

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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**Form 8-K**

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

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Date of Report (Date of earliest event reported) May 26, 2005 (May 20, 2005)

**Cendant Corporation**

*(Exact name of Registrant as specified in its charter)*

**Delaware**  
*(State or other jurisdiction  
of incorporation)*

**1-10308**  
*(Commission File No.)*

**06-0918165**  
*(I.R.S. Employer  
Identification Number)*

**9 West 57<sup>th</sup> Street**  
**New York, NY**  
*(Address of principal  
executive office)*

**10019**  
*(Zip Code)*

Registrant's telephone number, including area code (212) 413-1800

**None**

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*(Former name or former address if changed since last report)*

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Securities Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement.**

On May 20, 2005, our Budget Rent A Car System, Inc. subsidiary entered into six separate sale/leaseback transactions with different institutional investors as lessors, pursuant to which Budget sold and leased back new gas and diesel engine trucks having an aggregate purchase price, including transaction costs, of \$77,676,100. Budget entered into similar sale/leaseback transactions with six different institutional investors on March 30, 2005 relating to vehicles having an aggregate purchase price, including transaction costs, of \$88,280,641, making the aggregate purchase price, including transaction costs, of these similar transactions completed during 2005 \$165,956,741. During 2004, Budget entered into similar sale/leaseback transactions with fourteen different institutional investors relating to vehicles having an aggregate purchase price, including transaction costs, of \$243,612,564. Pursuant to these transactions, ownership of the subject vehicles has been transferred to the lessors and leased to Budget for base lease periods of 42 months, in the case of gas engine vehicles, and 54 months, in the case of diesel engine vehicles. Budget has the option to renew the leases in respect of any vehicle for a renewal period of 12 months.

Budget may be obligated to make stipulated termination payments if certain casualty or similar events occur with respect to one or more of the vehicles or if certain events of default occur under the leases. Events of default include failure to make payments under the leases within agreed grace periods, bankruptcy events with respect to Budget or Cendant and failure on the part of Budget or Cendant to comply with covenants contained in the lease documents, including covenants to maintain insurance and regarding permitted mergers or sales of assets. Cendant has guaranteed the obligations of Budget under the lease documents.

A copy of the forms of Participation Agreement, Lease and Guaranty executed in connection with the foregoing transactions are attached as Exhibit 10.1, Exhibit 10.2 and Exhibit 10.3 respectively, and incorporated by reference herein.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information described above under "Item 1.01 Entry into a Material Definitive Agreement" is hereby incorporated herein by reference.

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**Item 9.01 Financial Statements and Exhibits.**

(c) Exhibits

10.1 Form of Participation Agreement

10.2 Form of Lease

10.3 Form of Guaranty

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**SIGNATURE**

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 hereunto duly authorized.

**CENDANT CORPORATION**

By: /s/ Eric J. Bock

Eric J. Bock

Executive Vice President, Law and Corporate Secretary

Date: May 26, 2005

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**CENDANT CORPORATION**  
**CURRENT REPORT ON FORM 8-K**  
**Report Dated May 26, 2005 (May 20, 2005)**

**EXHIBIT INDEX**

- 10.1 Form of Participation Agreement
  - 10.2 Form of Lease
  - 10.3 Form of Guaranty
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PARTICIPATION AGREEMENT  
(BRAC Trust No. 2005-[ ])

dated as of

May \_\_, 2005

among

BUDGET RENT A CAR SYSTEM, INC.,  
as Lessee,

WILMINGTON TRUST COMPANY,  
in its individual capacity only to the extent expressly stated herein and otherwise  
solely in its capacity as Owner Trustee under the Trust Agreement (BRAC Trust  
No. 2005-[ ]),

BRAC Trust No. 2005-[ ],  
as Owner Trust,

CENDANT CORPORATION,  
as Guarantor

and

[OWNER PARTICIPANT]

TABLE OF CONTENTS

	Page
SECTION 1. DEFINITIONS	1
SECTION 2. PURCHASE AND LEASE; ETC.	1
2.1 Payment of Total Cost	1
2.2 Time and Place of Fundings.	1
2.3 Funding Notices by Lessee	2
2.4 Application of Funds; Sale and Lease of the Vehicles	2
2.5 Certain Conditions to be Satisfied on the Closing Date	3
2.6 Appraisal	4
2.7 Opinions of Counsel	4
2.8 Owner Participant's Instructions to Owner Trust	4
2.9 Failure to Fund	5
SECTION 3. CONDITIONS TO FUNDINGS	5
3.1 Conditions to the Obligations of Owner Participant	5
3.2 Conditions to the Obligations of Lessee	7
3.3 Conditions to the Obligations of Owner Trust	8
SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS	8
4.1 Representations, Warranties and Covenants of Lessee and Guarantor	8
4.2 Representations, Warranties and Covenants of Owner Participant	13
4.3 Representations, Warranties and Covenants of the Bank and the Owner Trustee	14
4.4 Brokerage Representation	15
SECTION 5. COVENANTS	15
5.1 General Non-Tax Indemnification by Lessee	15
5.2 General Tax Indemnity	18
5.3 Further Covenants of Lessee and Guarantor	26
5.4 Merger, Consolidation, Sale	26
SECTION 6. SURVIVAL AND EFFECT OF WARRANTIES, AGREEMENTS AND INDEMNITIES	28
6.1 Survival of Agreements, Representations, Warranties and Indemnities	28
6.2 Effect of Other Indemnities	28
SECTION 7. EXPENSES	28
7.1 Lessor's Transaction Costs	28
7.2 Lessee's Transaction Costs	29
SECTION 8. NOTICES	29
SECTION 9. TRANSFERS	29
9.1 Transfers by Owner Participant	29
9.2 Transfers by Owner Trust	31

SECTION 10.	CERTAIN COVENANTS OF OWNER TRUST AND OWNER PARTICIPANT	32
10.1	Certain Covenants of Owner Participant	32
10.2	No Creation of Owner Trustee's Liens by the Bank	32
SECTION 11.	CONFIDENTIALITY	32
SECTION 12.	LESSEE'S RIGHT OF QUIET ENJOYMENT; OWNERSHIP FOR FEDERAL TAX PURPOSES	33
SECTION 13.	MISCELLANEOUS	34
SCHEDULE I	- Schedule of Accounts	
SCHEDULE II	- U.C.C. Filings Being Made on Closing Date	
SCHEDULE III	- Parties	
SCHEDULE IV	- Eligible Vehicles	
SCHEDULE V	- Transaction Costs	
SCHEDULE VI	- Variations	
EXHIBIT A	- Form of Section 3.1(a)(ii) Officer's Certificate	
EXHIBIT B-1	- Form of Closing Date Opinion of White & Case, Special Counsel for the Lessee and the Guarantor	
EXHIBIT B-2	- Form of Closing Date Opinion of Corporate Counsel for Lessee	
EXHIBIT B-3	- Form of Closing Date Opinion of Corporate Counsel for the Guarantor	
EXHIBIT B-4-A	- Form of Closing Date Opinion of Richards, Layton and Finger, P.A., Special Counsel for the Owner Trust	
EXHIBIT B-4-B	- Form of Closing Date Opinion of Richards, Layton and Finger, P.A., Special Counsel for the Owner Trustee	
EXHIBIT B-5	- Form of Closing Date Opinion of Thelen, Reid & Priest, Special Counsel for the Owner Participant	
EXHIBIT B-6	- Form of Closing Date Opinion of Corporate Counsel for the Owner Participant	
EXHIBIT B-7	- Form of Closing Date Opinion of Richards, Layton and Finger, P.A., Special Counsel for the Nominee	



EXHIBIT B-8	-	Form of Closing Date Opinion of Oklahoma Counsel
EXHIBIT C-1	-	Form of Power of Attorney of the Nominee re Titling and Registering Vehicles
EXHIBIT C-2	-	Form of Power of Attorney of the Lessor re Perfecting Security Interests
EXHIBIT C-3	-	Form of Power of Attorney re Sale of Vehicles
EXHIBIT C-4	-	Form of Power of Attorney re Release of Security Interests
EXHIBIT D	-	Form of Funding Request
EXHIBIT E	-	Form of Bill of Sale
APPENDIX A	-	Definitions

PARTICIPATION AGREEMENT (BRAC Trust No. 2005-[ ])

PARTICIPATION AGREEMENT (BRAC Trust No. 2005-[ ]), dated as of May \_\_, 2005, among (i) BUDGET RENT A CAR SYSTEM, INC., a Delaware corporation, as Lessee; (ii) WILMINGTON TRUST COMPANY, a Delaware banking corporation, acting in its individual capacity only to the extent expressly stated herein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, (iii) BRAC TRUST NO. 2005-[ ], a Delaware statutory trust, as Owner Trust, (iv) CENDANT CORPORATION, a Delaware corporation, as Guarantor; and (v) [OWNER PARTICIPANT], a [ ], as Owner Participant.

The Owner Trust desires to purchase, on each Funding Date, certain Eligible Vehicles and lease such Vehicles to the Lessee and the Lessee desires on each such Funding Date to lease such Eligible Vehicles from the Owner Trust. In order to finance the purchase price of such Eligible Vehicles, the Owner Participant will make investments in the trust created by the Trust Agreement.

In consideration of the mutual agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

SECTION 1. DEFINITIONS

The definitions in Appendix A hereto shall apply for all purposes of this Participation Agreement, except where otherwise specifically provided herein.

SECTION 2. PURCHASE AND LEASE; ETC.

2.1 Payment of Total Cost. (a) Subject to the terms and conditions hereinafter set forth, and in reliance on the representations and warranties contained herein or made pursuant hereto, on each Funding Date the Owner Participant shall make available to the Owner Trust an investment in the trust created by the Trust Agreement in an amount equal to the aggregate Purchase Price of the Vehicles specified in the relevant Funding Date Lease Supplement. In no event shall the Owner Participant be required to provide investments under this Participation Agreement in an aggregate amount exceeding the Owner Participant's Commitment.

(b) Remittances pursuant to this Section 2.1 shall be made in immediately available federal funds by wire transfer to the account of the Owner Trust set forth in Schedule I hereto and must be received by the Owner Trustee by 11:00 a.m., New York time, on the Funding Date.

2.2 Time and Place of Fundings. (a) The following shall be applicable to Fundings:

(i) no more than [one (1)] Fundings may occur;

(ii) each Funding shall occur on a Business Day on or after the Closing Date and on or before [September 30], 2005; and

(iii) each Funding shall provide for financing of the Eligible Vehicles having an aggregate Purchase Price that equals or exceeds \$ \_\_\_\_\_, unless the Owner Participant shall waive such minimum amount.

(b) The closing for each Funding shall take place on the Funding Date therefor commencing at 9:00 a.m., New York City time, at the offices of White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036.

2.3 Funding Notices by Lessee. With respect to each Funding (unless waived by the parties hereto), the Lessee shall, not later than 1:00 p.m. New York time, on the third Business Day prior to the date on which the Funding is proposed to occur, provide an irrevocable notice to the Owner Trust and the Owner Participant, substantially in the form of Exhibit D, specifying (a) the Funding Date, (b) with respect to the Eligible Vehicles to be purchased on such Funding Date, the Specific Identification, Purchase Price and Scheduled Expiration Date of such Eligible Vehicles, (c) the aggregate Purchase Price of all such Eligible Vehicles and (d) in the event such Funding Date is to be the Final Funding Date, that such Funding Date is to be the Final Funding Date. As promptly as practicable after the Owner Participant's receipt of such notice, the Owner Participant shall provide proposals for the Per Diem Rent Factor (if applicable), the Quarterly Rent Factor and the percentages to be used in the calculation of Termination Value pursuant to Section 3.3(a) of the Lease. Such proposed rent factors and values shall be subject to verification by the Lessee that such proposals have been prepared in accordance with the pricing assumptions specified on Schedule III to the Lease. Upon verification, such proposed values shall be incorporated into the Lease Supplement to be delivered on the proposed Funding Date. In the event that the Owner Participant and the Lessee shall not agree on the Per Diem Rent Factor (if applicable), Quarterly Rent Factor and the percentages to be used in the calculation of Termination Value, such proposed Funding shall be postponed until such time as the Owner Participant and the Lessee shall so agree, provided that the Funding Date shall not be postponed past April 30, 2005.

2.4 Application of Funds; Sale and Lease of the Vehicles. On each Funding Date, upon (a) receipt by the Owner Trust of the investment required to be made by the Owner Participant pursuant to Section 2.1 and (b) satisfaction or waiver of the conditions set forth in Section 3.1, (i) the Owner Trust shall purchase and assume ownership of the Vehicles to be acquired by the Owner Trust on such Funding Date, as specified in the notice delivered pursuant to Section 2.3, the Bill or Bills of Sale delivered to the Owner Trust on such Funding Date and the Funding Date Lease Supplement executed on such Funding Date, (ii) in consideration therefor, the Owner Trust shall pay, from the funds made available by the Owner Participant pursuant to Section 2.1, an amount equal to the aggregate Purchase Price of the Vehicles then being sold and purchased pursuant hereto, in immediately available federal funds remitted by wire transfer to the account of the Lessee set forth in Schedule I hereto (or as otherwise specified by the Lessee to the Owner Trust in writing at least three Business Days before such Funding Date) and (iii) the Owner Trust shall lease and deliver to the Lessee and the Lessee shall accept delivery of and lease from the Owner Trust such Vehicles pursuant to the Lease. Delivery of the Vehicles to the Owner Trust on each Funding Date shall be effected by the delivery to the Owner Trust of one or more Bills of Sale specifically identifying the Vehicles delivered on such Funding Date. Delivery of the Vehicles to the Lessee on each Funding Date shall be effected by the delivery of the applicable Lease Supplement.

2.5 Certain Conditions to be Satisfied on the Closing Date. On the Closing Date the following conditions shall have been satisfied:

(a) A fully executed counterpart of each of the following documents shall have been delivered to each party hereto (except that the original counterpart of the Lease bearing the Owner Trust's signed receipt shall have been delivered only to the Owner Trust):

- (i) this Participation Agreement;
- (ii) the Lease;
- (iii) the Guaranty;
- (iv) the Trust Agreement;
- (v) the Nominee Agreement;
- (vi) the Nominee Trust Agreement;
- (vii) the Nominee Trust Supplement;
- (viii) the Tax Indemnity Agreement; and
- (ix) the Powers of Attorney.

(b) A certificate of each of the Lessee, the Guarantor, the Nominee, the Owner Participant and the Owner Trust, signed by an appropriate officer thereof, with respect to (A) the authority and incumbency and specimen signatures of the officers executing and delivering the Operative Documents to which such Person is or will become a party and (B) the pertinent charter and By-Laws shall have been delivered to each of the parties hereto.

(c) A copy of resolutions of the Board of Directors or appropriate Committee of the Board of Directors of each of the Lessee, the Guarantor, the Owner Participant and the Owner Trustee, certified by the Secretary or an Assistant Secretary of such Person, duly authorizing the execution, delivery and performance by such Person of the Operative Documents to which such Person is or will become a party shall have been delivered to each of the parties hereto to the extent that such resolutions are required for such execution, delivery and performance.

(d) Evidence with respect to each of the Lessee and the Guarantor that it is a corporation in good standing and qualified to do business in the state of Delaware shall have been delivered to each of the parties hereto.

(e) Certificates of insurance naming the Owner Trust, the Owner Participant and the Nominee as a named additional insured or lender loss payee, as applicable, and otherwise complying with Section 8 of the Lease shall have been delivered to the Owner Trust, the Owner Participant and the Nominee.

