT RECEIVABLE" means a Receivable which is not a Defaulted Receivable (i) as to which any payment, or part thereof, remains unpaid for [ \* ] after the due date for such payment (such due date being determined without reference to any extension that extends the due date to a date [ \* ] past the date such Receivable arose (provided that the determination of such due date shall include any extension that extends the due date [ \* ] such Receivable arose if, after giving effect to such extension, such Receivable was still an Eligible Receivable) or (ii) which, consistent with the Credit and Collection Policy, would be classified as delinquent by the Seller.

"DEPOSIT ACCOUNT" means an account listed on SCHEDULE II hereto and maintained at a bank or other financial institution for the purpose of receiving Collections.

"DEPOSIT ACCOUNT AGREEMENT" means a letter agreement, in the form of ANNEX B to the Agreement, among the Seller, the Agent and the applicable Deposit Account Bank, as the same may be amended, supplemented, amended and restated, or otherwise modified from time to time in accordance with the Agreement and with the prior written consent of the Control Party.

"DEPOSIT BANK" means any of the banks or other financial institutions at which one or more Deposit Accounts are maintained.

"DISCOUNT" means (a) with respect to each Revolving Purchaser:

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[ \* ]

and (b) with respect to any Term Purchaser, has the meaning set forth in the applicable Joinder Agreement; PROVIDED, that no provision of the Agreement shall require the payment or permit the collection of Discount in excess of the maximum permitted by applicable law; and PROVIDED, FURTHER, that Discount for any Portion of Investment of any Participation shall not be considered paid by any distribution to the extent that at any time all or a portion of such distribution is rescinded or must otherwise be returned for any reason.

"DISTRIBUTION PERCENTAGE" means, with respect to any Purchaser on any day (i) if the sum of the aggregate of the numerators of the Participations on such day is less than or equal to the Collateral Balance on such day, such Purchaser's Participation and (ii) if the sum of the aggregate of the numerators of the Participations on such day exceeds the Collateral Balance on such day, the Termination Share of such Purchaser (in each case, expressed as a percentage).

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"DIVIDENDS" means any dividend or distribution (in cash or obligations) on any shares of any class of Seller's capital stock or any warrants, options or other rights with respect to shares of any class of Seller's capital stock.

"DRAW DATE" means the 5th Business Day of each calendar month.

"ELIGIBLE CONTRACT" means a Contract in one of the forms set forth in SCHEDULE IV with such variations as AFC shall approve in its reasonable business judgment that shall not materially adversely affect the rights of the Originator, the Seller, the Insurer or the Purchasers.

"ELIGIBLE RECEIVABLE" means, at any time, any Receivable:

[ \* ]

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[ \* ]

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Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

[ \* ]

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute of similar import, together with the regulations thereunder, in each case as in effect from time to time. References to sections of ERISA also refer to any successor sections.

"ERISA AFFILIATE" shall mean with respect to any Person, at any time, each trade or business (whether or not incorporated) that would, at the time, be treated together with such Person as a single employer under Section 4001 of ERISA or Sections 414(b), (c), (m) or (o) of the Internal Revenue Code.

"EURODOLLAR RATE" means, for any Portion of the Investment for any Yield Period, an interest rate per annum (rounded upward to the nearest 1/16th of 1%) determined pursuant to the following formula:

$$\text{Eurodollar Rate} = \frac{\text{LIBOR}}{1.00 - \text{Eurodollar Reserve Percentage}}$$

Where,

"EURODOLLAR RESERVE PERCENTAGE" means, for any Yield Period, the maximum reserve percentage (expressed as a decimal, rounded upward to the nearest 1/100th of 1%) in effect on the date LIBOR for such Yield Period is determined under regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to "Eurocurrency" funding (currently referred to as "Eurocurrency liabilities") having a term comparable to such Yield Period; and

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"EXCLUDED OBLIGOR" means an Obligor, so designated in writing as such by the Control Party (or if the Control Party is the Majority Purchasers, the Agent and the Majority Purchasers) to the Seller in good faith and in the Control Party's (or if the Control Party is the Majority Purchasers, the Agent's and the Majority Purchasers') reasonable judgment relating to credit considerations from time to time, it being understood that from time to time the Control Party and the Agent may revoke their designation of one or more Obligors as Excluded Obligors by written notice to the Seller.

"EXCLUDED RECEIVABLES" means any Receivable identified on SCHEDULE 1.1(b) of the Purchase and Sale Agreement from time to time and any right to payment under:

[ \* ]

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Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

[ \* ]

"FAIRWAY" has the meaning set forth in the preamble.

"FEDERAL FUNDS RATE" means, for any period, a fluctuating interest rate PER ANNUM equal (for each day during such period) to: (a) the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the preceding Business Day) by the Federal Reserve Bank of New York, or (b) if such rate is not so published for any Business Day, the average of the quotations for such day on such transactions received by the Agent from three federal funds brokers of recognized standing selected by it.

"FEDERAL RESERVE BOARD" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

"FEE LETTER" as to any Purchaser means the fee letter entered into by such Purchaser's Purchaser Agent party with the Seller as described more particularly in SECTION 1.5.

"FEE PAYMENT DATE" means with respect to any Purchaser, any date so designated in the applicable Fee Letter.

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Receivables Purchase Agreement]

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"FINAL PAYOUT DATE" means the date following the Termination Date on which no Investment or Discount in respect of any Participation under the Agreement shall be outstanding and all other amounts payable by the Originator, the Seller or the Servicer to the Purchasers, the Purchaser Agents, the Agent, the Insurer or any other Affected Person under the Transaction Documents shall have been paid in full.

"FINANCE CHARGE AND FLOOR PLAN FEE COLLECTIONS" means with respect to any calendar month, any Collections applied by the Servicer in such calendar month to the payment of interest and finance charges and all other amounts (other than principal) owed under a Contract.

"GAAP" means, generally accepted accounting principles and practices in the United States, consistently applied.

"GOVERNMENTAL AUTHORITY" means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any body or entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including without limitation any court, and any Person owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"INDEMNIFIED AMOUNTS" has the meaning set forth in SECTION 3.1.

"INDEMNIFIED PARTY" has the meaning set forth in SECTION 3.1.

"INSOLVENT" or "INSOLVENCY" means with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"INSOLVENCY PROCEEDING" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case (a) and (b) undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

"INSURANCE AGREEMENT" means that certain Insurance and Indemnity Agreement dated as of the date hereof among the Servicer, the Seller, the Originator and the Insurer, as amended, amended and restated, supplemented or otherwise modified from time to time.

"INSURED AMOUNTS" [ \* ]

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Receivables Purchase Agreement]

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CONFIDENTIAL TREATMENT

"INSURED DISCOUNT LIMIT" [ \* ]

"INSURER" has the meaning set forth in the preamble to this Agreement.

"INSURER ADVANCE" [ \* ]

"INSURER DEFAULT" [ \* ]

"INSURER'S ACCOUNT" means that certain bank account numbered [ \* ] or such other account as the Insurer may specify through written notice to the Seller, the Servicer and the Agent.

"INVESTMENT" means with respect to any Purchaser the aggregate of the amounts paid to the Seller in respect of the Participation of such Purchaser pursuant to the Agreement, or such amount divided or combined in accordance with SECTION 1.7, in each case reduced from time to time by Collections actually distributed and applied on account of such Investment pursuant to SECTION 1.4(d); PROVIDED, THAT if such Investment shall have been reduced by any distribution and thereafter all or a portion of such distribution is rescinded or must otherwise be returned for any reason, such Investment shall be increased by the amount of such rescinded or returned distribution, as though it had not been made.

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"JOINDER AGREEMENT" means a Joinder Agreement substantially in the form of ANNEX D and executed pursuant to SECTION 1.12.

"LEGAL FINAL MATURITY DATE" [ \* ]

"LIBOR" means with respect to each Purchaser's Portion(s) of Investment the rate of interest PER ANNUM (rounded to the nearest 1/100th of 1%, with 0.005% being rounded upwards) equal to the rate of interest PER ANNUM: (i) for deposits in Dollars (in the approximate amount of the Investment to be funded) for a period equal to the applicable Yield Period that appears on Telerate Page 3750 or (ii) if such rate does not appear on Telerate Page 3750, determined by the Agent to be the arithmetic mean (rounded to the nearest 1/100th of 1%, with 0.005% being rounded upwards) of the rates of interest PER ANNUM notified to the Agent as the rate of interest at which Dollar deposits in the approximate amount of the Investment to be funded, and for a period equal to the applicable Yield Period, would be offered to major banks in the London interbank market at their request, in each case at or about 11:00 a.m. (London time) on the second Business Day before such funding. [ \* ]

"LIQUIDATION ACCOUNT" means that certain bank account numbered [ \* ] or such other account at such other bank approved by the Control Party (or if the Control Party is the Majority Purchasers, the Agent), with the Purchasers and their respective Purchaser Agents receiving notice that such account is maintained at such bank in either case, which is in the name of [ \* ]

"LIQUIDATION ACCOUNT BANK" means the bank holding the Liquidation Account.

"LIQUIDITY AGENT" means any financial institution in its capacity as a Liquidity Agent pursuant to a Liquidity Agreement.

"LIQUIDITY AGREEMENT" means any loan or asset purchase agreement or similar agreement whereby a Note Issuer party hereto as a Purchaser which obtains commitments from financial institutions to support its funding obligations hereunder and/or to refinance any Notes issued to fund the Note Issuer's Investment hereunder. [ \* ] Bank of Montreal, acting through its Chicago Branch, as Liquidity Agent, BMO Nesbitt

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Burns, as servicing agent, and Fairway, as amended, amended and restated, supplemented or otherwise modified from time to time.

"LIQUIDITY BANK" has the meaning set forth in SECTION 6.3(b).

"LOSS PERCENTAGE" means, on any date, the greatest of [ \* ]

"LOSS RESERVE" means, for any date and any Participation (a) of any Revolving Purchaser, an amount equal to the product of (A) the quotient obtained by dividing (x) the Loss Percentage by (y) 1 minus the Loss Percentage and (B) such Purchaser's Investment at such time and (b) of any Term Purchaser, an amount calculated pursuant to the "Loss Reserve Formula" set forth in the Joinder Agreement to which such Term Purchaser is a party and approved by the Insurer.

"LOSS RESERVE RATIO" means, as calculated as of the last day of each calendar month, a percentage equal to (a) [ \* ] that occurred during the twelve consecutive calendar months ending on such last day [ \* ] ending on such day, and [ \* ]

"LOT CHECK" with respect to any Obligor means a physical inspection of such Obligor's vehicles that are financed by the Originator and which may include a review of such Obligor's books and records related thereto.

"MAJORITY PURCHASERS" means Purchasers having a share of the Aggregate Participation equal to or greater than 50%.

"MATERIAL ADVERSE EFFECT" means, with respect to any event or circumstance, a material adverse effect on:

- (a) the business, operations, property or financial condition of the Seller or the Servicer;
- (b) the ability of the Seller or the Servicer to perform its obligations under this Agreement or any other Transaction Document to which it is a party or the performance of any such obligations;
- (c) the validity or enforceability of this Agreement or any other Transaction Document;

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(d) the status, existence, perfection, priority or enforceability of the Agent's interest (for the benefit of the Secured Parties) in the Receivables or Related Security; or

(e) the collectibility of the Receivables.

"MAXIMUM INSURED AMOUNT" [ \* ]

"MAXIMUM PURCHASE AMOUNT" means, as to any Revolving Purchaser, the maximum dollar amount of Investment it is willing to fund, as set forth on the signature pages to this Agreement, any Joinder Agreement or any assignment entered into pursuant to SECTION 6.3 (as applicable), which amount may, following the written request of the Seller, and if such increase would make the sum of the Revolving Purchase Limit and the aggregate of the Investments of all Term Purchasers exceed the Maximum Insured Amount, the prior written consent of the Insurer in its sole discretion, be increased at any time by any Revolving Purchaser (which increase shall cause a corresponding increase in the Revolving Purchase Limit); PROVIDED THAT if any Affiliate of Fairway becomes a Term Purchaser, the Maximum Purchase Amount of Fairway shall be reduced by the initial Investment of such Term Purchaser.

"MOODY'S" means Moody's Investors Services, Inc.

"MULTIEMPLOYER PLAN" means a Plan that is a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"NET RECEIVABLES POOL BALANCE" means at any time an amount equal to [ \* ]

"NET SPREAD" means [ \* ]

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Receivables Purchase Agreement]

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[ \* ]

"NORMAL CONCENTRATION PERCENTAGE" [ \* ]

"NOTE ISSUER" means Fairway and any other Purchaser in the business of issuing short or medium term promissory notes.

"NOTES" (a) in the case of Fairway, means the short-term promissory notes issued or to be issued by Fairway to fund its investments in accounts receivable or other financial assets and (b) in the case of any other Purchaser, has the meaning set forth in the applicable Joinder Agreement.

"OBLIGOR" means, with respect to any Receivable, a Person obligated to make payments pursuant to the Contract relating to such Receivable; PROVIDED THAT Receivables generated by Affiliates of any Obligor shall be treated as if generated by such Obligor.

"ORIGINATOR" has the meaning set forth in the Purchase and Sale Agreement.

"OUTSTANDING BALANCE" [ \* ]

"PARTICIPATION" [ \* ]

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[ \* ]

Each Participation shall be determined from time to time pursuant to the provisions of SECTION 1.3.

"PERFECTION REPRESENTATION" means the representations, warranties and covenants set forth in EXHIBIT VII attached hereto.

"PERFORMANCE GUARANTY" means the Performance Guaranty, dated as of May \_\_, 2002, made by ADESA in favor of the Agent for the benefit of the Secured Parties, as the same may be amended, supplemented or otherwise modified from time to time with the prior written consent of the Control Party.

"PERMITTED INVESTMENTS" means (i) overnight obligations of the United States of America, (ii) time deposits or AAAM or AAAM-G rated money market accounts maintained at Harris Trust and Savings Bank or the Bank of Montreal or if Harris Trust and Savings Bank or the Bank of Montreal is rated below A-1 by S&P or P-1 by Moody's such other financial institutions rated at the time of investment not less than A-1+ by S&P and P-1 by Moody's, (iii) certificates of deposit that are not represented by instruments, have a maturity of one week or less and are issued by financial institutions rated at the time of investment not less than A-1 by S&P and P-1 by Moody's if such certificates of deposit are issued by Harris Trust and Savings Bank or the Bank of Montreal or A-1+ by S&P and P-1 by Moody's if such certificates of deposit are issued by financial institutions other than Harris Trust and Savings Bank and the Bank of Montreal and (iv) commercial paper rated at the time of investment not less than A-1 by S&P and P-1 by Moody's if such commercial paper is issued by Fairway or A-1+ by S&P and P-1 by Moody's if such commercial paper is issued by an entity other than Fairway and, in the cases of clauses (ii), (iii) and (iv), having a maturity date not later than (A) with respect to amounts on deposit in the Cash Reserve Account the immediately succeeding Draw Date and (B) with respect to amounts on deposit in the Liquidation Account the earlier of (x) the next Settlement Date and (y) one week from the date of investment; PROVIDED, HOWEVER, that the Control Party and the Agent (on behalf of Purchasers and the Insurer) may, from time to time, upon three Business Days' prior written notice to Servicer, remove from the scope of "Permitted

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Receivables Purchase Agreement]

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Investments" any such obligations, certificates of deposit or commercial paper and specify to be within such scope, other investments.

"PERMITTED LIEN" [ \* ]

"PERSON" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

"PLAN" means at a particular time, any employee benefit plan or other plan established, maintained or contributed to by the Seller or any ERISA Affiliate that is covered by Title IV of ERISA.

"PLEDGE AGREEMENT" means the Pledge Agreement dated May 31, 2002 between AFC and the Agent, as the same may be amended or modified with the prior written consent of the Control Party.

"POLICY" [ \* ]

"POLICY TERMINATION DATE" shall have the meaning set forth in the Policy.

"POOL RECEIVABLE" means a Receivable in the Receivables Pool.

"PORTFOLIO CERTIFICATE" means a certificate substantially in the form of EXHIBIT VI to the Agreement.

"PORTION OF INVESTMENT" has the meaning set forth in SECTION 1.7. In addition, at any time when the Investment of a Participation is not divided into two or more portions, "Portion of Investment" means 100% of the Investment of such Participation.

"PREMIUM" means collectively, the premium owed to the Insurer under the Insurance Agreement in respect of the Insurer's commitments under the Policy.

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"PREMIUM PAYMENT DATE" means any date on which Premium is payable pursuant to the letter agreement described in SECTION 1.5(c).

"PROGRAM FEE" as to any Purchaser means, collectively, the periodic fees set forth in the applicable Fee Letter.

"PROGRAM SUPPORT AGREEMENT" as to any applicable Note Issuer party hereto as a Purchaser means and includes the Liquidity Agreement and any other agreement (if any) entered into by any Program Support Provider providing for the issuance of one or more letters of credit for the account of the Purchaser, the issuance of one or more surety bonds for which the Purchaser is obligated to reimburse the applicable Program Support Provider for any drawings thereunder, the sale by the Purchaser to any Program Support Provider of the Participation (or portions thereof) and/or the making of loans and/or other extensions of credit to the Purchaser in connection with the Purchaser's securitization program, together with any letter of credit, surety bond or other instrument issued thereunder.

"PROGRAM SUPPORT PROVIDER" as to any Note Issuer means and includes any Liquidity Bank and any other or additional Person (other than any customer of a Purchaser) now or hereafter extending credit or having a commitment to extend credit to or for the account of, or to make purchases from, a Purchaser or issuing a letter of credit, surety bond or other instrument to support any obligations arising under or in connection with any Note Issuer's securitization program.

"PURCHASE AND SALE AGREEMENT" means the Amended and Restated Purchase and Sale Agreement, dated as of May 31, 2002, among the Originator and the Seller, as the same may be modified, supplemented, amended and amended and restated from time to time in accordance with the Transaction Documents and with prior written consent of the Control Party.

"PURCHASER" means Fairway and each other Revolving Purchaser or Term Purchaser which becomes a purchaser hereunder in accordance with the provisions of SECTION 1.12 or SECTION 6.3(a).

"PURCHASER'S ACCOUNT" means (i), as to Fairway, the special account (account number [ \* ] of the Purchaser maintained at the office of [ \* ] or such other account as may be so designated in writing by the Agent to the Seller and the Insurer and (ii) as to any other Purchaser, such account as may be so designated in writing by the applicable Purchaser Agent to the Seller, the Servicer and the Insurer.

"PURCHASER AGENT" means, as to any Purchaser, the financial institution designated by such Purchaser as responsible for administering the purchase facility contemplated by this Agreement on behalf of such Purchaser, together with any successors or permitted assigns acting in such capacity; if any Purchaser does not so designate another institution as its Purchaser Agent, such Purchaser shall be deemed to have designated itself as its Purchaser Agent and all

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references herein to such Purchaser's Purchaser Agent shall mean and be references to such Purchaser.

"PURCHASER TERMINATION DAY" means, as to any Purchaser, any day on or after the earliest of (a) the date that the commitments of all of the related Program Support Providers terminate under any related Program Support Agreement, or any related Program Support Agreement is terminated without being replaced, (b) the date (if any) set forth as such Purchaser's "Scheduled Termination Date" next to such Purchaser's signature hereto or to the applicable Joinder Agreement (as such date may be periodically extended with the consent of the Seller and such Purchaser) or (c) the Termination Date; PROVIDED THAT any day that would otherwise be a Purchaser Termination Day shall not be so considered if such day is a Termination Day.

"RATING AGENCIES" means Moody's and S&P.

"RECEIVABLE" means any right to payment from any Person, whether constituting an account, chattel paper, instrument, payment intangible or a general intangible, arising from the providing of financing and other services by the Originator to new, used and wholesale automobile or other motor vehicle dealers and that is denominated and payable only in United States dollars, and includes the right to payment of any interest or finance charges and other obligations of such Person with respect thereto.

"RECEIVABLES POOL" means at any time all of the then outstanding Receivables conveyed to the Seller pursuant to the Purchase and Sale Agreement and not reconveyed to the Originator in accordance with the terms of the Purchase and Sale Agreement.

"RECREATIONAL VEHICLE" [ \* ]

"RECREATIONAL VEHICLE RECEIVABLE" means those Receivables generated as a result of the making of loans to finance the purchase of Recreational Vehicles.

"REFERENCE BANK" means [ \* ], provided that if so agreed by the Seller, the Servicer and the Agent, each Purchaser which becomes a party hereto by virtue of Section 1.12 may designate a different Reference Bank for purposes of calculating the Base Rate applicable to such Purchaser's Investment.

"RELATED SECURITY" means, with respect to any Receivable:

(a) all right, title and interest in and to all Contracts that relate to such Receivable;

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(b) all security interests or liens and rights in property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, including all rights in vehicles securing or purporting to secure such payment;

(c) all UCC financing statements covering any collateral securing payment of such Receivable;

(d) all guarantees and other agreements or arrangements of whatever character from time to time supporting or securing payment of such Receivable whether pursuant to the Contract related to such Receivable or otherwise;

(e) all rights in any power of attorney delivered by the related Obligor; and

(f) all rights and claims of the Seller with respect to such Receivable, pursuant to the Purchase and Sale Agreement.

"REORGANIZATION" means with respect to any Multiemployer Plan, the condition that such plan is in reorganization within the meaning of Section 4241 of ERISA.

"REPORTABLE EVENT" means any of the events set forth in Section 4043(c) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .22, .27 or .28 of PBGC Reg. ss.4043.

"RESTRICTED PAYMENTS" has the meaning set forth in PARAGRAPH (o)(i) of EXHIBIT IV of the Agreement.

"REVOLVING PAYDOWN DAY" means any day that is not a Termination Day on which the conditions set forth in SECTIONS 1.2(b) or SECTION 2 of EXHIBIT II are not either satisfied or waived.

"REVOLVING PRO RATA SHARE" means, with respect of any Revolving Purchaser, a fraction (expressed as a percentage), the numerator of which is such Revolving Purchaser's Maximum Purchase Amount and the denominator of which is the Revolving Purchase Limit.

"REVOLVING PURCHASE LIMIT" means the least of (a) \$500,000,000, as such amount may be reduced pursuant to SECTION 1.1(b), (b) the amount that [ \* ] and (c) [ \* ] PROVIDED, HOWEVER, that if any Revolving Purchaser agrees to increase its Maximum Purchase Amount pursuant to the definition thereof or if, in compliance with SECTION 1.12, any new Revolving Purchaser becomes an additional party hereto, clause (a) above [ \* ], as

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applicable, and [ \* ]

"REVOLVING PURCHASER" means any Purchaser identified as a revolving purchaser on its signature page hereto or in the applicable Joinder Agreement.

"S&P" means Standard and Poor's Ratings Services.

"SECURED PARTIES" means, collectively, the Purchasers, the Purchaser Agents, the Agent, the Program Support Providers and the Insurer.

"SELLER" has the meaning set forth in the preamble to the Agreement.

"SERVICER" has the meaning set forth in the preamble to the Agreement.

"SERVICER PAYMENT DATE" shall mean the first Business Day of each calendar month.

"SERVICER REPORT" means a report, in substantially the form of ANNEX D hereto, furnished by the Servicer to the Insurer, the Agent and the Purchaser Agents pursuant to the Agreement.

"SERVICER REPORT DATE" means the 15th day of each month, or if such day is not a Business Day, the next Business Day.

"SERVICING FEE" shall mean the fee referred to in SECTION 4.6.

"SETTLEMENT DATE" means each of (a) the last day of each Yield Period, (b) any Servicer Payment Date, (c) any Premium Payment Date, (d) any Fee Payment Date, (e) every Business Day following the date any draw is made under the Policy until the amount of such draw is fully reimbursed to the Insurer and (f) on and after the Termination Date, any day or days that the Agent may declare by written notice with the prior written consent of the Control Party; IT BEING UNDERSTOOD that the declaration of a Settlement Date under this CLAUSE (f) by the Agent shall not accelerate the payment date for any amounts due to any Purchaser or the Insurer without the applicable party's consent.

"SINGLE EMPLOYER PLAN" means any Plan which is covered by Title IV of ERISA, but which is not a Multiemployer Plan.

"SPECIAL CONCENTRATION PERCENTAGE" means, for any [ \* ] at any time, [ \* ]

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"SPECIAL OBLIGOR" means [ \* ] and any other Obligor approved in writing by the Control Party (or if the Control Party is the Majority Purchasers, the Agent).

"TANGIBLE NET WORTH" means, with respect to any Person, the net worth of such Person calculated in accordance with GAAP after subtracting therefrom the aggregate amount of such Person's intangible assets, including, without limitation, goodwill, franchises, licenses, patents, trademarks, tradenames, copyrights, service marks and brand names and capitalized software.

"TERMINATION DATE" means the earliest of (i) the Business Day which the Seller so designates by notice to the Insurer and the Agent at least 30 days in advance pursuant to SECTION 1.1(b), (ii) May 27, 2005 (as such date may be periodically extended with the written consent of the Seller, the Servicer, the Insurer, the Agent and each Purchaser Agent), (iii) the date determined pursuant to SECTION 2.2 and (iv) the date that a Purchaser Termination Day is in effect with respect to all Purchasers.

"TERMINATION DAY" means each day which occurs on or after the Termination Date.

"TERMINATION EVENT" has the meaning specified in EXHIBIT V.

"TERMINATION FEE" (i) with respect to any Portion of the Investment of any Revolving Purchaser, means with respect to any Yield Period during which any reduction of such Portion of the Investment occurs on a date other than the last day of such Yield Period (without giving effect to any shortened duration of such Yield Period pursuant to CLAUSE (iv) of the definition thereof), the amount, if any, by which (i) the additional Discount (calculated without taking into account any Termination Fee) which would have accrued during the remainder of such Yield Period on the reductions of Investment of the applicable Portion of the Participation relating had such reductions remained as Investment, exceeds (ii) the income, if any, received by the applicable Purchaser from the applicable Purchaser investing the proceeds of such reductions of Investment, as determined by the Agent, which determination shall be binding and conclusive for all purposes, absent manifest error and (ii) with respect to any Portion of the Investment of any Term Purchaser, has the meaning set forth in the applicable Joinder Agreement.

"TERMINATION SHARE" means, with respect to any Purchaser at any time, the percentage equivalent of a fraction, the numerator of which is the Investment of such Purchaser PLUS the Loss Reserve applicable to such Purchaser and the denominator of which is the aggregate of the Investment of all Purchasers PLUS the aggregate of the Loss Reserves of all Purchasers.

"TERM PURCHASER" means any Purchaser identified as a term purchaser in the applicable Joinder Agreement.

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Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

"TITLE ATTACHED RECEIVABLE" [ \* ]

"TRACTOR RECEIVABLE" means, those Receivables generated as a result of the making of loans to finance the purchase of Tractors.

"TRACTORS" means, any non-cargo carrying power unit manufactured with a minimum of two axles and a maximum of three axles intended primarily for use on the public streets, roads and highways and designed to operate in combination with a semitrailer or trailer; PROVIDED, FURTHER, this definition specifically excludes any semitrailer or trailer.

"TRANSACTION DOCUMENTS" means the Agreement, the Deposit Account Agreements, the Purchase and Sale Agreement, the Performance Guaranty, the Pledge Agreement, the Insurance Agreement, the Company Note, each Joinder Agreement, the Policy, and all other certificates, instruments, UCC financing statements, reports, notices, agreements and documents executed or delivered under or in connection with any of the foregoing, in each case as the same may be amended, supplemented or otherwise modified from time to time in accordance with the Agreement.

"UCC" means the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction.

"UNMATURED TERMINATION EVENT" means an event which, with the giving of notice or lapse of time, or both, would constitute a Termination Event.

"YIELD PERIOD" means, (a) with respect to each Portion of Investment of any Revolving Purchaser:

(i) initially the period commencing on the date of a purchase pursuant to SECTION 1.2 and ending such number of days as the Seller shall select, subject to the approval of the applicable Purchaser Agent pursuant to SECTION 1.2, [ \* ]; PROVIDED THAT the weighted average of all Yield Periods may not [ \* ]; and

(ii) thereafter each period commencing on the last day of the immediately preceding Yield Period for any Portion of Investment of the Participation and ending such number of days [ \* ] as the Seller shall select, subject to the approval of the applicable Purchaser Agent pursuant to SECTION 1.2, on notice by the Seller received by the applicable Purchaser Agent (including notice by telephone, confirmed in writing) not later than 11:00 a.m. (Chicago time) on such last day or second the Business Day prior to such

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Receivables Purchase Agreement]

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CONFIDENTIAL TREATMENT

last day if Discount is computed by reference to the Eurodollar Rate, EXCEPT that if the applicable Purchaser Agent shall not have received such notice or approved such period on or before 11:00 a.m. (Chicago time) on such last day, such period shall be one day; PROVIDED, that

(A) any Yield Period in respect of which Discount is computed by reference to the Bank Rate shall be a period from  
[ \* ]

(B) any Yield Period (other than of one day) which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day; PROVIDED, HOWEVER, if Discount in respect of such Yield Period is computed by reference to the Eurodollar Rate, and such Yield Period would otherwise end on a day which is not a Business Day, and there is no subsequent Business Day in the same calendar month as such day, such Yield Period shall end on the next preceding Business Day;

(C) in the case of any Yield Period of one day, (A) if such Yield Period is the initial Yield Period for a purchase pursuant to SECTION 1.2, such Yield Period shall be the day of purchase of the Participation; (B) any subsequently occurring Yield Period which is one day shall, if the immediately preceding Yield Period is more than one day, be the last day of such immediately preceding Yield Period, and, if the immediately preceding Yield Period is one day, be the day next following such immediately preceding Yield Period; and (C) if such Yield Period occurs on a day immediately preceding a day which is not a Business Day, such Yield Period shall be extended to the next succeeding Business Day;

(D) in the case of any Yield Period for any Portion of Investment which commences before the Termination Date and would otherwise end on a date occurring after the Termination Date, such Yield Period shall end on such Termination Date and the duration of the initial Yield Period which commences after the Termination Date shall commence on the Termination Date and end on the next Draw Date and thereafter such Yield Period shall commence on the day after such previous Draw Date and end on the next Draw Date; and

[ \* ]

(b) with respect to each Portion of Investment of any Term Purchaser, the period set forth as the "Yield Period" in the Joinder Agreement to which such Term Purchaser is a party.

OTHER TERMS. All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles. All terms used in Article 9 of the

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UCC in the State of Indiana, and not specifically defined herein, are used herein as defined in such Article 9. Unless the context otherwise requires, "or" means "and/or," and "including" (and with correlative meaning "include" and "includes") means including without limiting the generality of any description preceding such term.

EXHIBIT II

CONDITIONS OF PURCHASES

1. CONDITIONS PRECEDENT TO INITIAL PURCHASE AND THE EFFECTIVENESS OF THIS AGREEMENT. The effectiveness of this Agreement and the initial purchase under the Agreement are subject to the conditions precedent that the Agent and the Insurer shall have received on or before the date hereof and the date of such purchase the following, each in form and substance (including the date thereof) satisfactory to the Agent and the Insurer:

(a) A counterpart of the Agreement and the other Transaction Documents duly executed by the parties thereto.

(b) Certified copies of (i) the resolutions of the board of directors of each of the Seller and AFC authorizing the execution, delivery, and performance by the Seller and AFC of the Agreement and the other Transaction Documents, (ii) all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to the Agreement and the other Transaction Documents and (iii) the articles of incorporation and by-laws of the Seller and AFC.

(c) A certificate of the secretary or assistant secretary of the Seller and AFC certifying the names and true signatures of the officers of the Seller and AFC authorized to sign the Agreement and the other Transaction Documents. Until the Agent and the Insurer receive a subsequent incumbency certificate from the Seller and AFC in form and substance satisfactory to the Agent and the Insurer, the Agent and the Insurer shall be entitled to rely on the last such certificate delivered to them by the Seller and AFC, as applicable.

(d) Financing statements, in proper form for filing under the UCC of all jurisdictions that either the Agent or the Insurer may deem necessary or desirable in order to perfect the interests of the Agent (for the benefit of the Secured Parties) contemplated by the Agreement and other Transaction Documents.

(e) Financing statements, in proper form for filing under the applicable UCC, if any, necessary to release all security interests and other rights of any Person in the Receivables, Contracts or Related Security previously granted by the Seller or AFC.

(f) Completed UCC requests for information, dated on or before the date of such initial purchase and on or before the date hereof, listing the financing statements referred to in SUBSECTION (e) above and all other effective financing statements filed in the jurisdictions referred to in SUBSECTION (e) above that name the Seller or AFC as debtor, together with copies of such other financing statements (none of which shall cover any Receivables, Contracts or Related Security), and similar search reports with respect to federal tax liens, judgments and liens of the

Pension Benefit Guaranty Corporation in such jurisdictions as the Agent and the Insurer may request, showing no such liens on any of the Receivables, Contracts or Related Security.

(g) Executed copies of a Deposit Account Agreement with each Deposit Account Bank.

(h) Favorable opinions of Joel G. Garcia, Esq., in-house counsel for the Seller and AFC, as to corporate and such other matters as the Agent and the Insurer may reasonably request.

(i) Favorable opinions of Ice Miller, special counsel for the Seller, ADESA and AFC, as to enforceability and such other matters as the Agent and the Insurer may reasonably request.

(j) Favorable opinions of Ice Miller, special counsel for the Seller and AFC, as to bankruptcy matters.

(k) Certificates of Existence with respect to the Seller and AFC issued by the Indiana Secretary of State and articles of incorporation of the Seller certified by the Indiana Secretary of State.

(l) Evidence (i) of the execution and delivery by each of the parties thereto of the Purchase and Sale Agreement and all documents, agreements and instruments contemplated thereby (which evidence shall include copies, either original or facsimile, of each of such documents, instruments and agreements), (ii) that each of the conditions precedent to the execution and delivery of the Purchase and Sale Agreement has been satisfied to the Agent's and the Insurer's satisfaction, and (iii) that the initial purchases under the Purchase and Sale Agreement have been consummated.

(m) Evidence of payment by the Seller of all accrued and unpaid fees (including those contemplated by the Fee Letter), costs and expenses to the extent then due and payable on the date thereof, together with Attorney Costs of the Agent and the Insurer to the extent invoiced prior to or on such date, plus such additional amounts of Attorney Costs as shall constitute the Agent's and the Insurer's (as applicable) reasonable estimate of Attorney Costs incurred or to be incurred by it through the closing proceedings; including any such costs, fees and expenses arising under or referenced in SECTION 6.4 as provided in the Fee Letter and the letter setting forth the Premium.

(n) The Fee Letter between the Seller and the Agent contemplated by and delivered pursuant to SECTION 1.5.

(o) A Servicer Report representing the performance of the portfolio purchased through the Purchase and Sale Agreement and the Agreement for the month prior to closing.

(p) A Portfolio Certificate dated as of May 31, 2002, together with a floorplan receivables summary dated as of May 31, 2002.

(q) Such confirmations from the rating agencies as shall be required by any Purchaser or the Insurer in their respective sole discretion.

(r) a listing of all Obligors of all Receivables as of the date hereof.

(s) Executed copy of the Policy and a favorable opinion of Susan Comparato, Esq., Associate General Counsel to Insurer, as to corporate, enforceability and such other matters as the Agent may reasonably request.

(t) Such other approvals, opinions or documents as the Agent and the Insurer may reasonably request.

2. CONDITIONS PRECEDENT TO ALL PURCHASES AND REINVESTMENTS. Each purchase (including the initial purchase) and each reinvestment shall be subject to the further conditions precedent that:

(a) in the case of each purchase, the Servicer shall have delivered to the Agent and the Insurer on or prior to such purchase, in form and substance satisfactory to the Agent and the Insurer, a completed Servicer Report with respect to the immediately preceding calendar month, dated within 30 days prior to the date of such purchase and shall have delivered to the Agent and the Insurer such additional information as may reasonably be requested by the Agent and the Insurer.

(b) on the date of such purchase or reinvestment the following statements shall be true (and acceptance of the proceeds of such purchase or reinvestment shall be deemed a representation and warranty by the Seller that such statements are then true):

(i) the representations and warranties contained in EXHIBIT III are true and correct on and as of the date of such purchase or reinvestment as though made on and as of such date; and

(ii) no event has occurred and is continuing, or would result from such purchase or reinvestment, that constitutes a Termination Event or an Unmatured Termination Event; and

(iii) the sum of the aggregate of the Participations does not exceed 100%; and

(iv) The amount on deposit in the Cash Reserve Account is equal to or greater than the Cash Reserve; and

(c) the Agent and the Insurer shall have received such other approvals, opinions or documents as each may reasonably request.

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EXHIBIT III

REPRESENTATIONS AND WARRANTIES

A. REPRESENTATIONS AND WARRANTIES OF THE SELLER. The Seller represents and warrants as follows:

(a) The Seller is a corporation duly incorporated and in existence under the laws of the State of Indiana, and is duly qualified to do business, and is in good standing, as a foreign corporation in every jurisdiction where the nature of its business requires it to be so qualified except where the failure to so qualify has not had and could not reasonably be expected to have a Material Adverse Effect.