(f) UCC financing statements as set forth on Schedule II hereto shall have been made available for delivery to the appropriate filing offices for filing, with copies thereof provided to each of the parties hereto.

(g) The statements set forth in paragraphs (e), (f) and (g) of Section 3.1 shall be true and correct on and as of the Closing Date and the Owner Trust and the Owner Participant shall have received an Officer's Certificate of the Lessee and the Guarantor with respect thereto.

(h) The Lessor and the Owner Participant shall have received a duly executed TRAC Certificate in the form of Exhibit A to the Lease.

2.6 Appraisal. On the Closing Date, the Owner Participant shall have received from the Appraiser an opinion reasonably satisfactory to the Owner Participant with respect to the fair market value and estimated useful life of the Eligible Vehicles as of the Closing Date, the estimated fair market value of the Eligible Vehicles as of the expiration dates of the Base Term and the Renewal Term and such other matters as the Owner Participant may require.

2.7 Opinions of Counsel. On the Closing Date (a) White & Case LLP, special counsel for the Lessee and the Guarantor, shall have delivered its legal opinion, addressed to the Owner Participant and the Owner Trust, substantially in the form of Exhibit B-1; (b) Karen C. Sclafani, corporate counsel for the Lessee, shall have delivered her legal opinion, addressed to the Owner Participant and the Owner Trust, substantially in the form of Exhibit B-2; (c) Eric J. Bock, corporate counsel for the Guarantor, shall have delivered his legal opinion, addressed to the Owner Participant and the Owner Trust, substantially in the form of Exhibit B-3; (d) Richards, Layton & Finger, P.A., special counsel for the Owner Trust, shall have delivered its legal opinion, addressed to the Owner Participant, the Lessee and the Guarantor, substantially in the form of Exhibit B-4-A; (e) Richards, Layton & Finger, P.A., special counsel for the Owner Trustee, shall have delivered its legal opinion, addressed to the Owner Participant, the Lessee and the Guarantor, substantially in the form of Exhibit B-4-B; (f) Thelen Reid & Priest LLP, special counsel for the Owner Participant, shall have delivered its legal opinion addressed to the Owner Trust, the Lessee and the Guarantor, substantially in the form of Exhibit B-5; (g) in-house counsel for the Owner Participant shall have delivered his or her legal opinion, addressed to the Lessee and the Guarantor, substantially in the form of Exhibit B-6; (h) Richards, Layton & Finger, P.A., special counsel for the Nominee, shall have delivered its legal opinion, addressed to the Owner Trust, the Owner Participant, the Lessee and the Guarantor, substantially in the form of Exhibit B-7; (i) special Oklahoma counsel for the Lessee shall have delivered its legal opinion, addressed to the Owner Participant and the Owner Trust, in form and substance reasonably satisfactory to the Owner Participant; and (j) the Owner Participant shall have received from Thelen Reid & Priest LLP, special counsel for Owner Participant, a favorable opinion, in form and substance reasonably satisfactory to the Owner Participant and dated the Closing Date, with respect to certain federal income tax consequences arising out of its participation in the transactions contemplated hereby.

2.8 Owner Participant's Instructions to Owner Trust. Subject to the terms and conditions set forth herein, the Owner Participant hereby authorizes and directs the Owner Trust to, and the Owner Trust hereby declares and agrees that it will, (a) purchase the Vehicles being sold and purchased pursuant hereto, if and as required hereby; (b) execute and deliver the

Operative Documents to which it is intended to be a party and any other documents, instruments or certificates it is required to execute and deliver on each Funding Date or otherwise pursuant hereto; and (c) take all actions required to be taken by the Owner Trust pursuant to the Operative Documents.

2.9 Failure to Fund. If the Lessee does not agree on the Per Diem Rent Factor (if applicable), the Quarterly Rent Factor and the percentages to be used for calculating Termination Value pursuant to Section 3.3(a) of the Lease and Section 2.3 hereof (the "Rent Factors") on or before the proposed Funding Date, then the Funding Date will be postponed for a period of time, which will not extend beyond [September 30], 2005, during which the parties shall continue to discuss the Rent Factors in good faith, and/or proceed with the confirmation of calculations as provided in Section 3.3(a) of the Lease. In the event that Lessee does not agree to the Rent Factors by [September 30], 2005, this Agreement shall terminate, provided that the Lessee and Owner Participant shall each remain liable for their respective obligations under Section 7 hereof.

### SECTION 3. CONDITIONS TO FUNDINGS

3.1 Conditions to the Obligations of Owner Participant. The obligations of the Owner Participant to be performed on each Funding Date shall be subject to the fulfillment or waiver by the Owner Participant of the conditions set forth in Sections 2.5, 2.6 and 2.7 on the Closing Date and, to the reasonable satisfaction of the Owner Participant, the conditions precedent set forth in this Section 3.1 on or before such Funding Date; *provided, however*, that the obligations of the Owner Participant shall not be subject to the Owner Participant's own performance or compliance with any agreement or condition.

(a) Execution and Delivery of Funding Documents. The following documents shall have been duly authorized, executed and delivered by the parties thereto, shall be in form and substance reasonably satisfactory to the Owner Participant and shall be in full force and effect on such Funding Date and a fully executed counterpart of each thereof shall have been delivered to each party (except that (y) the original counterpart of the Funding Date Lease Supplement bearing the Owner Trust's signed receipt shall be delivered only to the Owner Trust, and (z) photocopies of the Bill or Bills of Sale shall be delivered to all parties hereto other than the Owner Trust, which shall receive such number of original counterparts thereof as it shall reasonably request):

(i) a Funding Date Lease Supplement, dated such Funding Date and covering the Vehicles then being purchased pursuant to this Participation Agreement;

(ii) an Officer's Certificate of the Lessee, dated such Funding Date, certifying as to, among other things, the actions taken with respect to titling and registration of Funding Date Vehicles, substantially in the form attached as Exhibit A hereto; and

(iii) a Bill or Bills of Sale, dated such Funding Date, and covering the Funding Date Vehicles.

(b) Compliance with Representations, Warranties, Etc. The Operative Documents executed and delivered on the Closing Date shall continue to be in full force and

effect; the respective representations and warranties made by the Budget Parties in the Operative Documents (other than the Tax Indemnity Agreement) shall be true and correct in all material respects on such Funding Date as if made on and as of such date; no Event of Loss, Default or Event of Default shall have occurred and be continuing or will result from the Funding on such Funding Date; all transfer, sales, value added and similar Taxes due and payable in connection with the acquisition and sale/leaseback of the Vehicles shall have been paid; and each of the agreements, covenants and conditions relating to such Funding contained in this Participation Agreement and the other Operative Documents which are required to be performed or complied with by the Lessee, the Guarantor or the Nominee on or before such Funding Date shall have been performed or complied with.

(c) Other Documents to be Delivered. The following certificates and other documents shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in form and substance reasonably acceptable to the Owner Participant, and an executed counterpart of each thereof shall have been delivered to the Owner Participant:

(i) A certificate from each of the Lessee, the Guarantor, the Nominee and the Owner Trust, signed by an appropriate officer thereof, confirming the accuracy and completeness as of such Funding Date of the matters dealt with in their respective certificates referred to in paragraphs (b), (c), (d) and (g) of Section 2.5;

(ii) An Officer's Certificate, dated the Funding Date, from each of the Lessee and the Guarantor, stating that (x) such party's representations and warranties contained in the Operative Documents (other than the Tax Indemnity Agreement) to which it is a party are true and correct in all material respects on such Funding Date, as though made on and as of such Funding Date; (y) no Default or Event of Default has occurred and is continuing or would result from the Funding to be made on such Funding Date; and (z) all covenants and conditions required to be performed or fulfilled by such party on or before the Funding Date have been performed or fulfilled; and

(iii) Either (A) a copy of the certificate of title relating to each Funding Date Vehicle and a copy (front and back) of a sample certificate of origin for a vehicle relating to each Funding Date Vehicle together with the vehicle identification number for each Funding Date Vehicle or (B) a copy (front and back) of the certificates of origin for vehicles relating to each Funding Date Vehicle.

(d) Funding Notice. The Owner Trust shall have received a notice from the Lessee of such Funding in accordance with the provisions of Section 2.3.

(e) No Proceedings. No action or proceeding shall have been instituted, nor shall governmental action be overtly threatened, before any court or other Governmental Body, nor shall any order, judgment or decree have been issued or, to the Lessee's or Guarantor's actual knowledge, proposed to be issued by any court or other Governmental Body at the time of such Funding Date, to set aside, restrain, enjoin or prevent the execution, completion and consummation of this Participation Agreement, the other Operative Documents or the transactions contemplated hereby or thereby.

(f) Consents. On such Funding Date, all approvals and consents, if any, of any trustees or holders of any indebtedness or obligations of the Lessee and the Guarantor which are required in connection with the transactions contemplated by this Participation Agreement and the other Operative Documents shall have been duly obtained and shall be in full force and effect.

(g) Governmental Actions. All actions, if any, required to have been taken on or prior to such Funding Date by any Governmental Body in connection with the transactions contemplated by this Participation Agreement shall have been taken and all orders, permits, waivers, exemptions, authorizations and approvals, if any, of such entities required to be in effect on such Funding Date in connection with the transactions contemplated by this Participation Agreement and the other Operative Documents shall have been issued, and all such orders, permits, waivers, exemptions, authorizations and approvals shall be in full force and effect.

(h) Tax Law Change. There shall not have occurred a Tax Law Change since the Closing Date, if (x) the effect of such Tax Law Change could reasonably be expected to adversely affect the Owner Participant's Net Economic Return and (y) the Lessee shall not have agreed to an adjustment to Basic Rent (calculated in the manner contemplated by Section 3.3(a) of the Lease) that would preserve such Net Economic Return (computed on the assumption that such Tax Law Change does adversely affect Net Economic Return).

3.2 Conditions to the Obligations of Lessee. The obligations of the Lessee to be performed at each Funding shall be subject to the fulfillment or waiver of the conditions precedent set forth in this Section 3.2 on or before such Funding Date; *provided, however*, that the obligations of the Lessee shall not be subject to the Lessee's or the Guarantor's own performance or compliance with any agreement or condition.

(a) Execution and Delivery of Funding Documents; Payment of Purchase Price. The Owner Participant and the Owner Trust shall have complied with their respective obligations set forth in Sections 2.1 and 2.4.

(b) Compliance with Representations, Warranties, etc. The Operative Documents executed and delivered at the Closing Date shall continue to be in full force and effect; the respective representations and warranties made by the Owner Participant and the Owner Trust pursuant to Section 4 shall be true and correct in all material respects on such Funding Date as if made on and as of such date; and each of the agreements, covenants and conditions relating to such Funding contained in this Participation Agreement and the other Operative Documents which are required to be performed or complied with by the Owner Participant or the Owner Trust on or before such Funding Date shall have been performed or complied with. The investment by the Owner Participant on a Funding Date shall be deemed to be a representation and warranty by the Owner Participant that the representations and warranties set forth in Section 4.2 are true and correct in all material respects on and as of such Funding Date and the execution and delivery by the Owner Trust of the Funding Date Lease Supplement dated such Funding Date shall be a representation and warranty by the Bank and the Owner Trustee, that the representations and warranties set forth in Section 4.3 are true and correct on and as of such Funding Date.



(c) Other Conditions. Each of the conditions specified in Section 3.1(e), (f) and (g) shall have been satisfied to the satisfaction of the Lessee.

3.3 Conditions to the Obligations of Owner Trust. The obligations of the Owner Trust to be performed at each Funding shall be subject to the provision of notice by the Lessee in accordance with the requirements set forth in Section 2.3 and the fulfillment or waiver of the conditions precedent set forth in Section 3.1 (as if each reference to the Owner Participant in Section 3.1 referred instead to the Owner Trust and each reference to the Owner Trust referred instead to the Owner Participant); *provided, however*, that the obligations of the Owner Trust shall not be subject to its own performance or compliance with any agreement or conditions; and *provided further, however*, that a waiver by the Owner Participant of the conditions set forth in Sections 2.5, 2.6 and 2.7 shall be effective to bind the Owner Trust.

#### SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 Representations, Warranties and Covenants of Lessee and Guarantor. Each of the Lessee and the Guarantor represents, warrants and covenants, to and for the benefit of the Owner Trust and the Owner Participant, as follows (it being understood that references in this Section 4.1 to "Operative Documents," "Vehicles" and "Lessor's Estate" mean those Operative Documents delivered on or prior to, those Vehicles purchased or to be purchased by the Owner Trust on or prior to, and the Lessor's Estate as it is constituted on, the date hereof or , with respect to each Funding Date, such Funding Date, as applicable:

(a) Incorporation and Good Standing. It is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. It has all corporate power and corporate authority to own its properties and assets and to carry on its business as now conducted and as presently proposed to be conducted. The Lessee is duly qualified to do business as a foreign corporation and is in good standing in each state and in each other (and the Guarantor is qualified in each) United States jurisdiction where failure to be so qualified would reasonably be expected to have a material adverse effect on its business or properties or on its ability to enter into and perform its obligations under the Operative Documents.

(b) Authorization. It has all requisite corporate power and corporate authority to execute, deliver and perform the Operative Documents to which it is a party and to carry out the provisions thereof. The execution, delivery and performance by it of the Operative Documents to which it is a party have been duly authorized by all necessary corporate action on its part, and each Operative Document to which it is a party has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with its terms, except as the same may be limited by (i) applicable bankruptcy, insolvency, reorganization or similar laws affecting the enforcement of creditors' rights and (ii) general principles of equity.

(c) Taxes. It has filed all tax returns which are required to be filed by it (except where the requirement to file such return is subject to a valid extension or such failure would not reasonably be expected to have a material adverse effect on its business and properties) and has paid or made adequate provision for the payment of all taxes shown due on such returns (or required to be paid as a condition to such extension), as well as all other taxes, assess-

ments and governmental charges which have become due (other than tax assessments and charges payable without penalty or which are being contested in good faith and by appropriate proceedings and for which adequate reserves are maintained in accordance with GAAP).

(d) No Litigation or Default. There are no actions, suits, investigations or proceedings pending or, to its actual knowledge, overtly threatened against it before any Governmental Body which question the validity or enforceability of the Operative Documents to which it is a party or any action taken or to be taken pursuant thereto, or which, if adversely determined, individually or in the aggregate, would materially impair its ability to perform its obligations under the Operative Documents to which it is a party, or which, if adversely determined, individually or in the aggregate, would reasonably be expected to have a material adverse effect on its financial condition or operations. It is not in default with respect to any order of any Governmental Body, the default under which would materially impair its ability to perform its obligations under the Operative Documents to which it is a party or would reasonably be expected to have a material adverse effect on its financial condition or operations.

(e) No Conflict. Neither it nor any of its properties or assets are subject to any contract or agreement, any provision of its Certificate of Incorporation or its By-Laws, or other corporate restriction, any law or any order, rule, ruling, certificate, license, regulation, judgment, injunction or demand of any country, state, territory or political subdivision thereof or of any court, agency, board, commission, governmental instrumentality or other tribunal or Governmental Body which would reasonably be expected to have a material adverse effect on its ability to carry on its business or perform its obligations under the Operative Documents to which it is a party. The valid and binding execution and delivery of, and compliance with, the Operative Documents to which it is a party (i) will not contravene its Certificate of Incorporation or By-Laws; (ii) will not contravene any provision of any presently effective law, rule, regulation, decree, ruling, judgment, order or injunction applicable to or binding upon it, the contravention of any of which would have a material adverse effect on its business or properties or would materially impair the valid and binding nature of, or its ability to perform, any of its obligations under the Operative Documents to which it is a party, and (iii) will not contravene or result in the creation or imposition of any Lien (other than any such Lien created by such Operative Documents) on any property of it pursuant to the provisions of, result in the acceleration of any obligation of it under, or result in a condition or event which constitutes a default under any indenture, agreement or instrument material to its business.

(f) Title; Insurance. On each Funding Date:

(i) The Bill or Bills of Sale, when executed and delivered to the Owner Trust, will convey to the Owner Trust all of the Lessee's interest in each Vehicle purchased by the Owner Trust on such Funding Date;

(ii) the Nominee will have, as agent for and on behalf of the Owner Trust, good title to each Vehicle purchased on such Funding Date, free and clear of all Liens (other than Permitted Liens), *provided* that the certificate of title with respect to such Vehicle may not have been issued;

(iii) all actions and all filings with applicable Governmental Bodies necessary to establish and perfect the Owner Trust's rights and interest in and to such Vehicles (including, without limitation, title in the name of the Nominee and the Owner Trust's security interest reflected thereon) will have been duly made (except that this clause (iii) shall not require that a certificate of title shall have been issued with respect to each Vehicle purchased on the Funding Date, *provided* that all the aforementioned actions, other than the issuance of such certificate of title by the applicable governmental entities specified in the Officer's Certificate delivered pursuant to Section 3.1(a)(ii), shall otherwise have been accomplished); and

(iv) such Vehicles will be covered by effective insurance policies as required by Section 8 of the Lease and all premiums due on or prior to such Funding Date with respect to such insurance policies will have been paid in full.

The use and operation of the Vehicles by the Lessee will not, and the Lessee agrees not to take any action which would, adversely affect the Nominee's title to the Vehicles or the Owner Trust's rights or interests therein or present any non-*de minimis* risk of forfeiture thereof or create any rights in or claims against the Vehicles (it being understood that the Nominee's title or the Owner Trust's rights or interests to the Vehicles may be subject to Permitted Liens).

(g) Financial Statements. In the case of the Guarantor, its audited consolidated financial statements as of December 31, 2004 for the fiscal period then ended, a copy of which has been furnished to the Owner Participant, have been prepared in conformity with generally accepted accounting principles applied on a basis consistent (except as expressly noted therein) with that of the preceding fiscal periods and fairly present the consolidated financial condition of it as of each date thereof, and the consolidated results of its operations for each period then ended. Since the date of the Guarantor's Report on Form 10-K, dated March 1, 2005, a copy of which has been furnished to the Owner Participant, there has been no material adverse change in the financial condition of the Guarantor.

(h) Description of Vehicles. Each of the Vehicles and the improvements thereon is newly manufactured within ninety-four (94) days of the relevant Funding Date thereof. On each Funding Date, the information set forth in the Schedules to each Funding Date Lease Supplement will be true and correct in all material respects for each Vehicle covered thereby, including for each Vehicle (i) its Specific Identification and (ii) the Purchase Price thereof.

(i) Payment of Purchase Price. The proceeds from the investments of the Owner Participant will be used solely for (i) the payment (or reimbursement to the Lessee) of (i) the Purchase Price for the Vehicles, which in all cases shall be Eligible Vehicles, acquired by the Owner Trust on the Funding Date or (ii) payment of the Lessor's Transaction Costs in accordance with Section 7.1 herein.

(j) Location of Lessee. The "location" (as such term is defined in the U.C.C. of the State of Delaware) of the Lessee is the State of Delaware. It will give prior notice of at least ten (10) days to the parties hereto of any change in the foregoing or any change in its legal name.

(k) ERISA. Assuming the truth and accuracy of the representations set forth in Section 4.2(d), the execution and delivery of the Operative Documents and consummation of the transactions contemplated thereby do not involve any “prohibited transaction” within the meaning of Section 406(a)(1) of ERISA or Section 4975(c)(1)(A)-(D) of the Code.

(l) Investment Company Act. It is not an “investment company” or an “affiliated person” of an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

(m) Margin Regulation. None of the proceeds from the investment of the Owner Participant have been or will be used directly or indirectly (i) for the purpose of purchasing or carrying any margin security, as such term is used in Regulation U of the Board of Governors of the Federal Reserve System, (ii) for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any such margin security, (iii) for any other purpose which might cause this Participation Agreement or the obligations of the Owner Participant under the Operative Documents to be considered a “purpose credit” within the meaning of Regulation T, U or X of such Board of Governors or (iv) for any other purpose in violation of Regulation T, U or X of such Board of Governors.

(n) Corporate Existence, etc. Subject to Section 5.4, it will at all times preserve and keep in full force and effect its corporate existence and all rights and franchises material to its business.

(o) Sale of Interests. Neither it nor anyone acting on its behalf has taken or will take any action which will subject the issue and sale of any interest in the Lessor’s Estate to the requirements of Section 5 of the Securities Act. Assuming the truth and accuracy of the representations set forth in Sections 4.2(a) and 4.3(e), the issuance, sale and delivery of the interests in the Lessor’s Estate under the circumstances contemplated by this Participation Agreement do not require the registration of the interests in the Lessor’s Estate under the Securities Act or the qualification of the Trust Agreement under the Trust Indenture Act of 1939, as amended.

(p) Consents. Neither the nature of the Lessee nor the Guarantor, its businesses or properties, nor any relationship between it and any other Person, is such as to require a consent, approval or authorization of, or filing, registration, qualification, giving of notice or the taking of any other action with respect to any Governmental Body on its part in connection with the execution, delivery and performance by it of the Operative Documents to which it is a party, *except* such consents, approvals, authorizations, filings, registrations, qualifications, notices or actions as have been obtained, filed, registered, qualified, given or taken, as the case may be, or as to which the failure to obtain, file, register, qualify, give or take would not (i) materially impair its ability to perform its obligations under the Operative Documents to which it is a party, (ii) otherwise materially impair its ability to carry on its business as presently conducted, and it has no reason to believe that it will be prevented by any Governmental Body, in any material respect, from so carrying on its business as presently conducted, or (iii) result in, or increase the risk of, the imposition of any criminal liability on any Indemnified Person.

(q) Subjection to Government Regulation. Neither the Owner Trust nor the Owner Participant will, solely by reason of entering into the Operative Documents or the consummation and performance of the transactions contemplated by the Operative Documents (other than upon the exercise of remedies under the Lease or upon expiration of the Lease if the Owner Participant takes legal title to the Vehicles), (x) be required to qualify to do business in any state, (y) become subject to ongoing regulation by any Governmental Body as a manufacturer or dealer of motor vehicles in any state or (z) to the actual knowledge of the Lessee and the Guarantor, become subject to any other ongoing regulation of its operations by any Governmental Body.

(r) Default. No Default or Event of Default has occurred and is continuing.

(s) Disclosure. Neither the Information Memorandum, the financial statements referred to in Section 4.1(g) nor any other certificate, document, instrument or other statement in writing furnished by it or (to its knowledge) on its behalf to the Owner Participant in connection with the transaction contemplated hereby and by the other Operative Documents contains any untrue statement of a material fact or, when taken together with the other documents so furnished, omits a material fact necessary to make the statements contained therein or herein not misleading, under the circumstances under which any such statements have been made.

(t) Holding Company. It is not subject to regulation as a “holding company,” an “affiliate” of a “holding company,” or a “subsidiary company” of a “holding company,” within the meaning of the Public Utility Holding Company Act of 1935, as amended.

(u) No Contravention of Law. Neither the Owner Trust nor the Owner Participant, solely by reason of its consummation of the transactions contemplated by the Operative Documents (including the titling and registration of the Vehicles as contemplated by the Nominee Agreement and the perfection of the Owner Trust’s security interest in the Vehicles but excluding any discretionary acts by the Owner Trust), will contravene, violate or breach any applicable law, rule or regulation relating to motor vehicles, nor will such consummation of such transactions, in and of itself, result in the creation or imposition of any Lien (other than Permitted Liens) upon any of its property or assets under any applicable law, rule or regulation relating to motor vehicles, or require any consent, approval or authorization from, registration or filing with, notification to or other action by or in respect of, any Governmental Body or other Person (except as contemplated by the Nominee Agreement) pursuant to any applicable law, rule or regulation relating to motor vehicles.

(v) Stock Ownership. The Guarantor is the beneficial owner of all of the issued and outstanding capital stock of the Lessee, all of which capital stock has been validly issued, is fully paid and nonassessable.

(w) Title and Registration. The Lessee shall take all reasonable efforts to cause each Vehicle to be titled and registered in the State of Oklahoma, *provided* that the Lessee shall be permitted to change the state of registration of a Vehicle in accordance with, and subject to, the conditions of Section 7.2 of the Lease.

(x) Compliance. It is not in violation of any term of any charter instrument, by-law or, in any material respect, any other material agreement or instrument to which it is a party or by which it may be bound. It is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would materially impair its ability to perform its obligations under the Operative Documents to which it is a party, and has obtained all licenses, permits, franchises and other governmental authorizations material to the conduct of its business.

(y) Payment of Manufacturers. Any funds received by the Lessee from the Owner Trust pursuant to Section 2.4(ii) hereof that are not retained by the Lessee as reimbursement for any prior payment to a Manufacturer by the Lessee shall be remitted to the relevant Manufacturer as payment for Vehicles purchased therefrom within thirty (30) days after receipt of such funds.

4.2 Representations, Warranties and Covenants of Owner Participant. The Owner Participant hereby represents, warrants and covenants, to and for the benefit of the Owner Trust, the Lessee and the Guarantor as follows (it being understood that references in this Section 4.2 to “Operative Documents” and “Lessor’s Estate” mean those Operative Documents delivered on or prior to, and the Lessor’s Estate as it is constituted on, the date hereof or any subsequent Funding Date as of when the following representations and warranties are made again or are required, as a condition to Funding, to be true and correct):

(a) Securities Act. The interest being acquired or to be acquired by the Owner Participant in the Lessor’s Estate is being acquired for its own account, without any view to the distribution thereof or any interest therein, provided that the Owner Participant shall be entitled to assign, convey or transfer its interest in accordance with Section 9.1. The Owner Participant is an accredited investor as that term is defined in Rule 501(a) under the Securities Act.

(b) Due Incorporation; Execution of Documents. The Owner Participant is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. The Owner Participant has all requisite power and authority to enter into and perform its obligations under the Operative Documents to which it is a party. The execution, delivery and performance by the Owner Participant of the Operative Documents to which it is a party have been duly authorized by all necessary action on the part of the Owner Participant and each Operative Document to which the Owner Participant is a party has been duly executed and delivered by the Owner Participant and constitutes the legal, valid and binding obligation of the Owner Participant, enforceable against it in accordance with its terms except as enforceability may be limited by (i) applicable bankruptcy, receivership, conservatorship, insolvency, reorganization or similar laws affecting the enforcement of creditors’ rights and (ii) general principles of equity.

(c) No Liens. There are no Owner Participant’s Liens on the Vehicles which are subject to the Lease.

(d) Employee Benefit Plans. The Owner Participant is and will be making its investment hereunder, and is performing its obligations under the Operative Documents, with its

general assets and not directly or indirectly with the assets of an “employee benefit plan” (as defined in Section 3(3) of ERISA) or a “plan” (as defined in Section 4975(e) (1) of the Code).

(e) Trust Agreement. While the Lease is in effect, the Owner Participant hereby agrees not to amend or modify the Trust Agreement without the prior written consent of the Lessee, such consent not to be unreasonably withheld, *provided* that if an Event of Default shall have occurred and be continuing, the Owner Participant may agree to amend or modify the Trust Agreement without the consent of the Lessee, but, in such case, the Lessee shall not be liable for any indemnity obligation that, absent this *proviso*, would arise under Section 5.2 as a result of such amendment or modification.

(f) Minimum Liability of Lessor. The Owner Participant represents, warrants and covenants that neither the Owner Trust nor it has specifically utilized, directly or indirectly, as a source of funds for the purchase of the Vehicles any amounts borrowed from (i) any person who participated in the organization, sale, or management of the transactions contemplated by the Operative Documents or who has an interest (other than an interest as a creditor) in the transactions contemplated by the Operative Documents (a “Participating Person”) or from any person who is related to a Participating Person, (ii) any lender located outside of the United States (if the use of such lender’s financing in the purchase of the Vehicles was communicated by the borrower to any Participating (or related) Person) or (iii) any lender where such loan is arranged by a Participating (or related) Person, unless, in each case, the amount is unconditionally required to be repaid by the Owner Participant or the Owner Trust, as the case may be, before the close of the year in which such amount was borrowed.

4.3 Representations, Warranties and Covenants of the Bank and the Owner Trustee. The Bank or, to the extent indicated below, the Owner Trustee represents, warrants and covenants, to and for the benefit of the Lessee, the Guarantor and the Owner Participant, as follows (it being understood that references in this Section 4.3 to “Operative Documents” and “Lessor’s Estate” mean those Operative Documents delivered on or prior to, and the Lessor’s Estate as it is constituted on, the date hereof or any subsequent Funding Date as of when the following representations and warranties are made again or are required as a condition to Funding to be true and correct):

(a) Due Incorporation. It is a banking corporation validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to enter into and perform its obligations under the Operative Documents to which it is a party.

(b) Authorization and Execution of Documents. The execution, delivery and performance by it or the Owner Trustee of the Operative Documents to which it is a party have been duly authorized by all necessary corporate action on its part. The Operative Documents to which it is, in its individual capacity or as the Owner Trustee, a party have been duly executed and delivered by it and constitute the legal, valid and binding obligations of it, enforceable against it in accordance with their terms except as enforceability may be limited by (i) applicable bankruptcy, receivership, conservatorship, insolvency, reorganization or similar laws affecting the enforcement of creditors’ rights and (ii) general principles of equity.

(c) No Liens. In the case of each of the Bank, and the Owner Trustee, there are no Owner Trustee's Liens on the Vehicles which are subject to the Lease attributable to it.

(d) No Litigation. There are no actions or proceedings pending or, to its knowledge after reasonable inquiry, threatened against it, or the Owner Trustee, before any Governmental Body (i) which question the validity or enforceability of the Operative Documents to which it or the Owner Trustee, is a party; or (ii) which relate to its banking or trust powers and which, if determined adversely to it, would materially impair its ability to perform its obligations under the Operative Documents to which it is a party.

(e) Sale of Interests. Neither it, in its individual capacity, nor anyone acting on its behalf has directly or indirectly offered any interest in the Lessor's Estate for sale to, or solicited any offer to acquire any of the same from, any Person other than the Owner Participant.

(f) No Conflict or Required Approval. The execution, delivery and performance by it, or the Owner Trustee, of the Operative Documents to which it, or the Owner Trustee, is a party (i) do not conflict with or violate any law of any Governmental Body under the laws of the State of Delaware or the federal laws of the United States relating to its banking or trust powers, (ii) do not require any approval of, consent, permit, license, the giving of notice to, the registration with or the taking of any other action by or in respect of any Governmental Body, under any law of the State of Delaware or any federal law of the United States relating to its banking or trust powers, except for such consents as it has obtained, and (iii) do not conflict with, or result in any breach of any of the provisions of, or constitute a default under its By-Laws or charter or any mortgage, indenture or other agreement or instrument to which it is a party or by which it or its property is bound.