(b) The execution, delivery and performance by the Seller of the Agreement and the other Transaction Documents to which it is a party, including the Seller's use of the proceeds of purchases and reinvestments, (i) are within the Seller's corporate powers, (ii) have been duly authorized by all necessary corporate action of the Seller, (iii) do not contravene or result in a default under or conflict with (1) the Seller's charter or by-laws, (2) any law, rule or regulation applicable to the Seller, (3) any contractual restriction binding on or affecting the Seller or its property or (4) any order, writ, judgment, award, injunction or decree binding on or affecting the Seller or its property, and (iv) do not result in or require the creation of any Adverse Claim upon or with respect to any of the Seller's properties, where, in the cases of ITEMS (2), (3) and (4), such contravention, default or conflict has had or could reasonably be expected to have a Material Adverse Effect. The Agreement and the other Transaction Documents to which it is a party have been duly executed and delivered by the Seller.

(c) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other Person is required for the due execution, delivery and performance by the Seller of the Agreement or any other Transaction Document to which it is a party other than those previously obtained or UCC filings.

(d) Each of the Agreement and the other Transaction Documents to which it is a party constitutes the legal, valid and binding obligation of the Seller enforceable against the Seller in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether enforceability is considered in a proceeding in equity or at law.

(e) Since December 31, 2001 there has been no material adverse change in the business, operations, property or financial condition of the Seller, AFC, the ability of the Seller or AFC to perform its obligations under the Agreement or the other Transaction Documents to which it is a party or the collectibility of the Receivables, or which affects the legality, validity or enforceability of the Agreement or the other Transaction Documents.

(f) (i) There is no action, suit, proceeding or investigation pending or, to the knowledge of the Seller, threatened against the Seller before any Government Authority or arbitrator and (ii) the Seller is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Government Authority or arbitrator, that, in the case of each of foregoing CLAUSES (i) and (ii), could reasonably be expected to have a Material Adverse Effect.

(g) The Seller is the legal and beneficial owner of the Pool Receivables and Related Security, free and clear of any Adverse Claim, excepting only Permitted Liens; upon each purchase or reinvestment, the Agent (for the benefit of the Secured Parties) shall acquire a valid and enforceable perfected undivided percentage ownership interest, to the extent of the Participation, in each Pool Receivable then existing or thereafter arising and in the Related Security and Collections and other proceeds, with respect thereto, free and clear of any Adverse Claim, excepting only Permitted Liens; the Agreement creates a security interest in favor of the Agent (for the benefit of the Secured Parties) in the items described in SECTION 1.2(d), and the Agent (for the benefit of the Secured Parties) has a first priority perfected security interest in such items, free and clear of any Adverse Claims, excepting only Permitted Liens. No effective financing statement or other instrument similar in effect covering any Contract or any Pool Receivable or the Related Security or Collections with respect thereto or any Deposit Account is on file in any recording office, except those filed in favor of the Agent (for the benefit of the Secured Parties) relating to the Agreement.

(h) [Reserved].

(i) Each Servicer Report, Portfolio Certificate, information, exhibit, financial statement, document, book, record or report furnished or to be furnished at any time by or on behalf of the Seller to the Agent, the Insurer or any Purchaser Agent in connection with the Agreement is or will be accurate in all material respects as of its date or (except as otherwise disclosed to the Agent, the Insurer and any such Purchaser Agent at such time) as of the date so furnished, and no such item contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

(j) The principal place of business and chief executive office (as such terms are used in the UCC) of the Seller and the office(s) where the Seller keeps its records concerning the Receivables are located at the address set forth under its signature to this Agreement.

(k) The names and addresses of all the Deposit Banks, together with the account numbers of the Deposit Accounts of the Seller at such Deposit Banks, are specified in SCHEDULE II to the Agreement (or at such other Deposit Banks and/or with such other Deposit Accounts as have been notified to and consented by the Insurer in accordance with the Agreement).

(l) The Seller is not in violation of any order of any court, arbitrator or Governmental Authority.

(m) Neither the Seller nor any Affiliate of the Seller has any direct or indirect ownership or other financial interest in any Purchaser, the Insurer, the Agent or any Purchaser Agent.

(n) No proceeds of any purchase or reinvestment will be used for any purpose that violates any applicable law, rule or regulation, including, without limitation, Regulations T, U and X of the Federal Reserve Board.

(o) Each Pool Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance is an Eligible Receivable as of the date of such calculation.

(p) No event has occurred and is continuing, or would result from a purchase in respect of, or reinvestment in respect of, any Participation or from the application of the proceeds therefrom, which constitutes a Termination Event.

(q) The Seller and the Servicer have complied in all material respects with the Credit and Collection Policy with regard to each Receivable.

(r) The Seller has complied with all of the terms, covenants and agreements contained in the Agreement and the other Transaction Documents and applicable to it.

(s) The Seller's complete corporate name is set forth in the preamble to the Agreement, and the Seller does not use and has not during the last six years used any other corporate name, trade name, doing-business name or fictitious name, except as set forth on SCHEDULE III and except for names first used after the date of the Agreement and set forth in a notice delivered to the Agent and the Insurer pursuant to PARAGRAPH (1)(vi) of EXHIBIT IV.

(t) The authorized capital stock of Seller consists of 1,000 shares of common stock, no par value, 100 shares of which are currently issued and outstanding. All of such outstanding shares are validly issued, fully paid and nonassessable and are owned (beneficially and of record) by AFC.

(u) Except as set forth on SCHEDULE V, the Seller has filed all federal and other tax returns and reports required by law to have been filed by it and has paid all taxes and governmental charges thereby shown to be owing.

(v) The Seller is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(w) No "accumulated funding deficiency" (within the meaning of Section 412 of the Internal Revenue Code or Section 302 of ERISA) exists with respect to any Single Employer Plan, and each Single Employer Plan has complied in all material respects with the applicable provisions of ERISA and the Internal Revenue Code. The present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Plan allocable to such accrued benefits. Neither the Seller nor any ERISA Affiliate has had a complete or partial withdrawal from any Multiemployer Plan, and neither the Seller nor any ERISA Affiliate would become subject to any liability under ERISA if the Seller or any such ERISA Affiliate were to withdraw completely from all Multiemployer Plans as of the valuation date most closely preceding the date on which this representation is made or deemed made. No such Multiemployer Plan is in Reorganization or Insolvent.

B. REPRESENTATIONS AND WARRANTIES OF THE SERVICER. The Servicer represents and warrants as follows:

(a) The Servicer is a corporation duly incorporated and in existence under the laws of the State of Indiana, and is duly qualified to do business, and is in good standing, as a foreign corporation in every jurisdiction where the nature of its business requires it to be so qualified except where the failure to so qualify has not had and could not reasonably be expected to have a Material Adverse Effect.

(b) The execution, delivery and performance by the Servicer of the Agreement and the other Transaction Documents to which it is a party, (i) are within the Servicer's corporate powers, (ii) have been duly authorized by all necessary corporate action on the part of the Servicer, (iii) do not contravene or result in a default under or conflict with (1) the Servicer's charter or by-laws, (2) any law, rule or regulation applicable to the Servicer, (3) any contractual restriction binding on or affecting the Servicer or its property or (4) any order, writ, judgment, award, injunction or decree binding on or affecting the Servicer or its property, and (iv) do not result in or require the creation of any Adverse Claim upon or with respect to any of its properties, where, in the cases of items (2), (3) and (4), such contravention, default or conflict has had or could reasonably be expected to have a Material Adverse Effect. The Agreement and the other Transaction Documents to which it is a party have been duly executed and delivered by the Servicer.

(c) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other Person is required for the due execution, delivery and performance by the Servicer of the Agreement or any other Transaction Document to which it is a party.

(d) Each of the Agreement and the other Transaction Documents to which it is a party constitutes the legal, valid and binding obligation of the Servicer enforceable against the

Servicer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether enforceability is considered in a proceeding in equity or at law.

(e) There is no pending or threatened action or proceeding affecting the Servicer before any Governmental Authority or arbitrator which could have a Material Adverse Effect.

(f) The Servicer has complied in all material respects with the Credit and Collection Policy with regard to each Receivable.

(g) the Servicer is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority or arbitrator, that, could reasonably be expected to have a Material Adverse Effect.

(h) Each Servicer Report, Portfolio Certificate, information, exhibit, financial statement, document, book, record or report furnished or to be furnished at any time by or on behalf of the Seller to the Agent, the Insurer or any Purchaser Agent in connection with the Agreement is or will be accurate in all material respects as of its date or (except as otherwise disclosed to the Agent, the Insurer and any such Purchaser Agent at such time) as of the date so furnished, and no such item contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

(i) The principal place of business and chief executive office (as such terms are used in the UCC) of the Servicer and the office(s) where the Servicer keeps its records concerning the Receivables are located at the address set forth under its signature to this Agreement.

(j) The Servicer is not in violation of any order of any court, arbitrator or Governmental Authority.

(k) Neither the Servicer nor any Affiliate of the Servicer has any direct or indirect ownership or other financial interest in any Purchaser, the Insurer, the Agent or any Purchaser Agent.

(l) The Servicer is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

EXHIBIT IV

COVENANTS

COVENANTS OF THE SELLER AND THE SERVICER. Until the latest of the Termination Date, the date on which no Investment of or Discount in respect of any Participation shall be outstanding or the date all other amounts owed by the Seller under the Agreement to the Purchasers, the Insurer, the Purchaser Agents, the Agent and any other Indemnified Party or Affected Person shall be paid in full:

(a) COMPLIANCE WITH LAWS, ETC. Each of the Seller and the Servicer shall comply in all material respects with all applicable laws, rules, regulations and orders, and preserve and maintain its corporate existence, rights, franchises, qualifications, and privileges except to the extent that the failure so to comply with such laws, rules and regulations or the failure so to preserve and maintain such existence, rights, franchises, qualifications, and privileges would not materially adversely affect the collectibility of the Receivables or the enforceability of any related Contract or the ability of the Seller or the Servicer to perform its obligations under any related Contract or under the Agreement.

(b) OFFICES, RECORDS AND BOOKS OF ACCOUNT, ETC. The Seller shall provide the Agent and the Insurer with at least 60 days' written notice prior to making any change in the Seller's name or jurisdiction of organization or making any other change in the Seller's identity or corporate structure (including a merger) which could impair or otherwise render any UCC financing statement filed in connection with this Agreement "seriously misleading" as such term is used in the applicable UCC; each notice to the Agent or the Insurer pursuant to this sentence shall set forth the applicable change and the proposed effective date thereof. The Seller and Servicer will also maintain and implement administrative and operating procedures (including, without limitation, an ability to recreate records evidencing Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Receivables (including, without limitation, records adequate to permit the daily identification of each Receivable and all Collections of and adjustments to each existing Receivable).

(c) PERFORMANCE AND COMPLIANCE WITH CONTRACTS AND CREDIT AND COLLECTION POLICY. Each of the Seller and the Servicer shall, at its expense, timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by it under the Contracts related to the Receivables, and timely and fully comply in all material respects with the Credit and Collection Policy with regard to each Receivable and the related Contract.

(d) OWNERSHIP INTEREST, ETC. The Seller shall, at its expense, take all action necessary or desirable to establish and maintain a valid and enforceable undivided ownership

interest, to the extent of the Aggregate Participation, in the Pool Receivables and the Related Security and Collections and other proceeds with respect thereto, and a first priority perfected security interest in the items described in SECTION 1.2(d), in each case free and clear of any Adverse Claim excepting only Permitted Liens, in favor of the Agent (for the benefit of the Secured Parties), including, without limitation, taking such action to perfect, protect or more fully evidence the interest of the Agent (for the benefit of the Secured Parties) under the Agreement as the Agent and the Insurer may request.

(e) SALES, LIENS, ETC. The Seller shall not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim (excepting only Permitted Liens) upon or with respect to, any or all of its right, title or interest in, to or under, any item described in SECTION 1.2(d) (including without limitation the Seller's undivided interest in any Receivable, Related Security, or Collections, or upon or with respect to any account to which any Collections of any Receivables are sent), or assign any right to receive income in respect of any items contemplated by this PARAGRAPH (e).

(f) EXTENSION OR AMENDMENT OF RECEIVABLES. After the occurrence and during the continuance of a Termination Event or an Unmatured Termination Event or after the Termination Date (or if a Termination Event or Unmatured Termination Event would result therefrom), neither the Seller nor the Servicer shall extend the maturity or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive any term or condition of any related Contract in any material respect.

(g) CHANGE IN BUSINESS OR CREDIT AND COLLECTION POLICY. Neither the Seller nor the Servicer shall make any material change in the character of its business or in the Credit and Collection Policy, or any change in the Credit and Collection Policy that would adversely affect the collectibility of the Receivables Pool or the enforceability of any related Contract or the ability of the Seller or Servicer to perform its obligations under any related Contract or under the Agreement. Neither the Seller nor the Servicer shall make any other material change in the Credit and Collection Policy without the prior written consent of the Insurer and the Agent.

(h) AUDITS. Each of the Seller and the Servicer shall, from time to time during regular business hours, upon reasonable prior notice as requested by the Agent or the Insurer, permit the Agent or the Control Party, or their agents or representatives, (i) to examine and make copies of and abstracts from all books, records and documents (including, without limitation, computer tapes and disks) in the possession or under the control of the Seller or the Servicer relating to Receivables and the Related Security, including, without limitation, the related Contracts, and (ii) to visit the offices and properties of the Seller and the Servicer for the purpose of examining such materials described in clause (i) above, and to discuss matters relating to Receivables and the Related Security or the Seller's or Servicer's performance hereunder or under the Contracts with any of the officers, employees, agents or contractors of the Seller having knowledge of such matters; PROVIDED that so long as no Termination Event or Unmatured Termination Event has occurred the Control Party (or if the Control Party is the Majority

Purchasers, the Agent) shall not conduct more than two such examinations in any year (including any examinations conducted pursuant to any other Transaction Document). The Control Party agrees to notify the Agent of such examinations and agrees that the Agent can be present at such examinations.

(i) CHANGE IN DEPOSIT BANKS, DEPOSIT ACCOUNTS AND PAYMENT INSTRUCTIONS TO OBLIGORS. Neither the Seller nor the Servicer shall add or terminate any bank as a Deposit Bank or any account as a Deposit Account from those listed in SCHEDULE II to the Agreement without (i) the prior written consent of the Control Party and (ii) in the case of a new Deposit Account and/or Deposit Bank, the applicable Deposit Bank has executed, and the applicable Deposit Account is subject to, a Deposit Account Agreement consented to in writing by the Control Party and the Agent.

(j) DEPOSIT ACCOUNTS. Each Deposit Account shall at all times be subject to a Deposit Account Agreement. Neither the Seller nor the Servicer will deposit or otherwise credit, or cause or permit to be so deposited or credited, to any Deposit Account, the Liquidation Account or the Cash Reserve Account cash or cash proceeds other than Collections of Pool Receivables.

(k) MARKING OF RECORDS. At its expense, the Seller (or the Servicer on its behalf) shall mark its master data processing records relating to Pool Receivables and related Contracts, including with a legend evidencing that the undivided percentage ownership interests with regard to the Aggregate Participation related to such Receivables and related Contracts have been sold in accordance with the Agreement.

(l) REPORTING REQUIREMENTS. The Seller will provide to the Agent, each Purchaser Agent and the Insurer (in multiple copies, if requested by the Agent) (except that with respect to PARAGRAPHS (i), (ii), (iii) and (iv) the Seller will cause the Servicer to provide to the Agent, each Purchaser Agent and the Insurer and the Servicer will deliver to the Agent, each Purchaser Agent and the Insurer the following:

(i) as soon as available and in any event within 45 days after the end of the first three quarters of each fiscal year of AFC in a format acceptable to the Agent and the Insurer the consolidating balance sheet of AFC, its consolidated subsidiaries and Seller as of the end of such quarter and statements of income of AFC and its consolidated subsidiaries and income statements of the Seller for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, certified by the chief financial officer of such Person;

(ii) as soon as available and in any event within 90 days after the end of each fiscal year of AFC, (A) a copy of the annual report for AFC and its consolidated subsidiaries, containing financial statements for such year audited by PricewaterhouseCoopers LLP or other independent certified public accountants



acceptable to the Control Party (or if the Control Party is the Majority Purchasers, the Agent) and (B) the consolidating balance sheet of AFC and the income statement of the Seller for such year certified by the chief financial officer of the Seller;

(iii) (a) as soon as available and in any event not later than the Servicer Report Date, a Servicer Report as of the calendar month ended immediately prior to such Servicer Report Date and (b) unless the Control Party (or if the Control Party is the Majority Purchasers, the Agent) has otherwise agreed in writing, a Portfolio Certificate as of the last Business Day of every calendar week, delivered on the third Business Day of the next calendar week;

(iv) as soon as possible and in any event within three days after the occurrence of each Termination Event and Unmatured Termination Event, a statement of the chief financial officer of the Seller setting forth details of such Termination Event or event and the action that the Seller has taken and proposes to take with respect thereto;

(v) promptly after the filing or receiving thereof, copies of all reports and notices that the Seller or any ERISA Affiliate files with respect to a Plan under ERISA or the Internal Revenue Code with the Internal Revenue Service or the Pension Benefit Guaranty Corporation or the U.S. Department of Labor or that the Seller or any ERISA Affiliate receives from any of the foregoing or from any Multiemployer Plan to which the Seller or any ERISA Affiliate is or was, within the preceding five years, a contributing employer, in each case in respect of the assessment of withdrawal liability or an event or condition which could, in the aggregate, result in the imposition of liability on the Seller and/or any such ERISA Affiliate in excess of \$250,000;

(vi) at least 60 days prior to any change in the Seller's name or any other change requiring the amendment of UCC financing statements, a notice setting forth such changes and the effective date thereof;

(vii) such other information respecting the Receivables, the Related Security (including inventory reports by branch, Obligor, vehicle identification number, and other descriptions sufficient to identify the Related Security) or the condition of operations, financial or otherwise, of the Seller or AFC as the Agent, the Insurer or any Purchaser Agent may from time to time reasonably request;

(viii) promptly after the Seller obtains knowledge thereof, notice of any (a) litigation, investigation or proceeding which may exist at any time between the Seller, the Servicer or the Originator, on the one hand, and any Governmental Authority which, if not cured or if adversely determined, as the case may be,

would have a Material Adverse Effect, or (b) litigation or proceeding adversely affecting the Seller or any of its subsidiaries, the Servicer or the Originator, as the case may be, in which the amount involved, in the case of the Servicer or Originator, is \$100,000 or more and not covered by insurance or in which injunctive or similar relief is sought or (c) litigation or proceeding relating to any Transaction Document;

(ix) promptly after the occurrence thereof, notice of any event or circumstance that could reasonably be expected to have a Material Adverse Effect;

(x) notice of any material change to the Credit and Collection Policy; and

(xi) as soon as possible and in any event within 30 days after the Seller knows or has reason to know of: (i) the occurrence or expected occurrence of any Reportable Event with respect to any Plan that is a Single Employer Plan, a failure to make any required contribution to a Plan, the creation of any lien in favor of the Pension Benefit Guaranty Corporation or a Plan or any withdrawal from, or the termination, Reorganization or Insolvency of, any Multiemployer Plan or (ii) the institution of proceedings or the taking of any other action by the Pension Benefit Guaranty Corporation or the Seller or any ERISA Affiliate or any Multiemployer Plan with respect to the withdrawal from, or the terminating, Reorganization or Insolvency of any Plan.