4.4 Brokerage Representation. Each party severally represents and warrants that no broker's or finder's fees or commissions or management or advisory fees are, will or may become payable in connection with the transactions contemplated by the Operative Documents, except (i) as specifically agreed in writing by the Lessee or the Guarantor (and for the payment of which the Lessee or the Guarantor is solely responsible); (ii) as may be specifically provided in Schedule V hereto and (iii) or as specifically provided in the Operative Documents.

## SECTION 5. COVENANTS

5.1 General Non-Tax Indemnification by Lessee. (a) The Lessee shall pay, and shall indemnify, protect and save harmless each Indemnified Person from and against all liabilities, governmental charges, losses, obligations, claims, damages, penalties, causes of action, suits, costs, expenses (including, without limitation, reasonable attorneys' fees and expenses) and judgments of any nature, incurred by, imposed upon or asserted against any Indemnified Person in any way resulting from, related to or arising out of (i) the Operative Documents or any transaction contemplated thereby, including, without limitation, as a result of: (1) any Indemnified Person failing to qualify to do business in any state or becoming subject to the ongoing regulation by a Governmental Body if such qualification or regulation arises solely and exclusively in connection with the transaction contemplated by the Operative Documents or (2) the contravention, violation or breach by any Indemnified Person of any law, rule or regulation relating to motor vehicles that solely and exclusively results from the consummation of the



transaction contemplated by the Operative Documents, (ii) the purchase, operation, possession, ownership, use, lease, sublease, maintenance, overhaul, repair, alteration, storage, testing, registration, titling or failure to title or register, of any one or more of the Vehicles, including, but not limited to, damage or claims resulting from the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Vehicles of any Hazardous Waste, including, without limitation, any claims asserted or arising under any Environmental Law, (iii) the manufacture, design, sale, purchase, acceptance, revocation of acceptance, rejection, delivery, return or conditions of the Vehicles, (iv) the Owner Trust's ownership or leasing hereunder of Vehicles during the term of the Lease and thereafter while and to the extent that Vehicles are in the possession or control or on the premises of the Lessee, any Affiliate thereof, or any manufacturer or dealer to whom the possession or control of Vehicles has been granted by the Lessee or the Lessor, (v) the sale of any Vehicle either to the Lessee or any other Person pursuant to the provisions of the Lease (including Section 11 thereof) or the Lessee's activity as sales agent or Remarketing Agent, or (vi) the Nominee acting as agent pursuant to the Nominee Agreement or otherwise; *provided, however*, that the foregoing shall not apply to any liability, charge, loss, obligation, claim, damage, penalty, cause of action, suit, cost, expense or judgment ("Costs or Expenses"):

(A) to the extent required to be paid by the Owner Participant pursuant to Section 7.1;

(B) imposed on or against an Indemnified Person or any of its Related Indemnitees to the extent that such Costs or Expenses arise out of or are caused by (1) the gross negligence or willful misconduct of such Indemnified Person or any of its Related Indemnitees (other than any such gross negligence or willful misconduct imputed to such Indemnified Person solely by reason of its interest in the Lessor's Estate) or (2) the inaccuracy or breach of any representation, warranty, covenant or any undertaking contained in this Agreement or any other Operative Document of such Indemnified Person or any of its Related Indemnitees, unless caused by or resulting from an inaccuracy or breach by the Lessee of any of its representations, warranties, covenants or undertakings contained in this Agreement or any other Operative Document (other than the Tax Indemnity Agreement);

(C) in the case of the Owner Participant, the Owner Trust and any of their respective Related Indemnitees, as a result of (i) a voluntary transfer or other voluntary disposition by the Owner Participant, the Owner Trust or a Related Indemnitee of any Vehicle or the Lessor's Estate or any interest in the Operative Documents other than any such transfer which occurs following the occurrence and during the continuance of an Event of Default or (ii) an involuntary transfer or other involuntary disposition by the Owner Participant, the Owner Trust or a Related Indemnitee of any Vehicle or the Lessor's Estate or any interest in the Operative Documents in connection with any bankruptcy or other proceeding for the relief of debtors in which such Person is the debtor or any foreclosure by a creditor of such Person that is in each case unrelated to the transaction contemplated hereby;

(D) to the extent attributable to acts or events which occur during any period (except during the exercise of remedies pursuant to Section 11 of the Lease following the occurrence of an Event of Default thereunder) after the expiration or earlier termination of the Lease Term for all Vehicles and the payment by the Lessee of all amounts due and owing under the Operative Documents and the satisfaction by the Lessee of all its obligations under the Lease;

(E) to the extent that such Costs or Expenses are Taxes or Costs or Expenses in contesting Taxes, it being agreed that the Lessee's liability with respect to Taxes in all other respects is set forth in Section 5.2 and in the Tax Indemnity Agreement;

(F) in the case of the Owner Participant, the Owner Trust, the Bank and any of their respective Related Indemnitees, that would not have arisen but for the substitution of a successor trustee under the Trust Agreement without the consent of the Lessee;

(G) in the case of the Owner Participant, the Owner Trust, the Bank and any of their respective Related Indemnitees, to the extent that such Costs or Expenses arise from an Owner Participant's Lien or an Owner Trust's Lien attributable to such Person or, in the case of the Owner Participant, from an Owner Trust's Lien attributable to any action or inaction by the Owner Trust or the Bank in accordance with the written instructions of the Owner Participant, unless the Owner Participant is required to give such instructions pursuant to the Operative Documents;

(H) to the extent that such Costs or Expenses constitute ordinary and usual operating or overhead expense;

(I) to the extent such Costs or Expenses are attributable to the authorization or giving, or withholding, by such Indemnified Person of any future amendments, supplements, waivers or consents with respect to this Agreement and the other Operative Documents, other than such as have been requested by the Lessee or Guarantor or such as are required under the Operative Documents or by applicable law or such as the Lessee has otherwise agreed to pay hereunder;

(J) with respect to the Owner Participant and any of its Related Indemnitees, to the extent that such Costs or Expenses are payable by the Owner Participant or Related Indemnitee pursuant to any provision of this Agreement or any other Operative Document expressly without any right of reimbursement from the Lessee or that are stated not to be paid by or the responsibility of the Lessee or are stated to be the sole cost and expense of such Person; or

(K) with respect to the Owner Participant and any of its Related Indemnitees, to the extent such Costs or Expenses are incurred by the Owner Participant or Related Indemnitee and arise from or relate to compliance with regulatory requirements of any United States governmental authority having jurisdiction over the Owner Participant or Related Indemnitee (i) under applicable law applicable to its business generally and which neither the Lessee nor any of its Affiliates has directly or indirectly initiated and in which neither the Lessee nor any of its Affiliates has participated in any way (except in either case at the specific request of the Owner Participant or Related Indemnitee) or (ii) under other applicable law or in other circumstances, in each case unless such Costs or Expenses have arisen or been imposed solely as a result of the transactions contemplated by the Operative Documents.

If any action, suit or proceeding arising from any such Cost or Expense (other than any such Cost or Expense for which the Lessee is not responsible pursuant to the terms hereof) is brought against any Indemnified Person, subject to the provisions of paragraph (b) of this Section 5.1, the Lessee will, at its expense, assume the defense of such action, suit or

proceeding through counsel designated by it, which counsel shall be reasonably acceptable to the Owner Participant, and shall have full power to litigate, compromise or settle the same on behalf of such Indemnified Person in its sole discretion; *provided* that (x) the Lessee shall keep such Indemnified Person fully apprised of the status of such action, suit or proceeding and shall provide such Indemnified Person with all information with respect to such action, suit or proceeding as such Indemnified Person shall reasonably request, (y) such Indemnified Person, at its own expense, may participate in any action, suit or proceeding controlled by the Lessee and (z) no such settlement shall include an admission of an omission or misconduct of an Indemnified Person without the prior written consent of such Indemnified Person. In connection with any claim for indemnification hereunder by an Indemnified Person, such Indemnified Person shall cooperate in good faith with the Lessee. Each Indemnified Person shall be fully indemnified against all liabilities, costs and expenses, including attorneys' fees and expenses, incurred in connection with any such action, suit or proceeding. The obligations and powers of the Lessee under this Section 5.1, together with all other indemnification obligations of the Lessee set forth in this Participation Agreement, shall survive any termination of this Participation Agreement, the Lease and the other Operative Documents.

(b) Notwithstanding anything in Section 5.1(a) to the contrary, the Lessee shall not be entitled to control and assume, or continue, the defense of, or compromise or settle, any action, suit or proceeding if (i) an Event of Default shall have occurred and be continuing, and the Indemnified Person notifies the Lessee that it is no longer permitted to control or continue such defense, (ii) such action, suit or proceeding will involve any material danger of the sale, forfeiture or loss of, or creation of any Lien (other than a Permitted Lien) on, a material portion of the Lessor's Estate, (iii) in the good faith opinion of such Indemnified Person, there exists an actual or potential material conflict of interest such that it is advisable for such Indemnified Person to retain control of such action, suit or proceeding, or (iv) such claim or liability involves the possibility of criminal sanctions or liability to such Indemnified Person. In the circumstances described in clauses (i) through (iv), the Indemnified Person shall be entitled to control or defend such action, suit or proceeding at the expense of the Lessee. The Lessee may in any event participate in all such actions, suits or proceedings at its own expense. Nothing herein contained shall be deemed to require an Indemnified Person to contest any liability, charge, loss, obligation, claim, damage, penalty, cause of action, suit, cost, expense or judgment or assume control of or defend any action, suit or proceeding with respect thereto.

5.2 General Tax Indemnity. (a) Agreement to Indemnify. Except as provided in Section 5.2(b), the Lessee hereby assumes liability for, and agrees to timely pay and defend, indemnify and hold harmless each Indemnified Person from and against any and all taxes, fees, levies and assessments, including, without limitation, all license, permit or registration fees and all income, gross receipts, rental, franchise, excise, business, occupational, capital, value added, sales, use, ad valorem (real and personal), property (real and personal), excise, stamp, highway use, ton mileage, road use, fuel or other taxes, duties, imposts, withholdings of any nature, and charges, together with any penalties, fines, additions to tax, or interest, imposed on or with respect to any Indemnified Person, the Lessee, any sublessee or any other Person in possession of a Vehicle, any Vehicle or any part thereof or interest therein, by any Governmental Body or any taxing authority therein or thereof or any foreign government, foreign governmental subdivision, or other foreign or international taxing authority, in connection with, upon or in any way relating to:

(i) the rentals, receipts or earnings, gains or revenues arising from any Vehicle or part thereof or any interest therein, proceeds held in Trust by the Owner Trust, or any applications or dispositions of those rentals, receipts or revenues;

(ii) the imposition of any Lien (or the incurrence of any liability to refund or pay over any amount as a result of any Lien) on any Vehicle or any interest therein;

(iii) the Operative Documents or any amount paid or payable under or upon or with respect to any Operative Document;

(iv) any Vehicle or any part thereof or any interest in any thereof;

(v) the manufacture, acquisition, construction, installation, purchase, delivery, ownership, lease, sublease, possession, repossession, rental, use, repair, operation, transportation, modification, rebuilding, substitution, mortgaging, recording, documentation, acceptance, registration, rejection, abandonment, importation, exportation, modification, maintenance, location, financing, reoptimization, return, sale, transfer of title, replacement, storage or disposition of any Vehicle or any part thereof or interest therein; or

(vi) otherwise with respect to or in connection with any transaction contemplated by the Operative Documents (all such items herein referred to collectively as "Taxes" or separately as a "Tax").

(b) Taxes Excluded From Indemnity. The Lessee shall have no liability for the following Taxes, which are excluded from the indemnity provided by Section 5.2(a):

(i) any Tax on, based on, with respect to, or measured by the net or gross income (including gross receipts) or capital of any Indemnified Person other than the Nominee (including any franchise or conduct of business Tax or minimum Tax for tax preferences, but excluding any Tax in the nature of sales, property, ad valorem, service, rental, value-added, transfer, license, excise or use Taxes) imposed by the United States or any State or political subdivision thereof; *provided*, that there shall not be excluded by this clause any amounts necessary to make any payment on an after-tax basis;

(ii) any withholding Tax imposed by the United States federal government;

(iii) any Tax imposed by a foreign government or a foreign or international taxing authority (other than any such Tax imposed as a result of (A) the location, operation or registration of any Vehicle in such jurisdiction, (B) the organization, activities or presence in such jurisdiction of a permanent establishment or fixed place of business of any Lessee Person, (C) the residence, nationality or place of management and control of any Lessee Person, (D) the payment from such jurisdiction by any Lessee Person of any amount due under the Operative Documents or (E) any combination of factors (A)-(D); *provided* that there shall not be excluded by this clause any amounts necessary to make any payment on an after-tax basis).

(iv) any Tax with respect to any Vehicle or any transaction relating to such Vehicle to the extent it covers any period beginning after the later of (A) the discharge in full of the Lessee's obligation to pay Rent with respect to such Vehicle or (B) the expiration or other termination of the Lease with respect to such Vehicle to the extent not relating to events or matters arising or occurring prior to such discharge, expiration or termination;

(v) any Tax to the extent and so long as it is being resisted in accordance with Section 5.2(e), during the pendency of such resistance;

(vi) any amount of Tax to the extent that such Tax would have been imposed on an Indemnified Person had it not engaged in activities related to the transactions contemplated by the Operative Documents;

(vii) any Tax that is imposed on an Indemnified Person or any of its Affiliates, to the extent that such Tax results from the willful misconduct or gross negligence of such Indemnified Person or such Affiliates;

(viii) any Tax to the extent that it is imposed as a result of a voluntary sale, transfer, assignment, or other voluntary disposition of any Vehicle or any part thereof or interest therein; *provided, however*, that this paragraph shall not apply in the event that such sale, transfer, assignment or other disposition shall occur while an Event of Default shall have occurred and be continuing or as the result of the Lessor (or the Nominee, an Owner Participant or any separate owner trustee or additional owner trustee acting as agent for the Lessor) exercising any rights pursuant to Section 11 of the Lease or with respect to the Lessor (or the Nominee, an Owner Participant or any separate owner trustee or additional owner trustee acting as agent for the Lessor) purchasing each Vehicle on a Funding Date and entering into the Lease or acquiring, transferring or disposing of any Vehicle pursuant to Section 11, 12, 13 or 14 of the Lease;

(ix) any Tax that is imposed on an Indemnified Person as a result of the involuntary transfer by such Indemnified Person of any interest in the Operative Documents or in any Vehicle, in any such case in or pursuant to such Indemnified Person's bankruptcy (other than a bankruptcy of an Owner Participant or the Lessor's Estate caused by an Event of Default or by the failure of the Lessee to make any payment of Rent);

(x) any Tax that consists of penalties, fines, additions to tax, or interest resulting from the failure of such Indemnified Person to file returns which are timely and proper as to matters unrelated to the transactions contemplated by the Operative Documents, or as to any return, report or statement of such Indemnified Person for which the Lessee is neither permitted nor required to take responsibility under Section 5.2(c), except to the extent that such Tax results from a breach by the Lessee of its obligations under Section 5.2(c);

(xi) any Tax that is imposed on an Indemnified Person to the extent resulting from the breach by such Indemnified Person (or any of its Affiliates) of any of its

representations, warranties or covenants in any of the Operative Documents other than this Section 5.2;

(xii) any Tax imposed on or with respect to any Indemnified Person that acquired an interest in the Vehicles, the Operative Documents or the entity created pursuant to the Trust Agreement from another Indemnified Person to the extent the Lessee demonstrates that such Tax exceeds the amount of such Tax that would have been imposed under law in effect on the date of transfer had there been no transfer of such an interest in the Vehicles, the Operative Documents or the entity created pursuant to the Trust Agreement (*provided, however*, that the Lessee shall not be required to demonstrate that such Tax is in excess of the Tax that would have been imposed had there been no transfer unless both the transferor and transferee agree for the benefit of the Lessee in the transfer documentation or otherwise to reasonably cooperate with the Lessee in determining what Taxes would have been imposed absent the transfer); *provided further* that this clause (xii) shall not apply to any amounts necessary to indemnify such Indemnified Person on an after-tax basis pursuant to Section 5.2(f) below or in the application of the tax benefit payback provisions thereof;

(xiii) any Tax imposed on or with respect to any Indemnified Person as a result of an amendment, modification, consent or waiver to (A) the Trust Agreement or (B) any Operative Document to which such Indemnified Person is a party without the express written consent or written acknowledgment of the Lessee, other than in connection with an Event of Default that has occurred and is continuing;

(xiv) any Tax that is imposed against an Indemnified Person because of or in connection with (A) claims against such Indemnified Person that are unrelated to the transactions contemplated by the Operative Documents or (B) breaches by such Indemnified Person (or any of its Affiliates) of any of its covenants or representations under any of the Operative Documents to which it is a party;

(xv) any Tax subject to the Tax Indemnity Agreement;

(xvi) any Tax for which the Lessee has actually and fully (including amounts described in Section 5.2(f) hereof) paid or reimbursed, in accordance with the terms of any Operative Document, the Indemnified Person entitled to payment under this Section 5;

(xvii) Taxes imposed upon an Indemnified Person by reason of such Indemnified Person not being a United States Person;

(xviii) intangibles, stamp or similar Taxes (other than any such Taxes imposed by a state (or any political subdivision or taxing authority thereof or therein) as a result of (A) the Lessee being incorporated, having its principal place of business, or conducting activities in such state, (B) any Vehicle or part thereof being used, registered, operated or located in such state or (C) the execution or delivery of any Operative Document in such state);

(xix) Taxes imposed upon an Indemnified Person resulting from, or that would not have been imposed but for, the existence of Owner Participant's Liens or Owner Trustee's Liens attributable to such Indemnified Person;

(xx) Taxes imposed with respect to the requirements of Sections 6011 or 6112 of the Code and any Regulations thereunder; and

(xxi) any Tax imposed on or with respect to any Indemnified Person which results from, arises out of, or is attributable to (i) a violation of Section 4975(c)(1)(A)-(D) of the Code or Section 406(a) of ERISA as a result of the incorrectness of any representation or warranty of such Indemnified Person set forth in the Operative Documents and/or (ii) a violation of such Indemnified Person of Section 4975(c)(1)(E) or (F) of the Code or Section 406(b) of ERISA.

(c) Tax Reporting. As of the Closing Date, the Lessee agrees to annually deliver to the Owner Participant a report for the Lessee's fleet of vehicles setting forth the distribution of rental transactions by state for each year within a reasonable time after the close of such year for so long as such information is reasonably available to the Lessee in the ordinary course of its business. Upon written request of an Indemnified Person, the Lessee shall provide to such Indemnified Person such other information as may be reasonably available to the Lessee in the ordinary course of its business to enable such Indemnified Person to fulfill its tax filing or other information reporting requirements with respect to the transactions contemplated by the Operative Documents.

If any report, return, certificate or statement is required to be filed or provided to the Lessee by an Indemnified Person with respect to any Tax which is either subject to indemnification under this Section 5.2 or which is the subject of an information report specific to a Vehicle or Vehicles, then if local law or custom requires or permits the Lessee to file or provide such report, return, certificate or statement, in its own name or as agent of an Indemnified Person (which agency is hereby created), and unless such Tax is required to be reported on a return in the name of such Indemnified Person or any of its Affiliates reporting transactions other than those contemplated by the Operative Documents, the Lessee shall either timely file such report, return, certificate or statement showing the Lessor as owner in the appropriate capacity or notify such Indemnified Person of any such requirement and prepare such report, return, certificate or statement in a timely manner as shall be reasonably satisfactory to such Indemnified Person who shall then file or provide such report, return, certificate or statement accordingly; *provided, however*, that if an Indemnified Person has notice that a report, return, statement, or other information is required with respect to any such Tax other than Taxes required to be reported on a return in the name of such Indemnified Person or any of its Affiliates reporting transactions other than those contemplated by the Operative Documents, or that a taxing authority has made a claim for payment of such Tax, it shall promptly so notify the Lessee, shall furnish the Lessee with copies of the relevant portions of all written communications from any taxing authority relating to such Tax, and shall request such taxing authority to contact the Lessee regarding such information relating to the transactions contemplated by the Operative Documents; *provided further*, however, that any Indemnified Person, if requested by the Lessee (or the Lessee if requested by an Indemnified Person), shall take reasonable steps to provide information to, consult with, and cooperate with the Lessee

(or the Indemnified Person, as the case may be) regarding the manner in which any report, return or statement should be filed. For the avoidance of doubt, the parties hereto agree that the Lessee shall be responsible for providing sales and use tax certifications and sales and use tax registrations required with respect to any Vehicle and that each Indemnified Person shall cooperate in such certifications and registrations as contemplated above. The Lessee shall, to the extent permitted by law, and based as appropriate on information supplied by the Indemnified Person, use its best efforts to cause all communications with respect to such Taxes (other than Taxes required to be reported on a return in the name of such Indemnified Person or any of its Affiliates reporting transactions other than those contemplated by the Operative Documents) to be made directly to the Lessee, either in its own name or as agent of the Indemnified Person (which agency is hereby created). On request, the Lessee shall furnish such proof of payment of such Tax as is reasonably acceptable to the Indemnified Person making such request, and the Lessee shall furnish such information as any Indemnified Person may reasonably require to comply with the requirements of any taxing jurisdiction.

(d) Time for Payment of Taxes. Except when the Lessee determines to resist payment in accordance with Section 5.2(e), the Lessee shall pay all Taxes subject to indemnification under Section 5.2(a) for which it files a return under Section 5.2(c) prior to the latest time permitted by the relevant taxing authority for timely payment. In the case of a Tax subject to indemnification under Section 5.2(a) for which the Lessee files a return under Section 5.2(c), when the Lessee resists payment in accordance with Section 5.2(e), the Lessee shall pay such Tax (in the amount finally determined to be owing in such contest) prior to the latest time permitted by the relevant taxing authority for timely payment after a Final Adjudication (as defined below). In the case of a Tax subject to indemnification under Section 5.2(a) for which the Lessee does not file a return under Section 5.2(c), the Lessee shall pay such Tax to the appropriate Indemnified Person within 15 days after a demand that specifies in reasonable detail the payment and the facts upon which the right to payment is based, but not prior to the later of (i) 15 days before the due date (ignoring extensions of time) for payment of such Tax by the Indemnified Person, and (ii) in the case of a Tax whose payment is resisted in accordance with Section 5.2(e), a Final Adjudication (which shall mean (A) a decision, judgment, decree or other order by any court of competent jurisdiction that resolves the matter, which decision, judgment, decree or other order has become final (*i.e.*, the earliest of when all allowable appeals have been exhausted by either party to the action or the time for filing such appeal has expired or such Indemnified Person has notified the Lessee in writing that it does not intend to take such appeal, it being understood that such Indemnified Person shall not be required to pursue such appeal), (B) a closing agreement entered into under Section 7121 of the Code (or any successor provision) or any other settlement agreement entered into in connection with administrative or judicial proceedings, in any case with the Lessee's consent, or (C) the expiration of the time for instituting an initial suit with respect to a claimed deficiency or for instituting a claim for refund, or, if a refund claim was filed, the expiration of the time for instituting suit with respect thereto).

(e) Resisting Payment.

(i) Subject to the terms of this Section 5.2(e), the Lessee may resist payment, and require the Indemnified Person to resist payment, of Taxes for which it must indemnify any Indemnified Person pursuant to Section 5.2(a) by appropriate administrative or judicial proceedings conducted in accord with the Lessee's good faith judgment



and at the Lessee's sole expense. In the case of any such Tax that is assessed or proposed to be assessed directly against such Indemnified Person, such Indemnified Person shall notify the Lessee promptly of such claim and send copies of any notice to the Lessee. Failure by an Indemnified Person to provide such notification shall not affect the obligation of Lessee to indemnify such Indemnified Person unless the right to pursue a contest of such claim is effectively precluded. If the Lessee shall so request in writing within 30 days after the receipt of such notice, such Indemnified Person shall undertake such a contest or request (where appropriate) the Lessee to undertake such a contest only if no Event of Default has occurred and is continuing and (A) the Lessee shall have agreed to indemnify such Indemnified Person for any liability or loss it might incur as a result of such contest, provided that the Lessee will not be bound by its acknowledgment of liability if and to the extent the contest is ultimately resolved on a basis which demonstrates that the Lessee is not otherwise liable under this Section 5.2 with respect to such Taxes, (B) the Lessee agrees to pay on demand all reasonable costs and expenses that such Indemnified Person may incur in connection with such contest, including, without limitation, attorneys' and accountants' fees and expenses), (C) the Indemnified Person reasonably determines that such contest would not create a material risk that any Vehicle or part thereof would be sold, forfeited or lost, or that a Lien other than a Permitted Lien would be placed on such Vehicle or part thereof or on any other property of the Owner Participant or such Indemnified Person, or would involve the risk of imposition of a criminal penalty, (D) the Lessee furnishes the Indemnified Person with the written opinion of counsel, selected by such Indemnified Person and reasonably acceptable to the Lessee, that reasonable grounds exist for contesting such Tax (or in the case of an income tax, that the basis in law and fact in opposition to such Tax exceeds the basis in law and fact in favor of the Tax) and (E) if such contest is to be conducted in a manner requiring the payment of the claim, the Lessee shall pay such claim or advance to the Indemnified Person on an interest-free basis (or on such interest-bearing basis as the Lessee and Indemnified Person may agree upon), with no additional after-tax cost, an amount equal to the amount of such claim. If the Indemnified Person undertakes such contest, such Indemnified Person shall not be obligated to pursue any appeal from an adverse judicial determination unless such Indemnified Person shall have received a written opinion of counsel, selected by such Indemnified Person and reasonably acceptable to the Lessee, that it is more likely than not that such appeal would be successful and shall in no event be obligated to appeal to the U.S. Supreme Court.

(ii) At any time, whether before or after commencing to take the actions set forth in this Section 5, an Indemnified Person may decline to take action with respect to any Tax subject to indemnification hereunder by notifying the Lessee in writing that the Lessee is relieved of its obligation to indemnify such Indemnified Person with respect to such Tax and by repaying to the Lessee any amounts theretofore paid or advanced by the Lessee with respect thereto (other than the expenses of such contest). An Indemnified Person will in good faith consult with the Lessee and its counsel regarding the conduct of any administrative or judicial contest and will not enter into any settlement or compromise that would give rise to an indemnifiable Tax under this Section without the Lessee's prior written approval, which approval shall not be unreasonably withheld or delayed.

(iii) Upon a Final Adjudication of any contest in respect of which the Lessee shall have advanced funds to an Indemnified Person, or, if earlier, upon receipt by an Indemnified Person of a refund or credit of any amounts paid by such Indemnified Person based on the proposed claim and in respect of which amounts the Lessee shall have previously advanced funds to such Indemnified Person, then, to the extent such Final Adjudication is adverse, the Lessee shall indemnify such Indemnified Person to the extent provided by this Participation Agreement, and promptly after such Final Adjudication (but not before the Lessee pays such Indemnified Person the amount required by this Section 5.2), such Indemnified Person shall repay to the Lessee the funds advanced by the Lessee, together with any related interest received (or saved) by such Indemnified Person as a result of such refund or credit.

(f) After-Tax Basis. The indemnity amounts payable under Section 5.2(a) shall be computed on an “after-tax” basis, so that any such indemnity payment shall be in an amount which, when reduced by the net increase in the federal, state and local income tax liability of the Indemnified Person as a result of the receipt of such payment, shall equal the amount of the Tax in respect of which such indemnity is payable. Subject to the proviso to this sentence, if an Indemnified Person actually realizes and utilizes a tax benefit by reason of the payment of a Tax for which it is indemnified under Section 5.2(a) (including the amount of any value-added Tax that is recoverable by such Indemnified Person, it being agreed that each Indemnified Person will take all such actions reasonably requested by the Lessee to facilitate the recovery or utilization of any value-added Tax otherwise indemnifiable hereunder), such Indemnified Person shall, unless such benefit was taken into account in the computation of the net increase, pay the Lessee an amount equal to the lesser of (i) the sum of (A) an amount equal to such tax benefit, plus (B) an amount equal to any other tax benefit realized and actually utilized by such Indemnified Person as the result of any payment made by such Indemnified Person pursuant to this sentence, and (ii) the amount of such payment by the Lessee to such Indemnified Person plus any other payment by the Lessee to such Indemnified Person theretofore made pursuant to this Section 5.2 reduced by other amounts previously paid by such Indemnified Person to the Lessee pursuant to this Section 5.2; *provided, however*, that an Indemnified Person shall not be obligated to pay any portion of such amount to the Lessee while an Event of Default shall have occurred and is continuing, and promptly after such Event of Default shall no longer be continuing, such Indemnified Person shall make payment to the Lessee as though such Event of Default had not occurred. Any disallowance of a tax benefit for which the Lessee has received a payment under this Section 5.2(f) shall be treated as a Tax for which the Lessee is obligated to indemnify under this Section 5.2, without regard to Section 5.2(b) (other than clause (vii) thereof).

(g) Reimbursements by Indemnified Persons Generally. If, for any reason, the Lessee is required to make any payment with respect to any Taxes imposed on any Indemnified Person in respect of the transactions contemplated by the Operative Documents or on the Vehicles, which Taxes are not the responsibility of the Lessee with respect to such Indemnified Person under Sections 5.2(a) and 5.2(b) hereof or the Tax Indemnity Agreement, then such Indemnified Person shall pay to the Lessee within 30 days of the Lessee’s demand therefor an amount which equals the amount actually paid by the Lessee with respect to such Taxes.

5.3 Further Covenants of Lessee and Guarantor. Each of the Lessee and the Guarantor hereby covenants in favor of the Owner Trust and the Owner Participant as follows:

(a) Notice of Default. It will deliver to the Owner Trust and the Owner Participant promptly upon acquiring actual knowledge of the occurrence of any Event of Default or Default, written notice specifying the nature and period of existence thereof and what action it is taking or proposes to take with respect thereto.