(m) SEPARATE CORPORATE EXISTENCE. Each of the Seller and the Servicer hereby acknowledges that the Purchasers, the Insurer, the Agent and the Purchaser Agents are entering into the transactions contemplated by the Agreement and the Transaction Documents in reliance upon the Seller's identity as a legal entity separate from the Servicer and the Originator. Therefore, from and after the date hereof, the Seller and the Servicer shall take all reasonable steps to continue the Seller's identity as a separate legal entity and to make it apparent to third Persons that the Seller is an entity with assets and liabilities distinct from those of the Servicer, the Originator and any other Person, and is not a division of the Servicer or the Originator or any other Person. Without limiting the generality of the foregoing and in addition to and consistent with the covenant set forth in PARAGRAPH (a) of this EXHIBIT IV, the Seller and the Servicer shall take such actions as shall be required in order that:

(i) The Seller will be a limited purpose corporation whose primary activities are restricted in its articles of incorporation to purchasing Receivables from the Originator, entering into agreements for the servicing of such Receivables, selling undivided interests in such Receivables and conducting such other activities as it deems necessary or appropriate to carry out its primary activities;

(ii) Not less than one member of Seller's Board of Directors (the "INDEPENDENT DIRECTORS") shall be individuals who are not direct, indirect or beneficial

stockholders, officers, directors, employees, affiliates, associates, customers or suppliers of the Originator or any of its Affiliates. The Seller's Board of Directors shall not approve, or take any other action to cause the commencement of a voluntary case or other proceeding with respect to the Seller under any applicable bankruptcy, insolvency, reorganization, debt arrangement, dissolution or other similar law, or the appointment of or taking possession by, a receiver, liquidator, assignee, trustee, custodian, or other similar official for the Seller unless in each case the Independent Directors shall approve the taking of such action in writing prior to the taking of such action. The Independent Directors' fiduciary duty shall be to the Seller (and creditors) and not to the Seller's shareholders in respect of any decision of the type described in the preceding sentence. In the event an Independent Director resigns or otherwise ceases to be a director of the Seller, there shall be selected a replacement Independent Director who shall not be an individual within the proscriptions of the first sentence of this CLAUSE (ii) or any individual who has any other type of professional relationship with the Originator or any of its Affiliates or any management personnel of any such Person or Affiliate and who shall be (x) a tenured professor at a business or law school, (y) a retired judge or (z) an established independent member of the business community, having a sound reputation and experience relative to the duties to be performed by such individual as an Independent Director;

(iii) No Independent Director shall at any time serve as a trustee in bankruptcy for Originator or any Affiliate thereof;

(iv) Any employee, consultant or agent of the Seller will be compensated from the Seller's own bank accounts for services provided to the Seller except as provided herein in respect of the Servicing Fee. The Seller will engage no agents other than a Servicer for the Receivables, which Servicer will be fully compensated for its services to the Seller by payment of the Servicing Fee;

(v) The Seller will contract with the Servicer to perform for the Seller all operations required on a daily basis to service its Receivables. The Seller will pay the Servicer a monthly fee based on the level of Receivables being managed by the Servicer. The Seller will not incur any material indirect or overhead expenses for items shared between the Seller and the Originator or any Affiliate thereof which are not reflected in the Servicing Fee. To the extent, if any, that the Seller and the Originator or any Affiliate thereof share items of expenses not reflected in the Servicing Fee, such as legal, auditing and other professional services, such expenses will be allocated to the extent practical on the basis of actual use or the value of services rendered, and otherwise on a basis reasonably related to the actual use or the value of services rendered, it being understood that Originator shall pay all expenses relating to the preparation, negotiation, execution and delivery of the Transaction Documents, including, without limitation, legal and other fees;

(vi) The Seller's operating expenses will not be paid by Originator or any Affiliate thereof unless the Seller shall have agreed in writing with such Person to reimburse such Person for any such payments;

(vii) The Seller will have its own separate mailing address and stationery;

(viii) The Seller's books and records will be maintained separately from those of the Originator or any Affiliate thereof;

(ix) Any financial statements of the Originator or ADESA which are consolidated to include the Seller will contain detailed notes clearly stating that the Seller is a separate corporate entity and has sold ownership interests in the Seller's accounts receivable;

(x) The Seller's assets will be maintained in a manner that facilitates their identification and segregation from those of the Originator and any Affiliate thereof;

(xi) The Seller will strictly observe corporate formalities in its dealings with the Originator and any Affiliate thereof, and funds or other assets of the Seller will not be commingled with those of the Originator or any Affiliate thereof. The Seller shall not maintain joint bank accounts or other depository accounts to which the Originator or any Affiliate thereof (other than AFC in its capacity as Servicer) has independent access and shall not pool any of the Seller's funds at any time with any funds of the Originator or any Affiliate thereof;

(xii) The Seller shall pay to the Originator the marginal increase (or, in the absence of such increase, the market amount of its portion) of the premium payable with respect to any insurance policy that covers the Seller and any Affiliate thereof, but the Seller shall not, directly or indirectly, be named or enter into an agreement to be named, as a direct or contingent beneficiary or loss payee, under any such insurance policy, with respect to any amounts payable due to occurrences or events related to the Originator or any Affiliate thereof (other than the Seller); and

(xiii) The Seller will maintain arm's length relationships with the Originator and any Affiliate thereof. The Originator or any Affiliate thereof that renders or otherwise furnishes services to the Seller will be compensated by the Seller at market rates for such services. Neither the Seller nor the Originator or any Affiliate thereof will be or will hold itself out to be responsible for the debts of the other or the decisions or actions respecting the daily business and affairs of the other.

(n) MERGERS, ACQUISITIONS, SALES, ETC.

(i) The Seller shall not:

CONFIDENTIAL TREATMENT

(A) be a party to any merger or consolidation, or directly or indirectly purchase or otherwise acquire, whether in one or a series of transactions, all or substantially all of the assets or any stock of any class of, or any partnership or joint venture interest in, any other Person, or sell, transfer, assign, convey or lease any of its property and assets (including, without limitation, any Pool Receivable or any interest therein) other than pursuant to this Agreement;

(B) make, incur or suffer to exist an investment in, equity contribution to, loan, credit or advance to, or payment obligation in respect of the deferred purchase price of property from, any other Person, except for obligations incurred pursuant to the Transaction Documents; or

(C) create any direct or indirect Subsidiary or otherwise acquire direct or indirect ownership of any equity interests in any other Person.

(o) RESTRICTED PAYMENTS.

(i) GENERAL RESTRICTION. Except in accordance with SUBPARAGRAPH (ii), the Seller shall not (A) purchase or redeem any shares of its capital stock, [ \* ] (C) prepay, purchase or redeem any subordinated indebtedness of the Seller, (D) lend or advance any funds or (E) repay any loans or advances to, for or from the Originator. Actions of the type described in this CLAUSE (i) are herein collectively called "RESTRICTED PAYMENTS".

(ii) TYPES OF PERMITTED PAYMENTS. Subject to the limitations set forth in CLAUSE (iii) below, the Seller may make Restricted Payments so long as such Restricted Payments are made only to the Originator and only in one or more of the following ways:

(A) Seller may make cash payments (including prepayments) on the Company Note in accordance with its terms; and

(B) if no amounts are then outstanding under the Company Note, the Seller may declare and pay Dividends.

(iii) SPECIFIC RESTRICTIONS. [ \* ]

[Amended and Restated  
IV-8 Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

CONFIDENTIAL TREATMENT

(B) any Restricted Payment [ \* ] if, after giving effect thereto, any Termination Event or Unmatured Termination Event shall have occurred and be continuing.

(p) USE OF SELLER'S SHARE OF COLLECTIONS. Subject to CLAUSE (o) above, the Seller shall apply its share of Collections to make payments in the following order of priority: FIRST, the payment of its expenses (including, without limitation, the obligations payable to Purchasers, the Affected Persons, the Agent, the Insurer, the Purchaser Agents and the Agent under the Transaction Documents), SECOND, the payment of accrued and unpaid interest on the Company Note, THIRD, the payment of the outstanding principal amount of the Company Note, and FOURTH, other legal and valid corporate purposes permitted by the Agreement.

(q) AMENDMENTS TO CERTAIN DOCUMENTS.

(i) The Seller shall not amend, supplement, amend and restate, or otherwise modify the Purchase and Sale Agreement, the Company Note, any other document executed under the Purchase and Sale Agreement, the Deposit Account Agreements or the Seller's articles of incorporation or by-laws, except (A) in accordance with the terms of such document, instrument or agreement and (B) with the prior written consent of the Control Party (or if the Control Party is the Majority Purchasers, the Agent).

(ii) The Originator shall not enter into or otherwise become bound by, any agreement, instrument, document or other arrangement that restricts its right to amend, supplement, amend and restate or otherwise modify, or to extend or renew, or to waive any right under, this Agreement or any other Transaction Document.

(r) INCURRENCE OF INDEBTEDNESS. The Seller shall not (i) create, incur or permit to exist, any Debt or liability or (ii) cause or permit to be issued for its account any letters of credit or bankers' acceptances, except for Debt incurred pursuant to the Company Note and liabilities incurred pursuant to or in connection with the Transaction Documents or otherwise permitted therein.

(s) LOT CHECKS. The Seller shall, or shall cause the Originator to, conduct Lot Checks of the Obligors according to the Originator's customary practices or such more frequent intervals as may reasonably be requested by the Control Party (or if the Control Party is the Majority Purchasers, the Agent).

IV-9 [Amended and Restated  
Receivables Purchase Agreement]

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EXHIBIT V

TERMINATION EVENTS

Each of the following shall be a "Termination Event":

(a) Any Person which is the Servicer shall fail to (1) make when due any payment or deposit to be made by it under the Agreement or any other Transaction Document or (2) set aside or allocate all accrued and unpaid Premium, Program Fee, Discount or Servicing Fee in accordance with SECTION 1.4(b) and in each case, such failure shall remain unremedied for two Business Days after the earlier of (i) the Servicer's knowledge of such failure and (ii) notice to the Servicer of such failure; or

(b) The Seller shall fail (i) to transfer to any successor Servicer when required any rights, pursuant to the Agreement, which the Seller then has with respect to the servicing of the Pool Receivables, or (ii) to make any payment required under the Agreement or any other Transaction Document, and in either case such failure shall remain unremedied for two Business Days after notice or discovery thereof; or

(c) Any representation or warranty made or deemed made by the Seller or the Servicer (or any of their respective officers) under or in connection with the Agreement or any other Transaction Document or any information or report delivered by the Seller or the Servicer pursuant to the Agreement or any other Transaction Document shall prove to have been incorrect, incomplete (with respect to such information or report delivered) or untrue in any material respect when made or deemed made or delivered; PROVIDED, HOWEVER, if the violation of this PARAGRAPH (c) by the Seller or the Servicer may be cured without any potential or actual detriment to any Purchaser, the Agent, any Purchaser Agent, the Insurer or any Program Support Provider, the Seller or the Servicer, as applicable, shall have 30 days from the earlier of (i) such Person's knowledge of such failure and (ii) notice to such Person of such failure to so cure any such violation before a Termination Event shall occur so long as such Person is diligently attempting to effect such cure; or

(d) The Seller or the Servicer shall fail to perform or observe any other material term, covenant or agreement contained in the Agreement or any other Transaction Document on its part to be performed or observed and any such failure shall remain unremedied for 30 days after the earlier of (i) such Person's knowledge of such failure and (ii) notice to such Person of such failure (or, with respect to a failure to deliver the Servicer Report or the Portfolio Certificate pursuant to the Agreement, such failure shall remain unremedied for five days); or

(e) (i) A default shall occur in the payment when due (subject to any applicable grace period), whether by acceleration or otherwise, of any Debt of either the Seller, AFC or ADESA or (ii) a default shall occur in the performance or observance of any obligation or condition with respect to such Debt if the effect of such default is to accelerate the maturity of

CONFIDENTIAL TREATMENT

any such Debt and in the case of either CLAUSE (i) or CLAUSE (ii), the Debt with respect to which non-payment and/or non-performance shall have occurred exceeds, at any point in time, with respect to the Seller or AFC, [ \* ] for all such occurrences or, with respect to ADESA, [ \* ] for all such occurrences; or

(f) The Agreement or any purchase or any reinvestment pursuant to the Agreement shall for any reason (other than pursuant to the terms hereof) (i) cease to create, or the Aggregate Participation shall for any reason cease to be, a valid and enforceable perfected undivided percentage ownership interest to the extent of the Aggregate Participation in each Pool Receivable and the Related Security and Collections and other proceeds with respect thereto, free and clear of any Adverse Claim, excepting only Permitted Liens or (ii) cease to create with respect to the items described in SECTION 1.2(d), or the interest of the Agent (for the benefit of the Secured Parties) with respect to such items shall cease to be, a valid and enforceable first priority perfected security interest, free and clear of any Adverse Claim, excepting only Permitted Liens; or

(g) The Originator, ADESA, ALLETE or Seller shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Originator, ADESA, ALLETE or Seller seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 45 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Originator, ADESA, ALLETE or Seller shall take any corporate action to authorize any of the actions set forth above in this PARAGRAPH (g); or

(h) As of the last day of any calendar month, the arithmetic average of the Default Ratios for the most recent three calendar months shall [ \* ] as of the last day [ \* ]; or

(i) As of the last day of any calendar month, the arithmetic average of the Delinquency Ratios for the most recent three calendar months shall [ \* ] as of the last day [ \* ]; or

(j) The Net Spread shall be [ \* ] at any time; or

V-2 [Amended and Restated  
Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.



CONFIDENTIAL TREATMENT

(k) At any time the aggregate of all Participations [ \* ] and such condition shall continue [ \* ] after any date any Servicer Report or Portfolio Certificate is required to be delivered; or

(l) A Change in Control shall occur; or

(m) (i) Any "accumulated funding deficiency" (within the meaning of Section 412 of the Internal Revenue Code or Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan, (ii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Control Party, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iii) the Seller or any ERISA Affiliate shall, or in the reasonable opinion of the Control Party, is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan, (iv) the Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Internal Revenue Code with regard to any assets of the Seller or any ERISA Affiliate and such lien shall not have been released within ten Business Days, or the Pension Benefit Guaranty Corporation shall, or shall indicate its intention to, file notice of a lien pursuant to Section 4068 of ERISA or perfect a lien under Section 302(f) of ERISA with regard to any of the assets of Seller or any ERISA Affiliate, or (v) any other adverse event or condition shall occur or exist with respect to a Plan; and in each case in CLAUSES (i), (ii), (iii), (iv) and (v) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to involve an aggregate amount of liability to the Seller or an ERISA Affiliate in excess of \$250,000.

(n) The Tangible Net Worth of the Seller shall be [ \* ] or the Tangible Net Worth of the Originator shall be less than the result of: (A) [ \* ] for each fiscal quarter of the Originator that, at the time of determination, has concluded for which net income of the Originator was [ \* ] commencing with the fiscal quarter ending September 30, 2002.

(o) Any material adverse change shall occur in the reasonable business judgment of the Control Party (or if the Control Party is the Majority Purchasers, the Agent and the Majority Purchasers) in the collectibility of the Receivables or the business, operations, property or financial condition of the Originator or the Seller; or

(p) Any Purchase and Sale Termination Event (as defined in the Purchase and Sale Agreement) shall occur (whether or not waived by the Seller); or

(q) The Performance Guaranty shall cease to be in full force and effect with respect to ADESA, ADESA shall fail to comply with or perform any provision of the Performance Guaranty, or ADESA (or any Person by, through or on behalf of ADESA) shall

[Amended and Restated  
V-3 Receivables Purchase Agreement]

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contest in any manner the validity, binding nature or enforceability of the Performance Guaranty with respect to ADESA; or

(r) The sum of all of AFC's Debt (including intercompany loans between AFC and ALLETE and between AFC and ADESA), plus the Investment of the Aggregate Participation, plus the outstanding balance of any other non-recourse transactions [ \* ] on a quarterly basis; or

(s) An Insurer Default has occurred and is continuing; or

(t) Funds have been advanced by the Insurer under the Policy;

or

(u) The aggregate Outstanding Balances of Eligible Receivables then in the Receivables Pool [ \* ]

(v) The amount on deposit in the Cash Reserve Account shall at any time fail to equal or exceed the Cash Reserve [ \* ]; or

(w) (i) any of the Originator, the Seller or the Servicer shall have asserted that any of the Transaction Documents to which it is a party is not valid and binding on the parties thereto; or (ii) any court, governmental authority or agency having jurisdiction over any of the parties to any of the Transaction Documents or any property thereof shall find or rule that any material provisions of any of the Transaction Documents is not valid and binding on the parties thereto and all appeals therefrom have been decided or the time to appeal has run.

V-4 [Amended and Restated  
Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

CONFIDENTIAL TREATMENT

EXHIBIT VI

PORTFOLIO CERTIFICATE

AFC FUNDING CORPORATION  
PORTFOLIO CERTIFICATE  
AS OF:  
-----

To: BMO Nesbitt Burns Corp., as Agent

Reference is made to the Amended and Restated Receivables Purchase Agreement, dated as of May , 2002 (herein as amended or otherwise modified from time to time, called the "RECEIVABLES PURCHASE AGREEMENT"), among AFC Funding Corporation (the "SELLER"), Automotive Finance Corporation (the "SERVICER"), Fairway Finance Corporation, as a Purchaser and such other entities from time to time as may become purchasers thereunder, BMO Nesbitt Burns Corp., as Agent and purchaser Agent for Fairway Finance Corporation and XL Capital Assurance Inc., as Insurer. Capitalized terms used but not otherwise defined herein are used as defined in the Receivables Purchase Agreement.

The Seller hereby certifies and warrants to you that the following is a true and correct computation as of \_\_\_\_\_, 200 .  
----- --

1. NET RECEIVABLES POOL BALANCE  
-----

A. [ * ]	\$	-----
B. [ * ]	\$	-----
C. [ * ]	\$	-----

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

CONFIDENTIAL TREATMENT

D. [ \* ] \$ -----

E. [ \* ] \$ -----

2. COLLECTIONS  
-----

[ \* ] \$ -----

3. PARTICIPATION OUTSTANDING  
-----

[ \* ] \$ -----

[ \* ] YES/NO

VI-2

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.