(b) Financial Information. The Guarantor will deliver to the Owner Participant and the Owner Trust: (i) to the extent not readily available on the EDGAR website, <http://www.sec.gov/edgar.shtml>, copies of all annual and quarterly reports sent by the Guarantor to its stockholders; (ii) to the extent not readily available on the EDGAR website, <http://www.sec.gov/edgar.shtml>, copies of all regular and periodic reports required to be filed by the Guarantor with the Securities and Exchange Commission with respect to its securities outstanding or to be outstanding; (iii) to the extent not readily available on the EDGAR website, <http://www.sec.gov/edgar.shtml>, but in no event less than fifty-five (55) days after the end of each of the first three fiscal quarters of each fiscal year, the consolidated balance sheets and income statements of the Guarantor, together with consolidated statements of cash flows of the Guarantor for that quarter, all prepared by the Guarantor in conformity with generally accepted accounting principles; (iv) to the extent not readily available on the EDGAR website, <http://www.sec.gov/edgar.shtml>, but in no event less than one hundred twenty (120) days after the close of each fiscal year, a copy of the annual consolidated financial statements of the Guarantor, consisting of consolidated balance sheets and income statements and consolidated statements of cash flows of the Guarantor, which shall be prepared in accordance with GAAP and certified (as to such consolidated financial statements) by any firm of independent certified public accountants (which shall be of national standing) regularly retained by the Guarantor; (v) not less than one hundred and twenty (120) days after the close of each fiscal year, the certification of the Guarantor's chief executive officer, chief financial officer or treasurer, that the consolidated financial statements referred to in clause (iv) above were prepared in conformity with GAAP and that no Event of Default exists or, if an Event of Default shall exist, specifying the nature and status thereof; and (vi) such other information and data with respect to the Guarantor as may reasonably be requested by the Owner Participant or the Owner Trust for the purpose of facilitating an evaluation of the credit of the Guarantor or compliance with the provisions of the Operative Documents.

(c) Further Information. Lessee shall deliver to the Owner Participant and the Owner Trust with all reasonable promptness following request therefor (i) any information regarding the Vehicles which it or any of its Affiliates either possesses or can acquire without unreasonable effort or expense and (ii) all information within its control that may be reasonably requested by such Person to enable such Person to file any reports required to be filed by it with any Governmental Body as a result of the transactions contemplated hereby and by the other Operative Documents.

5.4 Merger, Consolidation, Sale. Lessee shall not permit or effect any consolidation of Lessee with, or merger or liquidation (as part of a business reorganization or restructuring) of Lessee into, any other corporation or other entity (whether or not affiliated with Lessee), any other business combination or association involving Lessee, or successive

consolidations, mergers, liquidations (as a part of a business reorganization or restructuring) or other business combinations or associations to which Lessee or its successor or successors shall be a party or parties, or any sale or conveyance of the property of Lessee as an entirety or substantially as an entirety to any other corporation or entity (whether or not affiliated with Lessee) authorized to acquire and operate the same unless the following conditions are satisfied: upon any such consolidation, merger, liquidation, business combination or association, sale or conveyance, (i) the due and punctual performance of all of the obligations of Lessee under the Operative Documents to which it is a party shall be assumed in writing by the corporation or other entity formed by such consolidation, or into which Lessee shall have been merged or liquidated, or which shall have resulted from such business combination or association, or which shall have acquired such property (the "Surviving Entity"); (ii) either (A) the Surviving Entity shall be a Qualified Entity or shall have all of its obligations under the Operative Documents guaranteed by a Qualified Entity pursuant to a guaranty substantially similar to the Guaranty or letter of credit or other form of collateral in acceptable form to the Owner Participant, or (B) the Guaranty shall remain in full force and effect with respect to the obligations of the Surviving Entity under the Lease and each other Operative Document to which the Lessee had been a party and the Guarantor shall deliver a written confirmation with respect to the Guaranty; (iii) after giving effect to the transaction, no Event of Default or Default shall exist; (iv) the Lessee will, if requested by the Owner Participant, deliver to the Owner Participant an opinion or opinions of White & Case LLP and, with respect to general corporate matters, internal counsel to the Surviving Entity and/or successor guarantor, or any other counsel reasonably acceptable to the Owner Participant (which opinion or opinions shall be delivered prior to or simultaneously with the consummation of the transaction), stating that the Surviving Entity and/or successor guarantor is duly organized under the laws of the state or other jurisdiction of its organization, that each such assumption agreement, new guarantee and/or collateral agreement is duly authorized, executed and delivered and is enforceable in accordance with its terms, that no violation of law applicable to or binding on the Surviving Entity will result from the Surviving Entity's and/or successor guarantor's being party to such assumption agreement, new guarantee and/or collateral agreement and the Operative Documents (to the extent provided in such assumption agreement), and that, to the extent the Guaranty is to continue in compliance with the terms of clause (ii)(B) above, the Guaranty has been modified to apply to the obligations of the Surviving Entity under the Lease and other Operative Documents and that, as modified, the Guaranty is enforceable in accordance with its terms (subject, in each case, to customary exceptions and qualifications), and if the Surviving Entity and/or successor Guarantor is not a United States entity, such opinions of counsel in the country in which the Surviving Entity and/or successor Guarantor is domiciled as are customarily required by the Owner Participant; (v) all filings and notices shall have been made so as to perfect the interests of the Lessor and Owner Participant in any collateral delivered pursuant to clause (ii) above, together with satisfactory legal opinions regarding the creation and perfection of any security interests in such collateral; and (vi) the Owner Participant shall have received reasonably satisfactory certificates of the Surviving Entity and/or the new guarantor with respect to incumbency, due organization, due authorization, the representations and warranties described herein and absence of defaults. The Lessee shall provide not less than 20 days' prior written notice of any transaction of the kind described in this Section 5.4 to the Lessor and the Owner Participant which notice shall include information with respect to any Qualified Entity which is proposed to be the Surviving Entity or a guarantor of the Surviving Entity. Upon any such consolidation, merger or liquidation (as part

of a business reorganization or restructuring), or such other business combination or association, or any sale, conveyance, transfer or lease of substantially all the assets of the Lessee in accordance with this Section 5.4, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Lessee under the Lease, and the other Operative Documents to which the Lessee is a party.

## SECTION 6. SURVIVAL AND EFFECT OF WARRANTIES, AGREEMENTS AND INDEMNITIES

6.1 Survival of Agreements, Representations, Warranties and Indemnities. The agreements, covenants, representations, warranties and indemnities of the parties hereto contained in this Participation Agreement and in the other Operative Documents, and the obligations of each party in respect thereof, are expressly made for the benefit of, and all claims of Indemnified Persons or the Lessee, whether arising or asserted before or after expiration or termination of the Lease, shall be enforceable by, the Indemnified Persons or the Lessee, as the case may be, and shall survive (a) the making of the investments by the Owner Participant; (b) the taking of title to the Vehicles by the Owner Trust or the Nominee, acting on the Owner Trust's behalf, and the leasing thereof to the Lessee; (c) any investigation, statement as to the results thereof or other action taken by or on behalf of any Indemnified Person or the Lessee; (d) the expiration or other termination of this Participation Agreement or any other Operative Document in accordance with the terms hereof or thereof and any waiver of compliance with any of the terms, provisions or conditions hereof or thereof; (e) the exercise of any remedies by the Owner Trust under the Lease or any other Operative Document, and (f) the transfer of the Owner Participant's or the Owner Trust's interest in the Lessor's Estate, the Vehicles or the trust established pursuant to the Trust Agreement.

6.2 Effect of Other Indemnities. Each of the Lessee's obligations under the indemnities provided for in this Participation Agreement shall be those of a primary obligor whether or not the Indemnified Person shall also be indemnified with respect to the same matter under the terms of the Lease or any other Operative Document, or any other insurance, document or instrument whether or not related to the transactions contemplated hereby, and the Person so seeking indemnification from the Lessee may proceed directly against the Lessee without first seeking to enforce any other right of indemnification and such Person shall thereafter, at the Lessee's expense, take whatever reasonable steps as the Lessee may reasonably request to protect and preserve whatever rights of subrogation the Lessee may have.

## SECTION 7. EXPENSES

7.1 Lessor's Transaction Costs. If the Closing Date shall occur as contemplated hereby, the Owner Participant agrees to pay on each Funding Date, Lessor's Transaction Costs in an aggregate amount not to exceed the Transaction Cost Maximum. Such payment shall be made promptly upon receipt of invoices with respect to such Transaction Costs, subject to the approval thereof by the Lessee, such approval not to be unreasonably withheld or delayed; *provided*, that to the extent that invoices have been submitted, the Lessor's Transaction Costs indicated on Schedule V hereto shall be paid first and, thereafter, any remaining Lessor's Transaction Costs shall be paid to invoicing parties on a pro rata basis with all other invoices in respect of Lessor's Transaction Costs which are due and remain unpaid as of such Funding Date.

7.2 Lessee's Transaction Costs. The Lessee agrees to pay all Transaction Costs for which the Owner Participant is not responsible pursuant to Section 7.1, including Lessor's Transaction Costs in excess of the Transaction Cost Maximum, promptly upon receipt of invoices with respect thereto. The Lessee shall also pay (a) costs and fees incurred in connection with the organization and incorporation of the Nominee and with the qualification (and the maintenance of such qualification) of the Nominee to do business in each jurisdiction in which the Nominee shall be required to perform its obligations under or as contemplated by the Operative Documents; (b) all reasonable out-of-pocket costs and expenses of the Owner Trust, the Owner Trustee and the Owner Participant in connection with the enforcement of this Participation Agreement and the other Operative Documents and the documents and instruments referred to herein and therein (including, without limitation, the reasonable fees and disbursements of their counsel); (c) all reasonable fees and out-of-pocket costs and expenses incurred by the Owner Trust and the Owner Trustee in the establishment and maintenance of the trust pursuant to the Trust Agreement; (d) all reasonable out-of-pocket costs and expenses of the Nominee Trustee, the Owner Trust, the Owner Trustee and the Nominee (including reasonable legal fees and expenses) incurred by it in connection with (i) the entering into, or giving or withholding, of any amendments, supplements, waivers or consents proposed by the Lessee or the Guarantor with respect to the Operative Documents and (ii) complying with any further assurances requested pursuant to the Operative Documents.

## SECTION 8. NOTICES

Unless otherwise expressly specified or permitted by the terms hereof, all notices, requests, demands, authorizations, directions, consents, waivers or documents provided or permitted by this Participation Agreement or any Operative Document to be made, given, furnished or filed shall be in writing, by overnight courier, or by confirmed telecopy and addressed to the addresses and for the attention of the person set forth opposite such party's name on Schedule III. Whenever any notice in writing is required to be given by one party to any other party, such notice shall be deemed given and such requirement satisfied when such notice is received. Any party hereto may change the address to which notices to such party will be sent by giving notice of such change to the other parties to this Participation Agreement.

## SECTION 9. TRANSFERS

9.1 Transfers by Owner Participant. The Owner Participant shall not assign, convey or otherwise transfer all or any portion of its right, title or interest in, to or under any of the Operative Documents or its interest in the trust created by the Trust Agreement without the prior written consent of the Lessee except as expressly permitted by this Section 9.1.

(a) Transfers to Affiliates. Subject to the satisfaction of the conditions set forth in this Section 9.1, the Owner Participant may make an assignment, conveyance or transfer of its interest in the trust created by the Trust Agreement to any Affiliate of the Owner Participant if such transferee shall have a tangible net worth not less than \$75,000,000, or such transferee's obligations under the Operative Documents shall have been unconditionally guaranteed by the Owner Participant pursuant to an instrument in form and substance reasonably satisfactory to the Lessee and the Owner Trustee; *provided*, that in no event shall (1) any transfer result in there being more than the Maximum Number of Owner Participants hereunder or (2)

any of the Vehicles subject to a Lease Supplement become owned, directly or indirectly, by more than one Owner Participant through the trust created by the Trust Agreement.

(b) Transfers to Non-Affiliates. Subject to the satisfaction of the conditions set forth in this Section 9.1, the Owner Participant may make an assignment, conveyance or transfer of its interest in the trust created by the Trust Agreement to any corporation or financial institution which does not qualify as a transferee under the preceding paragraph (a); *provided* that (x) if and so long as no Event of Default shall have occurred and be continuing (i) such corporation or financial institution has a tangible net worth of at least \$75,000,000 or (ii) such transferee entity's obligations under the Operative Documents shall have been unconditionally guaranteed by a corporation or financial institution having a tangible net worth of at least \$75,000,000 by an instrument in form and substance reasonably satisfactory to the Lessee and the Owner Trustee and (y) the provisions of Section 9.1(d) through (h) are satisfied with respect to such transfer; *provided*, that in no event shall (1) any transfer result in there being more than the Maximum Number of Owner Participants hereunder or (2) any of the Vehicles subject to a Lease Supplement become owned, directly or indirectly, by more than one Owner Participant through the trust created by the Trust Agreement.

(c) Transfer With Consent. Any transfer other than one satisfying the requirements set forth in paragraph (a) or (b) of this Section 9.1 may only be made with the prior written consent of the Lessee, which consent may not be unreasonably withheld or delayed.

(d) Required Notice and Effective Date. If the Owner Participant shall propose to make a transfer it shall give written notice of such proposed transfer to the parties hereto at least fifteen (15) days in the case of any transfer pursuant to paragraph (b) of this Section 9.1 (or five (5) Business Days in the case of any transfer pursuant to paragraph (a) of this Section 9.1) prior to such proposed transfer, setting forth the name of such proposed transferee, the percentage or interest to be retained by the Owner Participant, if any, and the date on which such transfer is proposed to become effective. All reasonable out-of-pocket costs incurred by the Lessee, the Owner Trustee or the Owner Trust in connection with any disposition by the Owner Participant under this Section 9.1 shall be borne by the Owner Participant. In the event of a transfer under this Section 9.1, any expenses incurred by the transferee in connection with its review of the Operative Documents and its investigation of the transactions contemplated thereby shall be borne by such transferee or the Owner Participant and shall not be considered costs and expenses which the Lessee is obligated to pay or reimburse under Section 7.2.

(e) Assumption of Obligations. Any transferee pursuant to this Section 9.1 shall assume and agree in writing to be bound by all obligations (whether or not yet accrued) under and become a party to this Participation Agreement and all other Operative Documents to which its transferor was a party, and thereupon the obligations of the Owner Participant under the Operative Documents shall be released and reduced to the extent of such transfer, *provided* that the transferor Owner Participant shall not be released from the obligation to remove all Owner Participant's Liens attributable to it. Any such transferee will, if requested by the Lessee, deliver to the Lessee, the Bank and the Guarantor an opinion or opinions of counsel as may be requested by the Lessee and in form and substance reasonably satisfactory to the Lessee (which opinion or opinions shall be delivered prior to or simultaneously with the consummation of the transaction and be subject to customary qualifications) stating that such transferee and other

party to an assumption instrument is duly organized under the laws of the state or other jurisdiction of its organization, that each of the assumption instrument and any guarantee delivered pursuant to this Section 9 is duly authorized, executed and delivered by the parties thereto and is enforceable in accordance with its terms, and that no violation of law applicable to or binding on such transferee or any guarantor will result from such transferee's or guarantor's being party to such assumption instrument or guarantee and the Operative Documents (to the extent provided in such assumption instrument). Upon any such transfer as above provided, the transferee shall be deemed the "Owner Participant" for all purposes of the Operative Documents and shall be deemed to have made the payments pursuant to Section 2.1 previously made by the transferor represented by the interest being conveyed; and each reference herein and in the other Operative Documents to the "Owner Participant" shall thereafter be deemed a reference to the transferee for all purposes; *provided, however*, that in no event shall the Lessee's obligations under the Operative Documents be more burdensome or costly in any material respect than they would have been but for such transfer. Upon any such transfer, the Owner Participant shall deliver to the Owner Trust and the Lessee, new Schedules I and III, revised to reflect the relevant information for such new Owner Participant.