EXHIBIT VII

PERFECTION REPRESENTATIONS, WARRANTIES AND COVENANTS

In addition to the representations, warranties and covenants contained in the Agreement, to induce Purchasers and Agent to enter into the Agreement and, in the case of Purchasers, to purchase the Participation hereunder, the Seller hereby represents, warrants and covenants to Agent and the Purchasers as to itself as follows on the Closing Date and on the date of each purchase and reinvestment in the Participation thereafter:

GENERAL

1. The Agreement creates a valid and continuing security interest (as defined in the Indiana UCC) in the Receivables in favor of the Agent, for the benefit of the Secured Parties, which security interest is prior to all other Adverse Claims, and is enforceable as such as against creditors of and purchasers from the Seller.

2. The Receivables constitute "accounts," "payment intangibles," "general intangibles," "instruments" or "tangible chattel paper," within the meaning of the Indiana UCC.

3. The Cash Reserve Account, the Deposit Account and the Liquidation Account and all subaccounts of such accounts, constitute either a "deposit account" or a "securities account" within the meaning of the Indiana UCC.

4. Originator has taken all steps necessary to perfect its security interest against the Obligors in the property securing the Receivables that constitute chattel paper.

CREATION

5. The Seller owns and has good and marketable title to the Receivables free and clear of any Adverse Claim, claim or encumbrance of any Person, excepting only Permitted Liens.

6. Originator has received all consents and approvals to the sale of the Receivables hereunder to the Seller required by the terms of the Receivables that constitute instruments or payment intangibles.

VII-1 [Amended and Restated  
Receivables Purchase Agreement]

CONFIDENTIAL TREATMENT

PERFECTION

7. Each of the Originator and the Seller has caused or will have caused, [ \* ] the filing of all appropriate financing statements in the proper filing office in the appropriate jurisdictions under applicable law in order to perfect the sale of the Receivables from Originator to the Seller pursuant to the Purchase and Sale Agreement and the security interest therein granted by the Seller to the Agent, for the benefit of the Secured Parties, hereunder; and Originator has in its possession the original copies of such instruments or tangible chattel paper that constitute or evidence the Receivables, and all financing statements referred to in this paragraph contain a statement to the effect that: A purchase of or security interest in any collateral described in this financing statement will violate the rights of the Agent, for the benefit of the Secured Parties.

8. With respect to Receivables that constitute an instrument or tangible chattel paper:

Such instruments or tangible chattel paper is in the possession of the Servicer and the Agent has received a written acknowledgment from the Servicer that the Servicer is holding such instruments or tangible chattel paper solely on behalf and for the benefit of the Agent, on behalf of the Secured Parties, and each of the Originator and the Seller has caused or will have caused, [ \* ] the filing of all appropriate financing statements in the proper filing office in the appropriate jurisdictions under applicable law, and all financing statements referred to in this paragraph contain a statement to the effect that: A purchase of or security interest in any collateral described in this financing statement will violate the rights of the Agent, for the benefit of the Secured Parties.

9. With respect to the Cash Reserve Account, the Deposit Account and the Liquidation Account and all subaccounts of such accounts that constitute deposit accounts, either:

(i) The Seller has delivered to the Agent, for the benefit of the Secured Parties, a fully executed agreement pursuant to which the bank maintaining the deposit accounts has agreed to comply with all instructions originated by the Agent, for the benefit of the Secured Parties, directing disposition of the funds in such accounts without further consent by the Seller; or

(ii) The Seller has taken all steps necessary to cause the Agent, on behalf of the Secured Parties, to become the account holder of such accounts.

VII-2 [Amended and Restated  
Receivables Purchase Agreement]

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

10. With respect to the Cash Reserve Account, the Deposit Account and the Liquidation Account or subaccounts of such accounts that constitute "securities accounts" or "securities entitlements" within the meaning of the Indiana UCC:

(i) The Seller has delivered to the Agent, for the benefit of the Secured Parties, a fully executed agreement pursuant to which the securities intermediary has agreed to comply with all instructions originated by the Agent, for the benefit of the Secured Parties, relating to such account without further consent by the Seller; or

(ii) The Seller has taken all steps necessary to cause the securities intermediary to identify in its records the Agent, for the benefit of the Secured Parties, as the person having a security entitlement against the securities intermediary in each of such accounts.

#### PRIORITY

11. Other than the transfer of the Receivables to the Seller under the Purchase and Sale Agreement and the security interest granted to the Agent, for the benefit of the Secured Parties, pursuant to this Agreement, neither the Seller nor the Originator has pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Receivables or the Cash Reserve Account, the Deposit Account, the Liquidation Account or any subaccount of such accounts. Neither the Seller nor the Originator has authorized the filing of, or is aware of any financing statements against the Seller or the Originator that include a description of collateral covering the Receivables or the Cash Reserve Account, the Deposit Account, the Liquidation Account or any subaccount of such accounts other than any financing statement relating to the security interest granted to the Agent, for the benefit of the Secured Parties, hereunder or that has been terminated.

12. Neither the Seller nor the Originator is aware of any judgment, ERISA or tax lien filings against either the Seller or the Originator.

13. None of the instruments or tangible chattel paper that constitute or evidence the Receivables has any marks or notations indicating that they have been pledged, assigned or otherwise conveyed to any Person other than the Seller or the Agent, for the benefit of the Secured Parties.

14. Neither the Cash Reserve Account, the Deposit Account, the Liquidation Account nor any subaccount of such accounts are in the name of any person other than the Seller or the Agent, on behalf of the Secured Parties. The Seller has not consented to the securities intermediary of any such account to comply with entitlement orders of any person other than the Agent, on behalf of the Secured Parties.



15. SURVIVAL OF PERFECTION REPRESENTATIONS. Notwithstanding any other provision of the Agreement or any other Transaction Document, the Perfection Representations contained in this Exhibit VII shall be continuing, and remain in full force and effect (notwithstanding any termination of the commitments or any replacement of the Servicer or termination of Servicer's rights to act as such) until such time as Investments and all other obligations under the Agreement have been finally and fully paid and performed.

16. NO WAIVER. The parties to the Agreement: (i) shall not, without obtaining a confirmation of the then-current rating of the Notes, waive any of the Perfection Representations; (ii) shall provide the Ratings Agencies with prompt written notice of any breach of the Perfection Representations, and shall not, without obtaining a confirmation of the then-current rating of the Notes (as determined after any adjustment or withdrawal of the ratings following notice of such breach) waive a breach of any of the Perfection Representations.

17. SERVICER TO MAINTAIN PERFECTION AND PRIORITY. The Servicer covenants that, in order to evidence the interests of the Agent, on behalf of the Secured Parties, under this Agreement, Servicer shall take such action, or execute and deliver such instruments (other than effecting a Filing (as defined below), unless such Filing is effected in accordance with this paragraph) as may be necessary or advisable including, without limitation, such actions as are requested by the Agent, on behalf of the Secured Parties, to maintain and perfect, as a first priority interest (subject only to Permitted Liens), the Agent's, on behalf of the Secured Parties', security interest in the Receivables, Related Security and Collections. Servicer shall, from time to time and within the time limits established by law, prepare and present to the Agent, on behalf of the Secured Parties, for the Agent, on behalf of the Secured Parties, to authorize (based in reliance on the opinion of counsel hereinafter provided for) the Servicer to file, all financing statements, amendments, continuations, initial financing statements in lieu of a continuation statement, terminations, partial terminations, releases or partial releases, or any other filings necessary or advisable to continue, maintain and perfect the Agent's, on behalf of the Secured Parties' security interest in the Receivables, Related Security and Collections as a first-priority interest (subject only to Permitted Liens) (each a "Filing"). Servicer shall present each such Filing to the Agent, on behalf of the Secured Parties, together with (x) an opinion of counsel as to perfection and such other matters as the Control Party (or if the Control Party is the Majority Purchasers, the Agent) may reasonably request with respect to such Filing, and (y) a form of authorization for the Agent's, on behalf of the Secured Parties' signature. Upon receipt of such opinion of counsel and form of authorization, the Agent, on behalf of the Secured Parties, shall promptly authorize in writing Servicer to, and Servicer shall, effect such Filing under the Uniform Commercial Code without the signature of Originator, the Seller, or the Agent, on behalf of the Secured Parties where allowed by applicable law. Notwithstanding anything else in the Agreement to the contrary, the Servicer shall not have any authority to effect a Filing without obtaining written authorization from the Agent, on behalf of the Secured Parties, in accordance with this paragraph (17).

CONFIDENTIAL TREATMENT

AMENDED AND RESTATED

PURCHASE AND SALE AGREEMENT

Dated as of May 31, 2002

between

AFC FUNDING CORPORATION

and

AUTOMOTIVE FINANCE CORPORATION

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## AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT

THIS AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT (as amended, supplemented or modified from time to time, this "AGREEMENT"), dated as of May 31, 2002, is between AUTOMOTIVE FINANCE CORPORATION, an Indiana corporation (the "ORIGINATOR"), as seller, and AFC FUNDING CORPORATION, an Indiana corporation (the "COMPANY"), as purchaser.

Upon the effectiveness of this Agreement, the terms and provisions of the Purchase and Sale Agreement dated as of December 31, 1996 (as amended or otherwise modified prior to the date hereof, the "ORIGINAL PURCHASE AND SALE AGREEMENT") shall, subject to this paragraph, be superseded hereby in their entirety. Notwithstanding the amendment and restatement of the Original Purchase and Sale Agreement by this Agreement, the Originator shall continue to be liable for all unpaid amounts accrued to the date hereof and owing by it under the Original Purchase and Sale Agreement and all agreements thereunder to indemnify such parties in connection with events or conditions arising or existing prior to the date that the conditions are satisfied in SECTION 4.3 hereof (the "AMENDED AND RESTATED CLOSING DATE"). Upon the effectiveness of this Agreement, each reference to the Original Purchase and Sale Agreement in any other document, instrument or agreement shall mean and be a reference to this Agreement.

### DEFINITIONS

Unless otherwise indicated in this Agreement, certain terms that are capitalized and used throughout this Agreement are defined in EXHIBIT I to the Amended and Restated Receivables Purchase Agreement of even date herewith (as amended, supplemented or otherwise modified from time to time, the "RECEIVABLES PURCHASE AGREEMENT"), among the Company, the Originator, as initial Servicer, Fairway Finance Corporation and such other entities from time to time as may become purchasers thereunder as purchasers (together with their successors and assigns, the "PURCHASERS"), and BMO NESBITT BURNS CORP., as the initial agent and as purchaser agent for Fairway Finance Corporation (together with its successors and assigns, the "AGENT") and XL Capital Assurance Inc., as Insurer (the "INSURER").

### BACKGROUND

1. The Company is a special purpose corporation, all of the capital stock of which is wholly-owned by the Originator.
2. On the Original Closing Date (as defined below), the Originator transferred certain Receivables and Related Rights to the Company as a capital contribution to the Company.

3. In order to finance its business, the Originator wishes to sell certain Receivables and Related Rights from time to time to the Company, and the Company is willing, on the terms and subject to the conditions set forth herein, to purchase such Receivables and Related Rights from the Originator.

4. The Company intends to sell to Purchasers an undivided variable percentage interest in its Receivables and Related Rights pursuant to the Receivables Purchase Agreement in order to finance its purchases of certain Receivables and Related Rights hereunder.

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

#### ARTICLE I

##### AGREEMENT TO PURCHASE AND CONTRIBUTE

1.1. AGREEMENT TO PURCHASE AND SELL. On the terms and subject to the conditions set forth in this Agreement (including ARTICLE IV), and in consideration of the Purchase Price, the Originator agrees to sell to the Company, and does hereby sell to the Company, and the Company agrees to purchase from the Originator, and does hereby purchase from the Originator, without recourse and without regard to collectibility, all of the Originator's right, title and interest in and to:

(a) each Receivable of the Originator that existed and was owing to the Originator as of the opening of the Originator's business on December 31, 1996 (the "ORIGINAL CLOSING DATE") (other than the Receivables and Related Rights contributed by the Originator to the Company pursuant to SECTION 3.1 (the "CONTRIBUTED RECEIVABLES"));

(b) each Receivable created or originated by the Originator from the opening of the Originator's business on the Original Closing Date to and including the Purchase and Sale Termination Date (other than any Excluded Receivables identified from time on SCHEDULE 1.1(b) and consented to by the Agent and the Insurer, as such Schedule may be amended, supplemented or modified from time to time with the consent of the Agent and the Insurer);

(c) all rights to, but not the obligations under, all Related Security (other than with respect to the Contributed Receivables);

(d) all monies due or to become due with respect to any of the foregoing;

(e) all books and records related to any of the foregoing; and

(f) all proceeds thereof (as defined in the UCC) received or applied on or after the Original Closing Date including, without limitation, all funds which either are received by the Originator, the Company or the Servicer from or on behalf of the Obligor in payment of any



amounts owed (including, without limitation, finance charges, interest and all other charges) in respect of any Receivable (other than Contributed Receivables), or that are (or are to be) applied to amounts owed in respect of any such Receivable (including, without limitation, insurance payments and net proceeds of the sale or other disposition of vehicles or other collateral or property of the related Obligor or any other Person directly or indirectly liable for the payment of any such Receivable that are (or are to be) applied thereto).

All purchases and contributions hereunder shall be made without recourse, but shall be made pursuant to and in reliance upon the representations, warranties and covenants of the Originator, in its capacity as seller and contributor, set forth in each Transaction Document. The Company's foregoing commitment to purchase such Receivables and the proceeds and rights described in SUBSECTIONS (c) through (f) of this SECTION 1.1 (collectively, including such item relating to Contributed Receivables, the "RELATED RIGHTS") is herein called the "PURCHASE FACILITY."

#### 1.2. TIMING OF PURCHASES.

(a) ORIGINAL CLOSING DATE PURCHASES. The Originator's entire right, title and interest in (i) each Receivable that existed and was owing to the Originator as of the opening of the Originator's business on the Original Closing Date (other than Contributed Receivables), and (ii) all Related Rights with respect thereto was sold to the Company on the Original Closing Date.

(b) REGULAR PURCHASES. After the Original Closing Date, each Receivable created or originated by the Originator and all Related Rights shall be purchased and owned by the Company (without any further action) upon the creation or origination of such Receivable (other than any Excluded Receivables created or originated by the Originator from the opening of the Originator's business on the Amended and Restated Closing Date to and including the Purchase and Sale Termination Date).

1.3. CONSIDERATION FOR PURCHASES. On the terms and subject to the conditions set forth in this Agreement, the Company agrees to make all Purchase Price payments to the Originator.

1.4. PURCHASE AND SALE TERMINATION DATE. The "PURCHASE AND SALE TERMINATION DATE" shall be the earlier to occur of (a) the date of the termination of this Agreement pursuant to SECTION 8.2 and (b) the Payment Date immediately following the day on which the Originator shall have given notice to the Company that the Originator desires to terminate this Agreement.

As used herein, "PAYMENT DATE" means (i) the Original Closing Date and (ii) each Business Day thereafter that the Originator is open for business.

1.5. INTENTION OF THE PARTIES. It is the express intent of the parties hereto that the transfers of the Receivables (other than Contributed Receivables) and Related Rights (other than those relating to the Contributed Receivables) by the Originator to the Company, as contemplated by this Agreement be, and be treated as, sales and not as secured loans secured by the Receivables and

Related Rights. If, however, notwithstanding the intent of the parties, such transactions are deemed to be loans, the Originator hereby grants to the Company a security interest in all of the Originator's right, title and interest in and to the Receivables and the Related Rights now existing and hereafter created, all monies due or to become due and all amounts received with respect thereto, and all proceeds thereof, to secure all of the Originator's obligations hereunder.

1.6. CERTAIN DEFINITIONS. As used in this Agreement, the terms "Material Adverse Effect" and "Solvent" are defined as follows:

"MATERIAL ADVERSE EFFECT" means, with respect to any event or circumstance, a material adverse effect on:

(i) the business, operations, property or financial condition of the Originator;

(ii) the ability of the Originator or the Servicer (if it is the Originator) to perform its obligations under the Receivables Purchase Agreement or any other Transaction Document to which it is a party or the performance of any such obligations;

(iii) the validity or enforceability of the Receivables Purchase Agreement or any other Transaction Document;

(iv) the status, existence, perfection, priority or enforceability of the Company's interest in the Receivables or Related Rights; or

(v) the collectibility of the Receivables.

"SOLVENT" means, with respect to any Person at any time, a condition under which:

(i) the fair value and present fair saleable value of such Person's total assets is, on the date of determination, greater than such Person's total liabilities (including contingent and unliquidated liabilities) at such time;

(ii) such Person is and shall continue to be able to pay all of its liabilities as such liabilities mature; and

(iii) such Person does not have unreasonably small capital with which to engage in its current and in its anticipated business.

For purposes of this definition:

(A) the amount of a Person's contingent or unliquidated liabilities at any time shall be that amount which, in light of all the facts and circumstances then existing,

represents the amount which can reasonably be expected to become an actual or matured liability;

(B) the "fair value" of an asset shall be the amount which may be realized within a reasonable time either through collection or sale of such asset at its regular market value;

(C) the "regular market value" of an asset shall be the amount which a capable and diligent business person could obtain for such asset from an interested buyer who is willing to purchase such asset under ordinary selling conditions; and

(D) the "present fair saleable value" of an asset means the amount which can be obtained if such asset is sold with reasonable promptness in an arm's length transaction in an existing and not theoretical market.

## ARTICLE II

### CALCULATION OF PURCHASE PRICE

2.1. CALCULATION OF PURCHASE PRICE. On each Servicer Report Date, the Servicer shall deliver to the Company, the Agent, the Insurer and the Originator (if the Servicer is other than the Originator) a report in substantially the form of EXHIBIT A (each such report being herein called a "PURCHASE REPORT") with respect to the matters set forth therein and the Company's purchases of Receivables from the Originator

(a) that were made on the Original Closing Date (in the case of the Purchase Report delivered on the Original Closing Date), or

(b) that were made during the period commencing on the Servicer Report Date immediately preceding such Servicer Report Date to (but not including) such Servicer Report Date (in the case of each subsequent Purchase Report).

The "PURCHASE PRICE" (to be paid to the Originator in accordance with the terms of ARTICLE III) for the Receivables and the Related Rights that are purchased hereunder shall be the fair market value of the Receivables as agreed to from time to time by the Company and the Originator.

CONFIDENTIAL TREATMENT

ARTICLE III

CONTRIBUTION OF RECEIVABLES;  
PAYMENT OF PURCHASE PRICE

3.1. CONTRIBUTION OF RECEIVABLES. On the Original Closing Date, the Originator contributed to the capital of the Company, Receivables and Related Rights with respect thereto consisting of each Receivable of the Originator that existed and was owing to the Originator on the Original Closing Date that as of such date was not an Eligible Receivable and Receivables that existed and were owing to the Originator on the Original Closing Date that as of such date were Eligible Receivables, beginning with the oldest of such Eligible Receivables and continuing chronologically thereafter, and all or an undivided interest in the most recent of such contributed Eligible Receivables such that the aggregate Outstanding Balance of all such contributed Receivables [ \* ].

3.2. INITIAL PURCHASE PRICE PAYMENT. On the terms and subject to the conditions set forth in this Agreement, the Company agreed to pay to the Originator the Purchase Price for the purchase of Receivables made on the Original Closing Date, [ \* ].

3.3. SUBSEQUENT PURCHASE PRICE PAYMENTS. On each Business Day falling after the Original Closing Date and on or prior to the Purchase and Sale Termination Date, on the terms and subject to the conditions set forth in this Agreement, the Company shall pay to the Originator the Purchase Price for the Receivables sold by the Originator to the Company on such Business Day, in cash, to the extent funds are available to make such payment and such payment is permitted by paragraph (o) of Exhibit IV to the Receivables Purchase Agreement, [ \* ].

Servicer shall make all appropriate record keeping entries with respect to the Company Note or otherwise to reflect the foregoing payments and adjustments pursuant to SECTION 3.4, and Servicer's books and records shall constitute rebuttable presumptive evidence of the principal amount of and accrued interest on the Company Note at any time. Furthermore, Servicer shall hold the Company Note for the benefit of the Originator, and all payments under the Company Note shall be made to the Servicer for the account of the applicable payee thereof. The Originator hereby irrevocably authorizes Servicer to mark the Company Note "CANCELLED" and to return the Company Note to the Company upon the final payment thereof after the occurrence of the Purchase and Sale Termination Date.

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\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

3.4. SETTLEMENT AS TO SPECIFIC RECEIVABLES AND DILUTION.

(a) If on the day of purchase or contribution of any Receivable from the Originator hereunder, any of the representations or warranties set forth in SECTION 5.4, 5.11 or 5.20 is not true with respect to such Receivable or as a result of any action or inaction of the Originator, on any day any of the representations or warranties set forth in SECTION 5.4, 5.11 or 5.20 is no longer true with respect to such a Receivable, then the Purchase Price with respect to the Receivables purchased hereunder shall be reduced by an amount equal to the Outstanding Balance of such Receivable and shall be accounted to the Originator as provided in SUBSECTION (c) below; PROVIDED, that if the Company thereafter receives payment on account of Collections due with respect to such Receivable, the Company promptly shall deliver such funds to the Originator.

(b) If, on any day, the Outstanding Balance of any Receivable purchased or contributed hereunder is reduced or adjusted as a result of any discount, rebate or other adjustment made by the Originator, Company or Servicer or any setoff or dispute between the Company, the Originator or the Servicer and an Obligor, then the Purchase Price with respect to the Receivables purchased hereunder shall be reduced by the amount of such reduction and shall be accounted to the Originator as provided in SUBSECTION (c) below.

(c) Any reduction in the Purchase Price of the Receivables pursuant to SUBSECTION (a) or (b) above shall be applied as a credit for the account of the Company against the Purchase Price of Receivables subsequently purchased by the Company from the Originator hereunder; PROVIDED, HOWEVER if there have been no purchases of Receivables (or insufficiently large purchases of Receivables) to create a Purchase Price sufficient to so apply such credit against, the amount of such credit

(i) shall be paid in cash to the Company by the Originator in the manner and for application as described in the following proviso, or

(ii) shall be deemed to be a payment under, and shall be deducted from the principal amount outstanding under, the Company Note, to the extent that such payment is permitted under paragraph (o) of Exhibit IV of the Receivables Purchase Agreement;

PROVIDED, FURTHER, that at any time (y) when a Termination Event or Unmatured Termination Event exists or (z) on or after the Termination Date, the amount of any such credit shall be paid by the Originator to the Company by deposit in immediately available funds into the Collection Account for application by Servicer to the same extent as if Collections of the applicable Receivable in such amount had actually been received on such date.

(d) Each Purchase Report (other than the Purchase Report delivered on the Original Closing Date) shall include, in respect of the Receivables previously generated by the Originator (including the Contributed Receivables), a calculation of the aggregate reductions described in SUBSECTION (a) or (b) relating to such Receivables since the last Purchase Report delivered hereunder.

3.5. RECONVEYANCE OF RECEIVABLES. In the event that the Originator has paid to the Company the full Outstanding Balance of any Receivable pursuant to SECTION 3.4, the Company shall reconvey such Receivable to the Originator, without representation or warranty, but free and clear of all liens created by the Company.

#### ARTICLE IV

##### CONDITIONS OF PURCHASES

4.1. CONDITIONS PRECEDENT TO INITIAL PURCHASE. The initial purchase under the Original Purchase and Sale Agreement was subject to the condition precedent that the Company shall have received, on or before the Original Closing Date, the following, each (unless otherwise indicated) dated the Original Closing Date, and each in form, substance and date satisfactory to the Company:

(a) A copy of the resolutions of the Board of Directors of the Originator approving the Transaction Documents to be delivered by it and the transactions contemplated hereby and thereby, certified by the Secretary or Assistant Secretary of the Originator;

(b) A Certificate of Existence for the Originator issued as of a recent date by the Indiana Secretary of State;

(c) A certificate of the Secretary or Assistant Secretary of the Originator certifying the names and true signatures of the officers authorized on the Originator's behalf to sign the Transaction Documents to be delivered by it (on which certificate the Company and the Servicer (if other than the Originator) may conclusively rely until such time as the Company and the Servicer shall receive from the Originator a revised certificate meeting the requirements of this SUBSECTION (c));

(d) The articles of incorporation of the Originator together with a copy of the by-laws of the Originator, each duly certified by the Secretary or an Assistant Secretary of the Originator;

(e) Copies of the proper financing statements (Form UCC-1) that have been duly executed and name the Originator as the assignor and the Company as the assignee (and Purchaser as assignee of the Company) of the Receivables generated by the Originator and Related Rights or other, similar instruments or documents, as may be necessary or, in Servicer's or the Agent's opinion, desirable under the UCC of all appropriate jurisdictions or any comparable law of all appropriate jurisdictions to perfect the Company's ownership interest in all Receivables and Related Rights in which an ownership interest may be transferred to it hereunder;

(f) A written search report from a Person satisfactory to Servicer and the Agent listing all effective financing statements that name the Originator as debtor or assignor and that are filed in the jurisdictions in which filings were made pursuant to the foregoing SUBSECTION (e), together with

copies of such financing statements (none of which, except for those described in the foregoing SUBSECTION (e), shall cover any Receivable or any Related Right), and tax and judgment lien search reports from a Person satisfactory to Servicer and the Agent showing no evidence of such liens filed against the Originator;

(g) Favorable opinions of Warren W. Byrd, Esq., general counsel to the Originator and Ice Miller Donadio and Ryan, special counsel to the Originator, concerning enforceability of this Agreement and certain other matters, and Ice Miller Donadio and Ryan, concerning certain bankruptcy matters, and such other opinions as the Company may reasonably request;

(h) Evidence (i) of the execution and delivery by each of the parties thereto of each of the other Transaction Documents to be executed and delivered in connection herewith and (ii) that each of the conditions precedent to the execution, delivery and effectiveness of such other Transaction Documents has been satisfied to the Company's satisfaction; and

(i) A certificate from an officer of the Originator to the effect that Servicer and the Originator have placed on the most recent, and have taken all steps reasonably necessary to ensure that there shall be placed on subsequent, summary master control data processing reports the following legend (or the substantive equivalent thereof): "THE RECEIVABLES DESCRIBED HEREIN HAVE BEEN SOLD TO AFC FUNDING CORPORATION PURSUANT TO A PURCHASE AND SALE AGREEMENT, DATED AS OF DECEMBER 31, 1996, BETWEEN AUTOMOTIVE FINANCE CORPORATION AND AFC FUNDING CORPORATION; AND AN INTEREST IN THE RECEIVABLES DESCRIBED HEREIN HAS BEEN GRANTED TO POOLED ACCOUNTS RECEIVABLE CAPITAL CORPORATION, PURSUANT TO A RECEIVABLES PURCHASE AGREEMENT, DATED AS OF DECEMBER 31, 1996, AMONG AFC FUNDING CORPORATION, AS SELLER, AUTOMOTIVE FINANCE CORPORATION, AS SERVICER, POOLED ACCOUNTS RECEIVABLE CAPITAL CORPORATION, AS PURCHASER AND NESBITT BURNS SECURITIES INC., AS AGENT."

4.2. CERTIFICATION AS TO REPRESENTATIONS AND WARRANTIES. The Originator, by accepting the Purchase Price (including by the increase in the outstanding balance of the Company Note) related to each purchase of Receivables and Related Rights shall be deemed to have certified that the representations and warranties contained in ARTICLE V are true and correct on and as of such day, with the same effect as though made on and as of such day.

4.3. CONDITIONS PRECEDENT TO EFFECTIVENESS OF THIS AGREEMENT. This Agreement shall become effective when each of the conditions precedent in this SECTION 4.3 has been satisfied on or before the Amended and Restated Closing Date. The effectiveness of this Agreement shall be subject to the condition precedent that the Company, the Agent and the Insurer shall have received, on or before the Amended and Restated Closing Date, the following, each (unless otherwise indicated) dated as of the date hereof, and each in form and substance satisfactory to the Company, the Agent and the Insurer:

(a) A copy of the resolutions of the Board of Directors of the Originator approving the Transaction Documents to be delivered by it and the transactions contemplated hereby and thereby, certified by the Secretary or Assistant Secretary of the Originator;

(b) A Certificate of Existence for the Originator issued as of a recent date by the Indiana Secretary of State;

(c) A certificate of the Secretary or Assistant Secretary of the Originator certifying the names and true signatures of the officers authorized on the Originator's behalf to sign the Transaction Documents to be delivered by it (on which certificate the Company, the Agent, the Insurer and the Servicer (if other than the Originator) may conclusively rely until such time as the Company, the Agent, the Insurer and the Servicer shall receive from the Originator a revised certificate meeting the requirements of this SUBSECTION (c));

(d) The articles of incorporation of the Originator together with a copy of the by-laws of the Originator, each duly certified as of the Amended and Restated Closing Date by the Secretary or an Assistant Secretary of the Originator;

(e) Copies of the proper financing statements (Form UCC-1) that are suitable for filing and name the Originator as the assignor and the Company as the assignee (and the Agent (for the benefit of the Secured Parties) as assignee of the Company) of the Receivables generated by the Originator and Related Rights or other, similar instruments or documents, as may be necessary or, in Servicer's, the Insurer's or the Agent's opinion, desirable under the UCC of all appropriate jurisdictions or any comparable law of all appropriate jurisdictions to perfect the Company's ownership interest in all Receivables and Related Rights in which an ownership interest may be transferred to it hereunder;

(f) A written search report as of a recent date from a Person satisfactory to Servicer, the Insurer and the Agent listing all effective financing statements that name the Originator as debtor or assignor and that are filed in the jurisdictions in which filings were made pursuant to the foregoing SUBSECTION (e), together with copies of such financing statements (none of which, except for those described in the foregoing SUBSECTION (e), shall cover any Receivable or any Related Right), and tax and judgment lien search reports from a Person satisfactory to Servicer, the Insurer and the Agent showing no evidence of such liens filed against the Originator;

(g) Favorable opinions of Joel G. Garcia, Esq., general counsel to the Originator and Ice Miller, special counsel to the Originator, concerning enforceability of this Agreement and certain other matters, and Ice Miller, concerning certain bankruptcy matters, and such other opinions as the Company, the Agent or the Insurer may reasonably request;

(h) Evidence (i) of the execution and delivery by each of the parties thereto of each of the other Transaction Documents to be executed and delivered in connection herewith and (ii) that each of the conditions precedent to the execution, delivery and effectiveness of such other



Transaction Documents has been satisfied to the Company's, the Agent's and the Insurer's satisfaction; and

(i) A certificate from an officer of the Originator to the effect that Servicer and the Originator have placed on the most recent, and have taken all steps reasonably necessary to ensure that there shall be placed on subsequent, summary master control data processing reports the following legend (or the substantive equivalent thereof): "THE RECEIVABLES DESCRIBED HEREIN HAVE BEEN SOLD TO AFC FUNDING CORPORATION PURSUANT TO AN AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT, DATED AS OF MAY 31, 2002 BETWEEN AUTOMOTIVE FINANCE CORPORATION AND AFC FUNDING CORPORATION; AND AN INTEREST IN THE RECEIVABLES DESCRIBED HEREIN HAS BEEN GRANTED TO THE AGENT FOR THE BENEFIT OF THE SECURED PARTIES, PURSUANT TO AN AMENDED AND RESTATED RECEIVABLES PURCHASE AGREEMENT, DATED AS OF MAY 31, 2002, AMONG AFC FUNDING CORPORATION, AS SELLER, AUTOMOTIVE FINANCE CORPORATION, AS SERVICER, FAIRWAY FINANCE CORPORATION, AND SUCH OTHER ENTITIES FROM TIME TO TIME AS MAY BECOME PURCHASERS THEREUNDER, BMO NESBITT BURNS CORP. AS AGENT AND PURCHASER AGENT FOR FAIRWAY FINANCE CORPORATION AND XL CAPITAL ASSURANCE INC., AS INSURER."

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF THE ORIGINATOR

In order to induce the Company to enter into this Agreement and to make purchases and accept contributions hereunder, the Originator, in its capacity as seller under this Agreement, hereby makes the representations and warranties set forth in this ARTICLE V.

5.1. ORGANIZATION AND GOOD STANDING. The Originator has been duly incorporated and in existence as a corporation under the laws of the State of Indiana, with power and authority to own its properties and to conduct its business as such properties are presently owned and such business is presently conducted.

5.2. DUE QUALIFICATION. The Originator is duly licensed or qualified to do business as a foreign corporation in good standing in the jurisdiction where its chief executive office and principal place of business are located and in all other jurisdictions in which the ownership or lease of its property or the conduct of its business requires such licensing or qualification except where the failure to be so licensed or qualified has not had and could not reasonably be expected to have a Material Adverse Effect.

5.3. POWER AND AUTHORITY; DUE AUTHORIZATION. The Originator has (a) all necessary corporate power, authority and legal right (i) to execute and deliver, and perform its obligations under, each

Transaction Document to which it is a party, as seller, and (ii) to generate, own, sell, contribute and assign Receivables and Related Rights on the terms and subject to the conditions herein and therein provided; and (b) duly authorized such execution and delivery and such sale, contribution and assignment and the performance of such obligations by all necessary corporate action.

5.4. VALID SALE OR CONTRIBUTION; BINDING OBLIGATIONS. Each sale or contribution, as the case may be, of Receivables and Related Rights made by the Originator pursuant to this Agreement shall constitute a valid sale or contribution, as the case may be, transfer, and assignment thereof to the Company, enforceable against creditors of, and purchasers from, the Originator; and this Agreement constitutes, and each other Transaction Document to be signed by the Originator, as seller, when duly executed and delivered, will constitute, a legal, valid, and binding obligation of the Originator, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

5.5. NO VIOLATION. The consummation of the transactions contemplated by this Agreement and the other Transaction Documents to which the Originator is a party as seller, and the fulfillment of the terms hereof or thereof will not (a) conflict with, result in any breach of any of the terms and provisions of, or constitute (with or without notice or lapse of time or both) a default under (i) the Originator's articles of incorporation or by-laws, or (ii) any indenture, loan agreement, mortgage, deed of trust, or other agreement or instrument to which it is a party or by which it is bound, (b) result in the creation or imposition of any Adverse Claim upon any of its properties pursuant to the terms of any such indenture, loan agreement, mortgage, deed of trust, or other agreement or instrument, other than the Transaction Documents, or (c) violate any law or any order, writ, judgment, award, injunction, decree, rule, or regulation applicable to it or its properties, where, in the cases of ITEMS (a)(ii), (b) or (c), such conflict, breach, default, Adverse Claim or violation has had or could reasonably be expected to have a Material Adverse Effect.

5.6. PROCEEDINGS. (i) There is no litigation, proceeding or investigation pending or, to the Originator's knowledge threatened, before any Government Authority or arbitrator (a) asserting the invalidity of any Transaction Document to which the Originator is a party as seller, (b) seeking to prevent the sale or contribution of Receivables and Related Rights to the Company or the consummation of any of the other transactions contemplated by any Transaction Document to which the Originator is a party as seller, or (c) seeking any determination or ruling that could reasonably be expected to have a Material Adverse Effect. (ii) The Originator is not subject to any order, judgment, decree, injunction, stipulation or consent order that could reasonably be expected to have a Material Adverse Effect.

5.7. BULK SALES ACT. No transaction contemplated hereby requires compliance with any bulk sales act or similar law.

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5.8. GOVERNMENT APPROVALS. Except for the filing of the UCC financing statements referred to in ARTICLE IV, all of which, at the time required in ARTICLE IV, shall have been duly made and shall be in full force and effect, no authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the Originator's due execution, delivery and performance of any Transaction Document to which it is a party, as seller.

5.9. FINANCIAL CONDITION.

(a) On the date hereof, and on the date of each sale of Receivables by the Originator to the Company (both before and after giving effect to such sale), the Originator shall be Solvent.

(b) The consolidated balance sheets of the Originator and its consolidated subsidiaries as of December 31, 2001, and the related statements of income and shareholders' equity of the Originator and its consolidated subsidiaries for the fiscal year then ended certified by the Originator's independent accountants, copies of which have been furnished to the Company, present fairly the consolidated financial position of the Originator and its consolidated subsidiaries for the period ended on such date, all in accordance with generally accepted accounting principles consistently applied; and since such date no event has occurred that has had, or is reasonably likely to have, a Material Adverse Effect.

5.10. MARGIN REGULATIONS. No use of any funds acquired by the Originator under this Agreement will conflict with or contravene any of Regulations G, T, U and X promulgated by the Board of Governors of the Federal Reserve System from time to time.

5.11. QUALITY OF TITLE.

(a) Each Receivable (together with the Related Rights) which is to be sold or contributed to the Company hereunder is or shall be owned by the Originator, free and clear of any Adverse Claim excepting only Permitted Liens. Whenever the Company makes a purchase, or accepts a contribution, hereunder, it shall have acquired a valid and perfected ownership interest (free and clear of any Adverse Claim, excepting only Permitted Liens) in all Receivables generated by the Originator and all Collections related thereto, and in the Originator's entire right, title and interest in and to the other Related Rights with respect thereto.

[ \* ].

5.12. ACCURACY OF INFORMATION. No factual written information furnished or to be furnished in writing by the Originator, as seller, to the Company, the Purchasers, the Insurer or the Agent for purposes of or in connection with any Transaction Document or any transaction contemplated hereby or thereby (including the information contained in any Purchase Report) is, and no other such factual

written information hereafter furnished (and prepared) by the Originator, as seller, to the Company, the Purchasers, the Insurer or the Agent pursuant to or in connection with any Transaction Document, taken as a whole, will be inaccurate in any material respect as of the date it was furnished or (except as otherwise disclosed to the Company at or prior to such time) as of the date as of which such information is dated or certified, or shall contain any material misstatement of fact or omitted or will omit to state any material fact necessary to make such information, in the light of the circumstances under which any statement therein was made, not materially misleading on the date as of which such information is dated or certified.