(f) [Reserved].

(g) Representations and Warranties. Notwithstanding anything to the contrary set forth above, the Owner Participant may not assign, convey or transfer its interest to any Person, unless such Person shall have delivered to the Owner Trust and the Lessee a certificate confirming the accuracy in all material respects of the representations and warranties set forth in Section 4.2 with respect to such Person (other than as such representation or warranty relates to the execution and delivery of Operative Documents).

(h) Competitors. Notwithstanding anything in this Participation Agreement to the contrary, except in connection with a transfer pursuant to Section 9.1(c), under no circumstances shall the Owner Participant transfer all or any portion of its right, title or interest in, to or under any of the Operative Documents or its interest in the trust created by the Trust Agreement to any Person who, in the good faith judgment of the Lessee or the Guarantor, is a direct competitor of the Lessee or any Affiliate thereof engaged primarily in the car or truck rental business (other than any assignee who is engaged in such business solely as lessor, similar to the position of Owner Trust under the Lease), or has an Adverse Business Relationship with the Guarantor, the Lessee or any Affiliate thereof or which is an Affiliate (or any entity of which such Person, or any of its Affiliates, owns, directly or indirectly, 5% or more of the voting stock) of such a competitor.

9.2 Transfers by Owner Trust. The Owner Trust shall not, and the Owner Participant shall not permit the Owner Trust to, without the prior written consent of the Lessee, assign, convey or otherwise transfer all or any part of its right, title or interest under the Operative Documents or its interest in the Lessor's Estate except as permitted by the Lease, *provided* that, anything herein to the contrary notwithstanding, a successor or additional Owner Trustee may be appointed pursuant to Section 9.1 of the Trust Agreement if such successor Owner Trustee is not a Person with whom, in the good faith judgment of the Lessee or the Guarantor, the Lessee or the Guarantor has an Adverse Business Relationship.



SECTION 10. CERTAIN COVENANTS OF OWNER TRUST AND OWNER PARTICIPANT

10.1 Certain Covenants of Owner Participant. The Owner Participant agrees with the Lessee and the Owner Trust that (i) except as specifically provided in Article VIII of the Trust Agreement, the Owner Participant will not terminate or revoke the trust created by the Trust Agreement during the term of the Lease and will not pledge, assign or otherwise transfer all or any portion of its right, title and interest in, to or under the Trust Agreement or such trust except in accordance with Section 9; (ii) the Owner Participant will not, directly or indirectly, create or suffer or permit to be created or to exist any Owner Participant's Lien (and it will promptly remove, discharge or bond or cause to be removed, discharged or bonded, at its own expense any such Lien); (iii) the Owner Participant will not instruct the Owner Trustee to take any action, on behalf of the Owner Trust, or make any omission which would constitute a breach of any of the Owner Trust's obligations under the Operative Documents, and the Owner Participant shall provide the Owner Trustee with such instructions and confirmations as the Owner Trustee may from time to time request in order to authorize the Owner Trustee (or to confirm its authority) to take or refrain from taking actions, on behalf of the Owner Trust, as required under the Operative Documents (it being understood that nothing in this clause (iii) shall be deemed to condition the Owner Trust's obligations under the Operative Documents).

10.2 No Creation of Owner Trustee's Liens by the Bank. The Bank agrees that it will not, directly or indirectly, create or suffer or permit to be created or to exist and that it will, at its own expense, promptly remove, discharge or bond or cause to be removed, discharged or bonded any Owner Trustee's Liens attributable to it in its individual capacity. The obligations of the Bank under this Section 10.2 with respect to any Lien resulting from a claim arising prior to the termination of the Lease shall survive such termination.

SECTION 11. CONFIDENTIALITY

(a) The Owner Participant and the Owner Trust each agrees that it will maintain, and cause its Affiliates to maintain, the confidentiality of any written information identified as confidential (provided that any of the pricing information provided in connection with the transaction contemplated by the Operative Documents shall be deemed confidential) provided by the Lessee, the Guarantor or any Affiliate thereof (whether such information is provided in connection with any provision of this Participation Agreement or any other Operative Document), including the provisions of the Operative Documents which are specific to the Lessee's or the Guarantor's business and any information contained in any appraisal conducted pursuant to the Operative Documents (all of the foregoing, the "Protected Information"), so long as the Protected Information is not or does not become publicly available and is not otherwise provided to such Person by or on behalf of the Lessee, the Guarantor or any Affiliate thereof on a nonconfidential basis or by any other Person; *provided, however*, that the Owner Participant or the Owner Trust may disclose the Protected Information (a) to any Affiliate or employee, (b) to its lawyers, accountants and financial, insurance and other independent advisors so long as the individuals principally responsible for the matter for which such information was disclosed are advised of the confidential nature of the Protected Information and requested to observe the provisions of this Section 11, (c) if, in its reasonable opinion, such disclosure is necessary under applicable law or under any order of a Governmental Body, or pursuant to a requirement of any

taxing agency, or under the rules and regulations of any national securities exchange on which the shares of the Owner Participant or the Owner Trustee are listed or required by bank regulatory, other administrative officials or the National Association of Insurance Commissioners in connection with the exercise of their regulatory or administrative powers, (d) in connection with the exercise of its rights and remedies hereunder and under the Lease if an Event of Default shall have occurred and be continuing, (e) if it has provided ten (10) days prior written notice to the Lessee, to prospective transferees pursuant to Section 9 if such Persons agree, in a writing delivered to the Lessee, to be bound by the provisions of this Section 11 (provided that no advance notice to the Lessee shall be required for the disclosure of pricing information provided in connection with the transaction contemplated by the Operative Documents otherwise deemed confidential for purposes of this paragraph so long as the prospective transferee has agreed to keep such information confidential), (f) in response to any subpoena or other legal process and (g) as otherwise required by any Operative Document.

(b) Notwithstanding anything contained in this Participation Agreement or in any other document, agreement or understanding relating to the transactions contemplated by this Participation Agreement, each party (and each employee, representative, or other agent of such party) is authorized to disclose to any and all persons, beginning immediately upon commencement of discussions regarding the transactions contemplated by this Participation Agreement, and without limitation of any kind, the U.S. federal, state or local tax treatment and tax structure of such transactions, and all materials of any kind (including opinions or other tax analyses) that are provided to such party (or any employee, representative, or other agent of such party) relating to such tax treatment and tax structure. For purposes of this authorization, the "tax treatment" of a transaction means the purported or claimed tax treatment of the transaction, and the "tax structure" of a transaction means any fact that may be relevant to understanding the purported or claimed tax treatment of the transaction. None of the parties to the transactions contemplated by this Participation Agreement provides U.S. tax advice, and each party should consult its own advisors regarding its participation in the transactions contemplated by this Participation Agreement.

#### SECTION 12. LESSEE'S RIGHT OF QUIET ENJOYMENT; OWNERSHIP FOR FEDERAL TAX PURPOSES

(a) Each party to this Participation Agreement expressly agrees that, notwithstanding any other provision of any of the Operative Documents, so long as no Event of Default shall have occurred and be continuing, it will not take or cause or authorize any other Person to take any affirmative action to prevent the Lessee from having quiet and peaceable possession and enjoyment of each Vehicle during the Lease Term except in accordance with the provisions of the Lease.

(b) Each of the Lessee, the Owner Participant and the Owner Trust expressly agree (i) that for United States federal, state and local income tax purposes, the Owner Participant is intended to be the owner of all Vehicles and the Lessee is intended to be the lessee thereof and (ii) that it will not take any position inconsistent with the foregoing clause (i) in any federal, state or local tax return, filing or proceeding.

SECTION 13. MISCELLANEOUS

(a) Entire Agreement. This Participation Agreement and the other Operative Documents express the entire understanding of the parties relating to the subject matter hereof and thereof; all prior understandings, written or oral, with respect to such subject matter are hereby merged herein and superseded.

(b) Severability. If any provision of an Operative Document, or the application thereof to any Person or circumstance, shall, for any reason or to any extent, be invalid or unenforceable, such invalidity or unenforceability shall not in any manner affect or render invalid or unenforceable the remainder of such or any other Operative Document, and the application of that provision to other Persons or circumstances or in other jurisdictions shall not be affected.

(c) Successors and Assigns. Subject to Section 9, the terms and provisions of the Operative Documents shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns except that no party hereto may assign its rights under this Participation Agreement or any other Operative Document except as expressly provided herein or therein.

(d) Counterparts. This Participation Agreement and any amendment, modification, waiver or supplement hereto may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.

(e) Construction. The section and paragraph headings in this Participation Agreement and the table of contents hereof are for convenience of reference only and shall neither be deemed to be a part of this Participation Agreement nor modify, define, expand or limit any of the terms or provisions hereof. All references herein to numbered or lettered sections, appendices, schedules and exhibits, unless otherwise indicated, are to sections, appendices, schedules and exhibits to this Participation Agreement. Words and definitions in the singular shall be read and construed as though in the plural and *vice versa*, and words in the masculine, neuter or feminine gender shall also be read and construed as though in either of the other genders.

(f) Owner Trust's Capacity; No Recourse; Corporate Capacity.

(i) This Participation Agreement and the other Operative Documents to which the Owner Trust is a party are, except as expressly provided herein or therein, being entered into by the Bank not individually but as the Owner Trustee under the Trust Agreement, in exercise of the power and authority conferred upon and invested in the Owner Trustee by the Trust Agreement and this Participation Agreement, and it is expressly understood and agreed that nothing in this Participation Agreement or such other Operative Documents shall be construed as creating any liability (other than for willful misconduct or gross negligence) of the Bank individually to pay any sum or to perform any covenant, either express or implied, in this Participation Agreement or such other Operative Documents (all such liability, if any, being expressly waived by the

Participation Agreement

parties hereto) and that each party hereto, on behalf of itself and its successors and assigns, agrees in the case of any liability of the Bank hereunder or thereunder (except for such liability attributable to its willful misconduct or gross negligence) that it will look solely to the assets of the Lessor's Estate and of the trust created by the Trust Agreement; *provided, however*, that the Bank in its individual capacity shall in any event be liable with respect to (A) the removal of the Lessor's Liens resulting from claims against or acts or breaches by the Owner Trustee in each case in its individual capacity or involving its gross negligence or willful misconduct or (B) breaches of Section 4.3 in its individual capacity and as provided in Section 18.10 of the Lease; *provided further*, that the foregoing exculpations of the Owner Trustee shall not be deemed to be exculpations of any other Person.

(ii) The Lessee and the Owner Participant are entitled to presume, without any inquiry, and without regard to their knowledge of the contents of the Trust Agreement, that the Owner Trustee has the authority to take any action purportedly taken in its capacity as the Owner Trustee, unless and until the Owner Participant notifies such Person that it has instructed the Owner Trustee not to take such action (in which case such Persons shall be entitled to presume, without any inquiry, that the Owner Trustee lacks such authority with respect to such action unless and until notified to the contrary by the Owner Participant); it being understood that in the event that the Owner Trustee takes any action as to which any such Person is entitled to assume the Owner Trustee's authority, but as to which the Owner Trustee lacks actual authority, the Owner Participant's sole recourse shall be to the Owner Trustee, and such lack of actual authority shall not affect the rights and interests of the Lessee and the Owner Participant. Any obligations of the Owner Trustee may be performed on its behalf by the Owner Participant and such performance shall not be construed as a revocation of the trust created by the Trust Agreement. Neither the Owner Trustee nor the Owner Participant shall have any obligation or duty to the Lessee or to others with respect to the transactions contemplated hereby, except those obligations or duties expressly set forth in this Participation Agreement and the other Operative Documents; and (i) the Owner Trustee shall not be liable for performance by the Owner Participant of its obligations or duties hereunder, (ii) the Owner Participant shall not be liable for performance by the Owner Trustee of its obligations or duties hereunder, and (iii) neither the Owner Trustee nor the Owner Participant shall be liable for performance by the Lessee or the Guarantor of such party's obligations or duties hereunder. Without limiting the generality of the foregoing, under no circumstances whatsoever shall the Owner Participant be liable to the Lessee for any action or inaction on the part of the Owner Trustee in connection with the transactions contemplated herein or in any other Operative Document, whether or not such action or inaction is caused by willful misconduct or negligence of the Owner Trustee.

(g) Further Assurances. Each of the parties hereto agrees to take all such further action, and to execute and deliver all such further documents or instruments as any other party hereto may reasonably request in order to carry out the intent of this Participation Agreement and the other Operative Documents and to consummate the transactions contemplated hereby and thereby.

(h) Governing Law. This Participation Agreement shall be governed by, construed and enforced in all respects in accordance with the law of the State of New York.

(i) Mandatory Counterclaims. If the Lessee or the Guarantor refrains, as required by the Operative Documents, from asserting a claim against the Owner Trust or the Owner Participant in an action in which, under applicable law, such claim would have been a mandatory counterclaim, the other parties to this Participation Agreement agree that the Lessee or the Guarantor shall not be deemed to have waived such claim (if asserted in an independent action) by virtue of its not having been asserted as a counterclaim.

(j) Amendment or Waiver. Neither this Participation Agreement nor any other Operative Document nor any terms hereof or thereof may be changed, waived, discharged or terminated unless such change, waiver, discharge or termination is in writing signed by the parties hereto.

(k) Variations on Schedule. Each of the parties hereto agree that Schedule VI hereto contains certain terms and conditions applicable to this Agreement and the other Operative Documents which have been agreed by the parties hereto. To the extent that such terms and conditions are different from, or in conflict with, other terms and conditions of the Operative Documents, the terms and conditions indicated on Schedule VI shall control.

(l) Forum Selection and Consent to Jurisdiction. ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER OPERATIVE DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE PARTIES HERETO SHALL BE BROUGHT AND MAINTAINED EXCLUSIVELY IN THE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK; *PROVIDED, HOWEVER*, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY VEHICLE OR OTHER PROPERTY MAY BE BROUGHT, AT THE OWNER TRUST'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH VEHICLE OR OTHER PROPERTY MAY BE FOUND OR REGISTERED OR TITLED. THE LESSEE HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH SUCH LITIGATION. THE LESSEE FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF NEW YORK. THE LESSEE HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT THE LESSEE HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT

OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE LESSEE HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER OPERATIVE DOCUMENTS.

(m) Waiver of Jury Trial. THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER OPERATIVE DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THE LESSEE ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER OPERATIVE DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE OWNER TRUST'S AND THE OWNER PARTICIPANT'S ENTERING INTO THIS AGREEMENT AND EACH SUCH OTHER OPERATIVE DOCUMENT.

IN WITNESS WHEREOF, the parties hereto have each caused this Participation Agreement to be duly executed as of the day and year first above written.