5.13. OFFICES. The Originator's principal place of business and chief executive office is located at the address set forth under the Originator's signature hereto, and the offices where the Originator keeps all its books, records and documents evidencing the Receivables, the related Contracts and all other agreements related to such Receivables are located at the addresses specified on SCHEDULE 5.13 (or at such other locations, notified to Servicer (if other than the Originator), the Insurer and the Agent in accordance with SECTION 6.1(f), in jurisdictions where all action required by SECTION 7.3 has been taken and completed).

5.14. TRADE NAMES. Except as disclosed on SCHEDULE 5.14, the Originator does not use any trade name other than its actual corporate name. From and after the date that fell six years before the date hereof, the Originator has not been known by any legal name or trade name other than its corporate name as of the date hereof, nor has the Originator been the subject of any merger or other corporate reorganization except, in each case, as disclosed on SCHEDULE 5.14.

5.15. TAXES. Except as set forth on SCHEDULE 5.15 the Originator has filed all tax returns and reports required by law to have been filed by it and has paid all taxes and governmental charges thereby shown to be owing, except any such taxes which are not yet delinquent or are being diligently contested in good faith by appropriate proceedings and for which adequate reserves in accordance with generally accepted accounting principles shall have been set aside on its books.

5.16. LICENSES AND LABOR CONTROVERSIES.

(a) The Originator has not failed to obtain any licenses, permits, franchises or other governmental authorizations necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain would be reasonably likely to have a Material Adverse Effect; and

(b) There are no labor controversies pending against the Originator that have had (or are reasonably likely to have) a Material Adverse Effect.

5.17. COMPLIANCE WITH APPLICABLE LAWS. The Originator is in compliance, in all material respects, with the requirements of (i) all applicable laws, rules, regulations, and orders of all governmental authorities (including, without limitation, Regulation Z, laws, rules and regulations relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity,

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fair debt collection practices and privacy and all other consumer laws applicable to the Receivables and related Contracts) (excluding with respect to environmental matters which are covered by CLAUSE (ii)), and (ii) to the best of its knowledge, all applicable environmental laws, rules, regulations and orders of all governmental authorities.

5.18. RELIANCE ON SEPARATE LEGAL IDENTITY. The Originator is aware that Purchasers, the Insurer and the Agent are entering into the Transaction Documents to which they are parties in reliance upon the Company's identity as a legal entity separate from the Originator.

5.19. PURCHASE PRICE. The purchase price payable by the Company to the Originator hereunder is intended by the Originator and Company to be consistent with the terms that would be obtained in an arm's length sale. The Servicing Fee payable to the Originator is intended to be consistent with terms that would be obtained in an arm's length servicing arrangement.

5.20. ELIGIBILITY OF RECEIVABLES. Unless otherwise identified to the Company on the date of the purchase hereunder, each Receivable purchased hereunder is on the date of purchase an Eligible Receivable and, so long as the Originator is the Servicer, each Pool Receivable included as an Eligible Receivable in the calculation of Net Receivables Pool Balance is an Eligible Receivable as of the date of such calculation.

5.21. PERFECTION REPRESENTATIONS. [ \* ].

5.22. CREDIT AND COLLECTION POLICY. The Originator has complied in all material respects with the Credit and Collection Policy with regard to each Receivable prior to its transfer hereunder.

5.23. TRANSACTION DOCUMENTS. The Originator has complied in all material respects with all terms, covenants and agreements contained in this Agreement and the other Transaction Documents applicable to it prior to the Amended and Restated Closing Date and will comply in all material respects from and after the Amended and Restated Closing Date with all terms, covenants and agreements contained in this Agreement and the other Transaction Documents applicable to it.

ARTICLE VI

COVENANTS OF THE ORIGINATOR

6.1. AFFIRMATIVE COVENANTS. From the date hereof until the first day following the Final Payout Date, the Originator will, unless the Company and the Control Party (or if the Control Party is the Majority Purchasers, the Agent) shall otherwise consent in writing:

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\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

(a) COMPLIANCE WITH LAWS, ETC. Comply in all material respects with all applicable laws, rules, regulations and orders, including those with respect to the Receivables generated by it and the related Contracts and other agreements related thereto.

(b) PRESERVATION OF CORPORATE EXISTENCE. Preserve and maintain its corporate existence, rights, franchises and privileges in the jurisdiction of its incorporation, and qualify and remain qualified in good standing as a foreign corporation in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualification could reasonably be expected to have a Material Adverse Effect.

(c) RECEIVABLES REVIEW. (i) From time to time during regular business hours, upon reasonable prior notice as requested by the Company, the Insurer or the Agent, permit the Company, the Agent or the Control Party, or their respective agents or representatives, (A) to examine and make copies of and abstracts from all books, records and documents (including, without limitation, computer tapes and disks) in the possession or under the control of the Originator relating to the Receivables and Related Rights, including, without limitation, the related Contracts, and (B) to visit the Originator's offices and properties for the purpose of examining such materials described in the foregoing CLAUSE (A) and to discuss matters relating to the Receivables and Related Rights or the Originator's performance hereunder or under the Contracts with any of the officers or employees of the Originator having knowledge of such matters; and (ii) without limiting the provisions of CLAUSE (i) next above, from time to time on request of the Insurer or the Agent permit certified public accountants or other auditors acceptable to the Insurer or the Agent, as applicable to conduct a review of its books and records with respect to the Receivables and Related Rights; PROVIDED that so long as no Purchase and Sale Termination Event or Unmatured Termination Event has occurred the Company, the Agent, the Control Party, certified public accountants or other auditors acceptable to the Control Party (or if the Control Party is the Majority Purchasers, the Agent), as applicable, shall not conduct more than two such examinations or reviews, as applicable, in any year (including any examinations conducted pursuant to any other Transaction Document). The Control Party agrees to notify the Agent of such examinations and agrees that the Agent can be present at such examinations.

(d) KEEPING OF RECORDS AND BOOKS OF ACCOUNT. Maintain an ability to recreate records evidencing the Receivables in the event of the destruction of the originals thereof.

(e) PERFORMANCE AND COMPLIANCE WITH RECEIVABLES AND CONTRACTS. At its expense timely and fully perform and comply with all provisions, covenants and other promises required to be observed by it under the related Contracts and all other agreements related to the Receivables and Related Rights.

(f) LOCATION OF RECORDS, ETC.. (i) Keep its principal place of business and chief executive office, and the offices where it keeps its records concerning or related to Receivables and Related Rights, at the address(es) referred to in SCHEDULE 5.13 or, upon 30 days' prior written notice to the Company, the Insurer and the Agent, at such other locations in jurisdictions where all action required

by SECTION 7.3 shall have been taken and completed, and (ii) provide the Company, the Insurer and the Agent with at least 60 days' written notice prior to making any change in its name, jurisdiction of organization or location or making any other change in its identity or corporate structure (including a merger) which could render any UCC financing statement filed in connection with this Agreement "seriously misleading" as such term is used in the UCC (which written notice sets forth the applicable change and the effective date thereof).

(g) CREDIT AND COLLECTION POLICIES. Comply in all material respects with its Credit and Collection Policy in connection with the Receivables and the related Contracts prior to their transfer hereunder.

(h) SEPARATE CORPORATE EXISTENCE OF THE COMPANY. Take such actions as shall be required in order that:

(i) the Company's operating expenses (other than certain organization expenses and expenses incurred in connection with the preparation, negotiation and delivery of the Transaction Documents) will not be paid by the Originator unless the Company shall have agreed in writing with the Originator to reimburse the Originator for any such payments;

(ii) the Originator will have its own separate mailing address and stationery;

(iii) the Company's books and records will be maintained separately from those of the Originator;

(iv) any financial statements of the Originator which are consolidated to include the Company will contain detailed notes clearly stating that (A) all of the Company's assets are owned by the Company, and (B) the Company is a separate corporate entity and has sold ownership interests in the Company's accounts receivable;

(v) the Company's assets will be maintained in a manner that facilitates their identification and segregation from those of the Originator;

(vi) the Originator will strictly observe corporate formalities in its dealing with the Company, and funds or other assets of the Originator will not be commingled with those of the Company. The Originator shall not maintain joint bank accounts or other depository accounts to which the Company has independent access and shall not pool any of Originator's funds at any time with any funds of the Company;

(vii) the Originator will maintain arm's length relationships with the Company, and the Originator will be compensated at market rates for any services it renders or otherwise furnishes to the Company; and

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(viii) the Originator will not be, and will not hold itself out to be, responsible for the debts of the Company or the decisions or actions in respect of the daily business and affairs of the Company (other than with respect to such decisions or actions of the Originator in its capacity as Servicer).

(i) PERFECTION COVENANT. [ \* ].

6.2. REPORTING REQUIREMENTS. From the date hereof until the first day following the Purchase and Sale Termination Date, the Originator shall, unless the Agent, the Insurer and the Company shall otherwise consent in writing, furnish to the Company, the Insurer and the Agent:

(a) PROCEEDINGS. As soon as possible and in any event within three Business Days after the Originator has knowledge thereof, written notice to the Company, the Insurer and the Agent of (i) all pending proceedings and investigations of the type described in SECTION 5.6 not previously disclosed to the Company, the Insurer and the Agent and (ii) all material adverse developments that have occurred with respect to any previously disclosed proceedings and investigations;

(b) as soon as possible and in any event within three Business Days after the occurrence of each Purchase and Sale Termination Event or event which, with the giving of notice or lapse of time, or both, would constitute a Purchase and Sale Termination Event, a statement of the chief financial officer of the Originator setting forth details of such Purchase and Sale Termination Event or event and the action that the Originator has taken and proposes to take with respect thereto;

(c) promptly after the filing or receiving thereof, copies of all reports and notices that the Originator or any ERISA Affiliate files with respect to a Plan under ERISA or the Internal Revenue Code with the Internal Revenue Service or the Pension Benefit Guaranty Corporation or the U.S. Department of Labor or that the Originator or any ERISA Affiliate receives from any of the foregoing or from any Multiemployer Plan to which the Originator or any ERISA Affiliate is or was, within the preceding five years, a contributing employer, in each case in respect of the assessment of withdrawal liability or an event or condition which could, in the aggregate, result in the imposition of liability on the Originator and/or any such ERISA Affiliate in excess of \$250,000; and

(d) promptly after the occurrence of any event or condition that could reasonably be expected to have a Material Adverse Effect, notice of such event or condition.

(e) OTHER. Promptly, from time to time, such other information, documents, records or reports respecting the Receivables, the Related Rights or the Originator's performance hereunder that the Company, the Insurer or the Agent may from time to time reasonably request in order to protect the interests of the Company, the Purchasers, the Agent, the Insurer or any other Affected Party under or as contemplated by the Transaction Documents.



6.3. NEGATIVE COVENANTS. From the date hereof until the date following the Final Payout Date, the Originator agrees that, unless the Control Party (or if the Control Party is the Majority Purchasers, the Agent) and the Company shall otherwise consent in writing, it shall not:

(a) SALES, LIENS, ETC. Except as otherwise provided herein or in any other Transaction Document, sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim except for Permitted Liens upon or with respect to, any Receivable or related Contract, Collections or Related Security, or any interest therein, or assign any right to receive income in respect thereof.

(b) EXTENSION OR AMENDMENT OF RECEIVABLES. Except in its capacity as Servicer to the extent permitted by paragraph (f) of Exhibit IV to the Receivables Purchase Agreement, extend, amend or otherwise modify the terms of any Receivable in any respect, or amend, modify or waive, any term or condition of any Contract related thereto.

(c) CHANGE IN BUSINESS OR CREDIT AND COLLECTION POLICY. Make (i) any material change in the character of its business, or any change in the Credit and Collection Policy that would adversely affect the collectibility of the Receivables Pool or the enforceability of any related Contract or the ability of the Originator or the Company to perform its obligations under any related Contract or under any Transaction Document; or (ii) any other material change in the Credit and Collection Policy without prior written consent of the Company and the Control Party (or if the Control Party is the Majority Purchasers, the Agent).

(d) RECEIVABLES NOT TO BE EVIDENCED BY INSTRUMENTS. Take any action to cause or permit any Receivable generated by it to become evidenced by any "instrument" (as defined in the applicable UCC) unless such "instrument" shall be delivered to the Company (which in turn shall deliver the same to the Agent on behalf of the Secured Parties).

(e) MERGERS, ACQUISITIONS, SALES, ETC. Merge or consolidate with another Person (except pursuant to a merger or consolidation involving the Originator where the Originator is the surviving corporation), or convey, transfer, lease or otherwise dispose of (whether in one or in a series of transactions), all or substantially all of its assets (whether now owned or hereafter acquired), other than pursuant to this Agreement.

(f) DEPOSIT BANKS. Add or terminate any Deposit Bank unless the requirements of PARAGRAPH (i) of EXHIBIT IV of the Receivables Purchase Agreement have been met.

(g) ACCOUNTING FOR PURCHASES. Account for or treat (whether in financial statements or otherwise) the transactions contemplated hereby in any manner other than as sales of the Receivables and Related Security by the Originator to the Company.

(h) TRANSACTION DOCUMENTS. Enter into, execute, deliver or otherwise become bound by any agreement, instrument, document or other arrangement that restricts the right of the Originator

to amend, supplement, amend and restate or otherwise modify, or to extend or renew, or to waive any right under, this Agreement or any other Transaction Documents.

## ARTICLE VII

### ADDITIONAL RIGHTS AND OBLIGATIONS IN RESPECT OF THE RECEIVABLES

7.1. RIGHTS OF THE COMPANY. The Originator hereby authorizes the Company or its respective designees to take any and all steps in the Originator's name necessary or desirable, in their respective determination, to collect all amounts due under any and all Receivables and Related Rights, including, without limitation, endorsing the Originator's name on checks and other instruments representing Collections and enforcing such Receivables and the provisions of the related Contracts that concern payment and/or enforcement of rights to payment.

7.2. RESPONSIBILITIES OF THE ORIGINATOR. Anything herein to the contrary notwithstanding:

(a) The Originator agrees to transfer any Collections that it receives directly to a Deposit Account within one Business Day of receipt thereof, and agrees that all such Collections shall be segregated and held in trust for the Company and the Agent for the benefit of the Secured Parties; PROVIDED that if the Company or the Servicer is required by SECTION 4.4 of the Receivables Purchase Agreement to remit Collections directly to the Agent for the benefit of the Secured Parties (or its designee) the Originator shall remit such Collections directly to the Agent for the benefit of the Secured Parties (or its designee) in the same manner as the Company and Servicer may be required to do so by Section 4.4 of the Receivables Purchase Agreement. The Originator further agrees not to deposit any funds other than Collections in a Deposit Account.

(b) The Originator shall perform its obligations hereunder, and the exercise by the Company or its designee of its rights hereunder shall not relieve the Originator from such obligations.

(c) None of the Company, Servicer (if other than the Originator), Purchasers, the Insurer or the Agent shall have any obligation or liability to any Obligor or any other third Person with respect to any Receivables, Contracts related thereto or any other related agreements, nor shall the Company, Servicer (if other than the Originator), Purchasers, the Insurer or the Agent be obligated to perform any of the obligations of the Originator thereunder.

(d) The Originator hereby grants to Servicer (if other than the Originator) an irrevocable power of attorney, with full power of substitution, coupled with an interest, to take in the name of the Originator all steps necessary or advisable to indorse, negotiate or otherwise realize on any writing or other right of any kind held or transmitted by the Originator or transmitted or received by

the Company (whether or not from the Originator) in connection with any Receivable or Related Right.

7.3. FURTHER ACTION EVIDENCING PURCHASES. The Originator agrees that from time to time, at its expense, it will promptly execute and deliver all further instruments and documents, and take all further action that the Company or Servicer, the Agent or the Insurer may reasonably request or that may be otherwise necessary or desirable in order to establish or maintain a valid and enforceable ownership interest in the Receivables and Related Rights and Collections and other proceeds with respect thereto, and a perfected security interest in the items described in SECTION 1.5, in each case free and clear of any Adverse Claim, excepting only Permitted Liens, in favor of the Company including, without limitation, taking such action to perfect, protect or more fully evidence the interest of the Company under this Agreement or to enable the Company to exercise or enforce any of its rights hereunder or under any other Transaction Document. Without limiting the generality of the foregoing, the Originator will at Originator's expense:

(a) upon the request of the Company or the Insurer and the Agent authorize and file such financing or continuation statements, or amendments thereto or assignments thereof, and such other instruments or notices, as may be necessary or appropriate; and

(b) mark the summary master control data processing records relating to the Receivables and related Contracts with the legend set forth in SECTION 4.1(i).

The Originator hereby authorizes the Company or its designee to file one or more financing or continuation statements, and amendments thereto and assignments thereof, relative to all or any of the Receivables (and the Related Rights) now existing or hereafter generated by the Originator. If the Originator fails to perform any of its agreements or obligations under this Agreement, the Company or its designee may (but shall not be required to) itself perform, or cause performance of, such agreement or obligation, and the expenses of the Company or its designee incurred in connection therewith shall be payable by the Originator as provided in SECTION 10.6.

7.4. APPLICATION OF COLLECTIONS. Any payment by an Obligor in respect of any indebtedness owed by it to the Originator or the Company, shall be applied first, as a Collection of any Receivables owed by such Obligor to the Company, and second to any other indebtedness of such Obligor. The foregoing notwithstanding, a different application of such payment is permissible if (a) required by contract or law, (b) otherwise instructed by the Obligor or (c) instructed by the Company or the Agent and, in the case of (c) above, only with the prior written consent of the Insurer.

ARTICLE VIII

PURCHASE AND SALE TERMINATION EVENTS

8.1. PURCHASE AND SALE TERMINATION EVENTS. Each of the following events or occurrences described in this SECTION 8.1 shall constitute a "PURCHASE AND SALE TERMINATION EVENT":

(a) The Termination Date (as defined in the Receivables Purchase Agreement) shall have occurred; or

(b) The Originator shall fail to make any payment or deposit to be made by it hereunder or under the Transaction Documents when due and such failure shall remain unremedied for two Business Days after notice or discovery thereof; or

(c) Any representation or warranty made or deemed to be made by the Originator (or any of its officers) under or in connection with this Agreement, any other Transaction Document or any other information or report delivered pursuant hereto or thereto shall prove to have been false, incorrect or incomplete (with respect to such information or report delivered) in any material respect when made or deemed made provided, however, if the violation of this paragraph (c) by the Originator may be cured without any potential or actual detriment to the Company, the Purchasers, the Agent, the Insurer or any Program Support Provider, the Originator shall have 30 days from the earlier of (i) the Originator's knowledge of such failure and (ii) notice to the Originator of such failure to so cure any such violation before a Purchase and Sale Termination Event shall occur so long as the Originator is diligently attempting to effect such cure; or

(d) The Originator shall fail to perform or observe in any material respect any agreement contained in any of SECTIONS 6.1(h) or 6.3; or

(e) The Originator shall fail to perform or observe any other material term, covenant or agreement contained in this Agreement or any other Transaction Document on its part to be performed or observed and such failure shall remain unremedied for 30 days after the earlier of (i) the Originator's knowledge of such failure and (ii) written notice thereof shall have been given by Servicer, the Agent, the Insurer or the Company to the Originator; or

(f)(i) The Originator or any of its subsidiaries shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Originator or any of its subsidiaries seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it or for all or any substantial part of its property and, in the case of any such

proceeding instituted against it (but not instituted by it), such proceeding shall remain undismissed or unstayed for a period of 45 days; or (ii) the Originator or any of its subsidiaries shall take any corporate action to authorize any of the actions set forth in CLAUSE (i) above in this SECTION 8.1(f);

(g)(i) Any "accumulated funding deficiency" (within the meaning of Section 412 of the Internal Revenue Code or Section 302 of ERISA), whether or not waived, shall exist with respect to any Plan, (ii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which Reportable Event or commencement of proceedings or appointment of a trustee is, in the reasonable opinion of the Control Party, likely to result in the termination of such Plan for purposes of Title IV of ERISA, (iii) the Originator or any ERISA Affiliate shall, or in the reasonable opinion of the Control Party, is likely to, incur any liability in connection with a withdrawal from, or the Insolvency or Reorganization of, a Multiemployer Plan, (iv) the Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Internal Revenue Code with regard to any assets of the Originator or any ERISA Affiliate and such lien shall not have been released within ten Business Days, or the Pension Benefit Guaranty Corporation shall, or shall indicate its intention to, file notice of a lien pursuant to Section 4068 of ERISA or perfect a lien under Section 302(f) of ERISA with regard to any of the assets of Seller or any ERISA Affiliate, or (v) any other adverse event or condition shall occur or exist with respect to a Plan; and in each case in CLAUSES (i), (ii), (iii), (iv) and (v) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to involve an aggregate amount of liability to the Seller or an ERISA Affiliate in excess of \$250,000.

(h) The Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Internal Revenue Code with regard to any of assets of the Originator and such lien shall not have been released within ten Business Days, or the Pension Benefit Guaranty Corporation shall, or shall indicate its intention to, file notice of a lien pursuant to Section 4068 of ERISA with regard to any of the assets of the Originator; or

(i) This Agreement or any purchase pursuant to this Agreement shall for any reason (other than pursuant to the terms hereof) (i) cease to create, a valid and enforceable perfected ownership interest in each Receivable and the Related Rights and Collections and other proceeds with respect thereto, free and clear of any Adverse Claim, excepting only Permitted Liens or (ii) cease to create with respect to the items described in SECTION 1.5, or the interest of the Company with respect to such items shall cease to be, a valid and enforceable perfected security interest, free and clear of any Adverse Claim, excepting only Permitted Liens.

## 8.2. REMEDIES.

(i) OPTIONAL TERMINATION. Upon the occurrence of a Purchase and Sale Termination Event, the Company (and not Servicer) shall have the option by notice to the Originator (with a copy to the Agent and the Insurer) to declare the Purchase and Sale Termination Date to have occurred.

CONFIDENTIAL TREATMENT

(ii) REMEDIES CUMULATIVE. Upon any termination of the Purchase Facility pursuant to this SECTION 8.2, the Company shall have, in addition to all other rights and remedies under this Agreement or otherwise, all other rights and remedies provided under the UCC of each applicable jurisdiction and other applicable laws, which rights shall be cumulative. Without limiting the foregoing, the occurrence of the Purchase and Sale Termination Date shall not deny the Company any remedy in addition to termination of the Purchase Facility to which the Company may be otherwise appropriately entitled, whether at law or equity.

ARTICLE IX  
INDEMNIFICATION

9.1. INDEMNITIES BY THE ORIGINATOR. Without limiting any other rights which the Company may have hereunder or under applicable law, the Originator hereby agrees to indemnify the Company, the Purchasers, the Agent, the Insurer and each of their respective assigns, officers, directors, employees and agents (each of the foregoing Persons being individually called a "PURCHASE AND SALE INDEMNIFIED PARTY"), forthwith on demand, from and against any and all damages, losses, claims, judgments, liabilities and related costs and expenses, including reasonable attorneys' fees and disbursements (all of the foregoing being collectively called "PURCHASE AND SALE INDEMNIFIED AMOUNTS"), regardless of whether any such Purchase and Sale Indemnified Amount is the result of a Purchase and Sale Indemnified Party's negligence, strict liability or other acts or omissions of a Purchase and Sale Indemnified Party, awarded against or incurred by any of them arising out of or as a result of the following:

(a) the transfer by the Originator of an interest in any Receivable or Related Right to any Person other than the Company;

(b) the breach of any representation or warranty made by the Originator under or in connection with this Agreement or any other Transaction Document, or any information or report delivered by the Originator pursuant hereto or thereto (including any information contained in a Purchase Report) which shall have been false, incorrect or misleading in any material respect when made, deemed made or delivered;

(c) the failure by the Originator to comply with any applicable law, rule or regulation with respect to any Receivable or the related Contract, or the nonconformity of any Receivable or the related Contract with any such applicable law, rule or regulation;

(d) [ \* ]

(e) the failure of the Originator to file with respect to itself, or any delay by the Originator in filing, financing statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other applicable laws with respect to any Receivables or purported Receivables generated by the Originator or Related Rights, whether at the time of any purchase or contribution or at any subsequent time;

(f) any dispute, claim, offset or defense (other than discharge in bankruptcy) of the Obligor to the payment of any Receivable or purported Receivable generated by the Originator (including, without limitation, a defense based on such Receivables or the related Contracts not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from or relating to the transaction giving rise to any Receivable or relating to collection activities with respect to any Receivable (if such collection activities were performed by the Originator or any of its Affiliates acting as Servicer or by any agent or independent contractor retained by the Originator or any of its Affiliates);

(g) any products liability or other claim, investigation, litigation or proceeding arising out of or in connection with goods, insurance or services that secure or relate to any Receivable;

(h) any litigation, proceeding or investigation against the Originator or in respect of any Receivable or Related Right;

(i) any tax or governmental fee or charge (other than any tax excluded pursuant to the proviso below), all interest and penalties thereon or with respect thereto, and all out-of-pocket costs and expenses, including the reasonable fees and expenses of counsel in defending against the same, which may arise by reason of the purchase, contribution or ownership of the Receivables or any Related Right connected with any such Receivables;

(j) any failure of the Originator to perform its duties or obligations in accordance with the provisions of this Agreement or any other Transaction Document;

(k) the commingling of any Collections at any time with other funds;

(l) the failure by the Originator to pay when due any taxes payable by it, including without limitation, franchise taxes and sales, excise or personal property taxes payable in connection with the Receivables or any Related Right connected with any such Receivables; and

(m) the failure by the Originator to be duly qualified to do business, to be in good standing or to have filed appropriate fictitious or assumed name registration documents in any jurisdiction;

EXCLUDING, HOWEVER, (i) Purchase and Sale Indemnified Amounts to the extent resulting from gross negligence or willful misconduct on the part of a Purchase and Sale Indemnified Party, (ii) any indemnification which has the effect of recourse for non-payment of the Receivables due to credit

reasons to the Originator (except as otherwise specifically provided under this SECTION 9.1) and (iii) any tax based upon or measured by net income or gross receipts.

If for any reason the indemnification provided above in this SECTION 9.1 is unavailable to a Purchase and Sale Indemnified Party or is insufficient to hold such Purchase and Sale Indemnified Party harmless, then the Originator shall contribute to the amount paid or payable by such Purchase and Sale Indemnified Party as a result of such loss, claim, damage or liability to the maximum extent permitted under applicable law. Promptly after receipt by a Purchase and Sale Indemnified Party under this ARTICLE IX of notice of any claim or the commencement of any action arising out of or as a result of any of paragraphs (a) through (m) above, the Purchase and Sale Indemnified Party shall, if a claim in respect thereof is to be made against the Originator under this ARTICLE IX, notify the Originator in writing of the claim or the commencement of that action; PROVIDED, HOWEVER, that the failure to notify the Originator shall not relieve it from any liability which it may have under this ARTICLE IX except to the extent it has been materially prejudiced by such failure and, PROVIDED, FURTHER, that the failure to notify the Originator shall not relieve it from any liability which it may have to a Purchase and Sale Indemnified Party otherwise than under this ARTICLE IX. If any such claim or action shall be brought against a Purchase and Sale Indemnified Party, the Originator shall be entitled to participate therein and, to the extent that it wishes, to assume the defense thereof with counsel satisfactory to the Purchase and Sale Indemnified Party. After notice from the Originator to the Purchase and Sale Indemnified Party of its election to assume the defense of such claim or action, the Originator shall not be liable to the Purchase and Sale Indemnified Party under this ARTICLE IX for any legal or other expenses subsequently incurred by Purchase and Sale Indemnified Party in connection with the defense thereof other than reasonable costs of investigation. The Originator shall not (i) without the prior written consent of the relevant Purchase and Sale Indemnified Party or Parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the Purchase and Sale Indemnified Party or Parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each Purchase and Sale Indemnified Party from all liability arising out of such claim, action, suit or proceeding or (ii) be liable for any settlement of any such action affected without its written consent (which consent shall not be unreasonably withheld), but if settled with its written consent or if there be a final judgment of the plaintiff in any such action, the Originator agrees to indemnify and hold harmless any indemnified party from and against any Purchase and Sale Indemnified Amounts relating thereto.



ARTICLE X

MISCELLANEOUS

10.1. AMENDMENTS, ETC.

(a) The provisions of this Agreement may from time to time be amended, modified or waived, if such amendment, modification or waiver is in writing and consented to by the Originator, the Company, the Servicer (if other than the Originator) and the Control Party (or if the Control Party is the Majority Purchasers, the Agent); PROVIDED, HOWEVER, that no such amendment, modification or waiver shall materially adversely affect the Insurer without the prior written consent of the Insurer.

(b) No failure or delay on the part of the Company, the Originator or any third party beneficiary in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power or right preclude any other or further exercise thereof or the exercise of any other power or right. No notice to or demand on the Company, Servicer, or the Originator in any case shall entitle it to any notice or demand in similar or other circumstances. No waiver or approval by the Company or Servicer under this Agreement shall, except as may otherwise be stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval under this Agreement shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder.

10.2. NOTICES, ETC. All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include facsimile and electronic mail communication) and sent or delivered, to each party hereto, at its address set forth under its name on the signature pages hereof or at such other address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by facsimile or electronic mail shall be effective when sent (and shall, unless such delivery is waived by the recipient by electronic mail or other means, be followed by hard copy sent by first class mail), and notices and communications sent by other means shall be effective when received.

10.3. NO WAIVER; CUMULATIVE REMEDIES. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

10.4. BINDING EFFECT; ASSIGNABILITY. This Agreement shall be binding upon and inure to the benefit of the Company, the Originator and its respective successors and permitted assigns. The Originator may not assign its rights hereunder or any interest herein without the prior consent of the Company, the Insurer and the Agent. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms, and shall remain in full force and effect until the date after the Purchase and Sale Termination Date on which the Originator has received payment in full for all Receivables and Related Rights purchased pursuant to SECTION 1.1 hereof. The

rights and remedies with respect to any breach of any representation and warranty made by the Originator pursuant to ARTICLE V and the indemnification and payment provisions of ARTICLE IX and SECTION 10.6 shall be continuing and shall survive any termination of this Agreement.

10.5. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF INDIANA (WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF), EXCEPT TO THE EXTENT THAT THE VALIDITY OR PERFECTION OF THE INTERESTS OF PURCHASERS IN THE RECEIVABLES OR RELATED RIGHTS, OR REMEDIES HEREUNDER IN RESPECT THEREOF, ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF INDIANA.

10.6. COSTS, EXPENSES AND TAXES. In addition to the obligations of the Originator under ARTICLE IX, the Originator agrees to pay on demand:

(a) all reasonable costs and expenses in connection with the preparation, execution, delivery and administration (including periodic auditing of the Receivables) of this Agreement, the Liquidity Agreement, the Receivables Purchase Agreement and the other documents and agreements to be delivered hereunder or in connection herewith, including all reasonable costs and expenses relating to the amending, amending and restating, modifying or supplementing of this Agreement, the Liquidity Agreement, the Receivables Purchase Agreement and the other documents and agreements to be delivered hereunder or in connection herewith and the waiving of any provisions thereof, and including in all cases, without limitation, Attorney Costs for the Company, the Agent, the Insurer, the Purchasers and their respective Affiliates and agents with respect thereto and with respect to advising the Company, the Agent, the Insurer, the Purchasers and their respective Affiliates and agents as to their rights and remedies under this Agreement and the other Transaction Documents, and all reasonable costs and expenses, if any (including Attorney Costs), of the Company, the Agent, the Insurer, the Purchasers and their respective Affiliates and agents, in connection with the enforcement of this Agreement and the other Transaction Documents; and

(b) any and all stamp and other taxes and fees payable in connection with the execution, delivery, filing and recording of this Agreement or the other documents or agreements to be delivered hereunder, and agrees to save each Purchase and Sale Indemnified Party harmless from and against any liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees.

10.7. SUBMISSION TO JURISDICTION. EACH PARTY HERETO HEREBY IRREVOCABLY (a) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY ILLINOIS, COOK COUNTY, CITY OF CHICAGO OR NEW YORK STATE COURT, NEW YORK COUNTY, CITY OF NEW YORK AND THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS AND THE SOUTHERN DISTRICT OF NEW YORK, OVER ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY TRANSACTION DOCUMENT; (b) AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR

PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH STATE OR UNITED STATES DISTRICT COURT; (c) WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING; (d) CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO SUCH PERSON AT ITS ADDRESS SPECIFIED IN SECTION 10.2; AND (e) TO THE EXTENT ALLOWED BY LAW, AGREES THAT A NONAPPEALABLE 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 SECTION 10.7 SHALL AFFECT THE COMPANY'S RIGHT TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING ANY ACTION OR PROCEEDING AGAINST THE ORIGINATOR OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS.

10.8. WAIVER OF JURY TRIAL. EACH PARTY HERETO EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT, ANY OTHER TRANSACTION DOCUMENT, OR UNDER ANY AMENDMENT, INSTRUMENT OR DOCUMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

10.9. CAPTIONS AND CROSS REFERENCES; INCORPORATION BY REFERENCE. The various captions (including, without limitation, the table of contents) in this Agreement are included for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. References in this Agreement to any underscored Section or Exhibit are to such Section or Exhibit of this Agreement, as the case may be. The Exhibits hereto are hereby incorporated by reference into and made a part of this Agreement.

10.10. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

10.11. ACKNOWLEDGMENT AND AGREEMENT. By execution below, the Originator expressly acknowledges and agrees that all of the Company's rights, title, and interests in, to, and under this Agreement shall be assigned by the Company to the Agent (for the benefit of the Secured Parties) pursuant to the Receivables Purchase Agreement, and the Originator consents to such assignment. Each of the parties hereto acknowledges and agrees that the Agent, the Insurer and the Purchasers are third party beneficiaries of the rights of the Company arising hereunder and under the other

Transaction Documents to which the Originator is a party and that the Control Party may enforce the rights of the Company under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

AUTOMOTIVE FINANCE CORPORATION

By: /s/ Curtis L. Phillips

-----  
Name: Curtis L. Phillips  
Title: CFO & Treasurer

310 East 96th Street, Suite 300  
Indianapolis, Indiana 46240

Attention: Curt Phillips  
Telephone: (317) 815-9645 ext. 2185  
Facsimile: (317) 815-8682  
E-mail: cphillips@autofinance.com  
[Notary]

AFC FUNDING CORPORATION

By: /s/ Curtis L. Phillips

-----  
Name: Curtis L. Phillips  
Title: CFO & Treasurer

310 East 96th Street, Suite 310  
Indianapolis, Indiana 46240

Attention: Curt Phillips  
Telephone: (317) 815-9645 ext. 2185  
Facsimile: (317) 815-8682  
E-mail: cphillips@autofinance.com  
[Notary]

STATE OF INDIANA )  
 ) SS  
COUNTY OF MARION )

Before me the undersigned, a Notary Public in and for the said County and State, personally appeared CURTIS L. PHILLIPS, an officer of AFC Funding Corporation, personally known to me who acknowledged the execution of the foregoing this 31ST day of MAY, 2002.

/s/ Francesca C. York                      My Commission Expires:              12/5/08  
-----  
Signature

Francesca C. York                      My County of Residence:              Hamilton  
-----  
Printed Name

FRANCESCA C. YORK  
NOTARY PUBLIC STATE OF INDIANA  
HAMILTON COUNTY  
MY COMMISSION EXP DEC 5, 2008

STATE OF INDIANA )  
 ) SS  
COUNTY OF MARION )

Before me the undersigned, a Notary Public in and for the said County and State, personally appeared CURTIS L. PHILLIPS, an officer of Automotive Finance Corporation, personally known to me who acknowledged the execution of the foregoing this 31ST day of MAY, 2002.

/s/ Francesca C. York                      My Commission Expires:              12/5/08  
-----  
Signature

Francesca C. York                      My County of Residence:              Hamilton  
-----  
Printed Name

FRANCESCA C. YORK  
NOTARY PUBLIC STATE OF INDIANA  
HAMILTON COUNTY  
MY COMMISSION EXP DEC 5, 2008

CONFIDENTIAL TREATMENT

SCHEDULE 1.1b

EXCLUDED RECEIVABLES

"EXCLUDED RECEIVABLES" means any right to payment under:

[ \* ]

S-3

(Amended and Restated PSA)

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

[ \* ]

S-4

(Amended and Restated PSA)

\* TEXT HAS BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT AND HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.



CERTIFICATION OF PERIODIC REPORT

I, David G. Gartzke, Chairman, President and Chief Executive Officer of ALLETE, Inc. (Company), certify pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (1) the Quarterly Report on Form 10-Q of the Company for the quarterly period ended June 30, 2002 (Report) fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: August 5, 2002

David G. Gartzke

-----  
David G. Gartzke  
Chairman, President and  
Chief Executive Officer

CERTIFICATION OF PERIODIC REPORT

I, James K. Vizanko, Vice President, Chief Financial Officer and Treasurer of ALLETE, Inc. (Company), certify pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

- (1) the Quarterly Report on Form 10-Q of the Company for the quarterly period ended June 30, 2002 (Report) fully complies with the requirements of Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: August 5, 2002

James K. Vizanko

-----  
James K. Vizanko  
Vice President, Chief Financial  
Officer and Treasurer