BUDGET RENT A CAR SYSTEM, INC., as Lessee

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

BRAC TRUST No. 2005-[ ], by Wilmington Trust Company, not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ])

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

WILMINGTON TRUST COMPANY, in its individual capacity only to the extent expressly stated herein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement (BRAC Trust No. 2005-[ ]),

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

CENDANT CORPORATION, as Guarantor

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

[OWNER PARTICIPANT], as Owner Participant

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

SCHEDULE OF ACCOUNTS

Lessee

Bank Name:  
ABA Number:  
Account Name: Budget Rent A Car System, Inc.  
Account Number:

Owner Trust

Bank Name: Wilmington Trust Company  
ABA Number:  
Account Name: BRAC Trust No. 2005-[ ]  
Account Number:  
Attention: Tira Johnson

Owner Participant

Bank Name:  
ABA Number:  
Acct Name:  
Acct Number:  
Ref:



U.C.C. FILINGS BEING MADE ON CLOSING DATE

1. Uniform Commercial Code filings naming Lessee as debtor and Owner Trust as secured party in the following jurisdictions:
  - a) State of Delaware, Secretary of State

PARTIES

Lessee

Budget Rent A Car System, Inc.  
6 Sylvan Way  
Parsippany, NJ 07054  
Attention: President  
Telecopier No.: (973) 496-7460  
Telephone No.: (973) 496-5008

Owner Trust

BRAC Trust No. 2005-[ ]  
c/o Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, DE 19890-0001  
Attention: Corporate Trust Administration  
Telecopier No. (302) 636-4140  
Telephone No. (302) 631-1000

Owner Trustee

Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, DE 19890-0001  
Attention: Corporate Trust Administration  
Telecopier No. (302) 636-4140  
Telephone No. (302) 631-1000

Nominee

Budget Truck Trust I  
c/o Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, DE 19890-0001  
Attention: Corporate Trust Administration  
Telecopier No. (302) 636-4140  
Telephone No. (302) 631-1000

Guarantor

Cendant Corporation  
1 Campus Drive  
Parsippany, NJ 07054  
Attention: Treasurer  
Telecopier No.: (973) 496-5852  
Telephone No.: (973) 496-7938

Owner Participant

Participation Agreement

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SCHEDULE IV  
to  
Participation Agreement

ELIGIBLE VEHICLES

Count	Truck Completion Date	Make	Vehicle Type	Model	VIN Number	Unit Number	Box Length	Chassis PO Number	Purchase Price

TRANSACTION COSTS

Wilmington Trust Company

Richards, Layton & Finger, P.A.

Marshall & Stevens, Inc.

Thelen Reid & Priest LLP

VARIATIONS

FORM OF SECTION 3.1(a)(ii)  
OFFICER'S CERTIFICATE

The undersigned, \_\_\_\_\_, the \_\_\_\_\_ of BUDGET RENT A CAR SYSTEM, INC., a Delaware corporation (the "Company"), hereby refers to Section 3.1 (a)(ii) of the Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005 (the "Participation Agreement"), among the Company, BRAC Trust No. 2005-[ ], as Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Cendant Corporation, as Guarantor and [OWNER PARTICIPANT], as Owner Participant, and hereby certifies that as of the date hereof:

1. The Eligible Vehicles being transferred to the Owner Trust on the date hereof pursuant to the Bill of Sale and being subjected to the Lease (the "Vehicles") are identified in Schedule I attached hereto which sets forth, with respect to each such Vehicle, the information referred to in clause (a) of Section 7.1 of the Lease;

2. With respect to the transfer of title to each Vehicle:

(a) the Company has taken or caused to be taken the steps necessary to complete the action set forth in Annex A hereto, in the State of Oklahoma;

(b) all required fees and charges under the relevant state motor vehicle statute have been remitted or caused to be remitted to the relevant state agency;

(c) all applicable taxes required to be paid have been paid or caused to be paid; and

(d) such Vehicle has been or is being registered, in the State of Oklahoma, in the name of either the Lessee or the Nominee and the Lessor is or will be designated as a secured party on the certificate of title for such Vehicle;

3. Each Vehicle is free and clear of all Liens other than Permitted Liens; and

4. All required odometer mileage disclosures with respect to the transfer of title to each Vehicle to the Nominee have been properly disclosed to the Nominee on the form prescribed by the applicable state.

All capitalized terms used herein not otherwise defined herein shall have the meanings assigned to such terms in Appendix A to the Participation Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this \_\_\_\_ day of \_\_\_\_\_, 2005.

BUDGET RENT A CAR SYSTEM, INC.

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



DESCRIPTION OF VEHICLES

<u>Count</u>	<u>Expected Truck Completion Date</u>	<u>Make</u>	<u>Model</u>	<u>V.I.N. Number</u>	<u>Unit Number</u>	<u>Vehicle Type</u>	<u>Chassis PO Number</u>	<u>Box Length</u>	<u>Purchase Price</u>
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Actions taken with respect to transfer of title for Vehicles

[Form of Opinion of Special Counsel for the Lessee and Guarantor]

[Form of Opinion of Corporate Counsel for Lessee]

[Form of Opinion of Corporate Counsel for Guarantor]

[Form of Closing Date Opinion of Richards, Layton and Finger, P.A.,  
Special Counsel for the Owner Trust]

[Form of Closing Date Opinion of Richards, Layton and Finger, P.A.,  
Special Counsel for the Owner Trustee]

[Form of Opinion of Special Counsel for the Owner Participant]



[Form of Opinion of Corporate Counsel to the Owner Participant]

[Form of Opinion of Special Counsel for the Nominee]

[Form of Closing Date Opinion of Oklahoma Counsel]

[Letterhead of Nominee]

FORM OF POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, \_\_\_\_\_ of Budget Truck Trust I, a Delaware statutory trust (the "Nominee") under the Nominee Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005 (as amended, modified and supplemented from time to time, the "Nominee Agreement"), among the Nominee, the Lessor (as such term is defined in Appendix A to the Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, among BRAC Trust No. 2005-[ ], as Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Budget Rent A Car System, Inc., as Lessee, Cendant Corporation, as Guarantor and the Owner Participant named therein; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in such Appendix A), duly authorized for the purpose, acting on behalf of the Nominee, hereby make, constitute and appoint (so long as no Event of Default shall have occurred and be continuing) as the Nominee's attorney-in-fact (i) the Lessee, acting through any of its "District Managers", "City Managers", "Fleet Managers" or "Turn-back Managers" or (ii) the Guarantor, acting through any of its duly authorized representatives, on behalf of the Nominee and in its name, place and stead, for the special purpose of (1) doing all things necessary, including, without limitation, executing any documents in the name of the Nominee, to (a) properly register or reregister when necessary under applicable law the Lessor's Vehicles in the State of Oklahoma or such other state permitted by Section 7.2 of the Lease, in the name of the Nominee or of the Lessee (for those states in which, in the Lessee's reasonable opinion, Vehicles must be registered in the name of the Lessee for insurance, tax or other regulatory purposes) and (b) obtain certificates of title in the name of the Nominee for the Vehicles, (2) recording liens in favor of the Owner Trust on the certificate of title of any Vehicle (or of any Eligible Vehicle which will be subjected to the Lease), (3) executing such other documents as are necessary in order to record liens on such Vehicles (or Eligible Vehicles) in favor of the Owner Trust, (4) receiving (by mail or in person) and forwarding to the Nominee or its agent the certificate of title and other registration documentation relating to such Vehicles (or Eligible Vehicles), (5) designating the Lessee as the mailing address of the Nominee for all documentation relating to the title and registration of such Vehicles (or Eligible Vehicles) and (6) applying for duplicate certificates of title indicating the lien of the Owner Trust on such Vehicles (or Eligible Vehicles) where original certificates of title have been lost or destroyed. This power of attorney shall terminate on such date, after the first Funding Date, that the Remarketing Termination Date shall have occurred or that no Vehicles shall remain subject to the Lease, and is irrevocable until such date so long as no Event of Default shall have occurred and be continuing.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_th day of May, 2005.

for and on behalf of

Budget Truck Trust I, by Wilmington Trust Company, not in its individual  
capacity but solely as trustee under the Trust Agreement (BRAC Trust No.  
2005-[ ])  
as Nominee

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

Subscribed and sworn to before me  
this \_\_\_th day of May, 2005.

\_\_\_\_\_  
Notary Public

[Letterhead of Owner Trust]

FORM OF POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, \_\_\_\_\_ of BRAC Trust No. 2005-[ ], a Delaware statutory trust, as Owner Trust (in such capacity, the "Owner Trust") under the Trust Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005 (as amended, modified and supplemented from time to time, the "Trust Agreement") among Wilmington Trust Company, as Owner Trustee, and the Owner Participant (as such term is defined in Appendix A to the Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005 (the "Participation Agreement"), among the Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Budget Rent A Car System, Inc., as Lessee, Cendant Corporation, as Guarantor and the Owner Participant named therein; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in such Appendix A), duly authorized for the purpose, acting on behalf of the Owner Trust, hereby make, constitute and appoint (so long as no Event of Default shall have occurred and be continuing) as the Owner Trust's attorney-in-fact (i) the Lessee, acting through any of its "District Managers", "City Managers", "Fleet Managers" or "Turn-back Managers" or (ii) the Guarantor, acting through any of its duly authorized representatives, on behalf of the Owner Trust and in its name, place and stead, for the special purpose of (1) recording liens in favor of the Owner Trust on the certificate of title of any Vehicle (or of any Eligible Vehicle which will be subjected to the Lease), (2) executing such other documents as are necessary in order to record liens on such Vehicles (or Eligible Vehicles) in favor of the Owner Trust, (3) receiving (by mail or in person) and forwarding to the Nominee or its agent on behalf of the Owner Trust, the certificate of title and other registration documentation relating to such Vehicles (or Eligible Vehicles) and (4) designating the Lessee as the mailing address of the Owner Trust for all documentation relating to the title and registration of such Vehicles (or Eligible Vehicles). This power of attorney shall terminate on such date, after the first Funding Date, that the Remarketing Termination Date shall have occurred or that no Vehicles shall remain subject to the Lease and is irrevocable until such date so long as no Event of Default shall have occurred and be continuing.

Participation Agreement

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IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_th day of May, 2005.

for and on behalf of

BRAC Trust No. 2005-[ ], by Wilmington Trust Company, not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ])

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

Subscribed and sworn to before me  
this \_\_\_\_th day of May, 2005.

\_\_\_\_\_  
Notary Public

Participation Agreement

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[Letterhead of NOMINEE]

FORM OF POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, \_\_\_\_\_ of Budget Truck Trust I, a Delaware statutory trust (the "Nominee") under the Nominee Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005 (as amended, modified and supplemented from time to time, the "Nominee Agreement"), among the Nominee, the Lessor (as such term is defined in Appendix A to the Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, among BRAC Trust No. 2005-[ ], as Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Budget Rent A Car System, Inc., as Lessee, Cendant Corporation, as Guarantor and the Owner Participant named therein; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in such Appendix A), duly authorized for the purpose, acting on behalf of the Nominee, hereby make, constitute and appoint (so long as no Event of Default shall have occurred and be continuing) as the Nominee's attorney-in-fact (i) the Lessee, acting through any of its "District Managers", "City Managers", "Fleet Managers" or "Turn-back Managers" or (ii) the Guarantor, acting through any of its duly authorized representatives, on behalf of the Nominee and in its name, place and stead, for the special purpose of, (1) upon the sale of any Vehicle pursuant to Sections 13 or 14 of the Lease (other than sales to the Lessee) in accordance with the terms and conditions thereof, doing all things necessary, including, without limitation, executing any documents in the name of the Nominee, to properly transfer title and registration of such Vehicle to the purchaser thereof and (2) applying for duplicate certificates of title indicating the lien of the Owner Trust on such Vehicles (or Eligible Vehicles) where original certificates of title have been lost or destroyed. This power of attorney shall become effective on such date, after the first Funding Date, that the Remarketing Termination Date shall have occurred or that no Vehicles shall remain subject to the Lease, and is irrevocable so long as no Event of Default shall have occurred and be continuing.

Participation Agreement

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IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_th day of May, 2005.

for and on behalf of

Budget Truck Trust I, by Wilmington Trust Company, not in its individual  
capacity but solely as trustee under the Trust Agreement (BRAC Trust No.  
2005-[ ] )  
as Nominee

By \_\_\_\_\_

Name:

Title:

Subscribed and sworn to before me  
this \_\_\_th day of May, 2005.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Participation Agreement

[Letterhead of Owner Trust]

FORM OF POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, \_\_\_\_\_ of BRAC Trust No. 2005-[ ], a Delaware statutory trust (the "Trust"), acting in its capacity as Owner Trust (in such capacity, the "Owner Trust") under the Trust Agreement (BRAC Trust No. 2005-[ ], dated as of May [ ], 2005 (as amended, modified and supplemented from time to time, the "Trust Agreement") among Wilmington Trust Company, as Owner Trustee, and the Owner Participant (as such term is defined in Appendix A to the Participation Agreement dated as of May [ ], 2005 (the "Participation Agreement")), among the Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Budget Rent A Car System, Inc., as Lessee, Cendant Corporation, as Guarantor and the Owner Participant named therein; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in such Appendix A), duly authorized for the purpose, acting on behalf of the Owner Trust, hereby make, constitute and appoint (so long as no Event of Default shall have occurred and be continuing) as the Owner Trust's attorney-in-fact (i) the Lessee, acting through any of its "District Managers", "City Managers", "Fleet Managers" or "Turn-back Managers" or (ii) the Guarantor, acting through any of its duly authorized representatives, on behalf of the Owner Trust and in its name, place and stead, for the special purpose of, upon the sale of any Vehicle pursuant to Sections 13 or 14 of the Lease in accordance with the terms and conditions thereof, releasing the Owner Trust's lien on such Vehicle (including any Vehicle for which the certificate of title is attached hereto or identified on the annex attached hereto) by executing any documents required in connection therewith. This power of attorney shall become effective on such date, after the first Funding Date, that the Remarketing Termination Date shall have occurred or that no Vehicles shall remain subject to the Lease, and is irrevocable so long as no Event of Default shall have occurred and be continuing.

Participation Agreement

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IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_th day of May, 2005.

for and on behalf of

BRAC Trust No. 2005-[ ], by Wilmington Trust Company, not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ])

By \_\_\_\_\_

Name:

Title:

Subscribed and sworn to before me  
this \_\_\_\_th day of May, 2005.

\_\_\_\_\_  
Notary Public

Participation Agreement

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[ON LESSEE LETTERHEAD]  
[FORM OF FUNDING REQUEST]

\_\_\_\_\_, 2005

Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, DE 19890-0001  
Attn: \_\_\_\_\_

Gentlemen:

We refer to the Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005 (as amended from time to time, the "Participation Agreement"; the terms defined in Appendix A to the Participation Agreement being used herein as therein defined) among Budget Rent A Car System, Inc., as Lessee, BRAC Trust No. 2005-[ ], as Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Cendant Corporation, as Guarantor and [OWNER PARTICIPANT], as Owner Participant, and hereby give you irrevocable notice pursuant to Section 2.3 of the Participation Agreement, that we hereby request a Funding under the Participation Agreement, and in that connection set forth below the information relating to such Funding as required by Section 2.3 of the Participation Agreement:

(i) The proposed Funding Date is [\_\_\_\_\_].

(ii) The Specific Identification, Purchase Price and Scheduled Expiration Date relating to the Vehicles to be purchased on such proposed Funding Date are set forth on Annex A hereto.

(iii) The aggregate Purchase Price of the Vehicles to be purchased on the proposed Funding Date is \$\_\_\_\_\_.

[(iv) The proposed Funding Date will be the Final Funding Date.]

\_\_\_\_\_

1 Insert if such Funding Date is to be the Final Funding Date.

Very truly yours,

Budget Rent A Car System, Inc.

By \_\_\_\_\_

Name:

Title:

INFORMATION RELATING TO VEHICLES

<u>Make</u>	<u>Model Vehicle</u>	<u>V.I.N. Number</u>	<u>Unit Number</u>	<u>Vehicle Type</u>	<u>Chassis PO Number</u>	<u>Box Length</u>	<u>Purchase Price</u>	<u>Scheduled Expiration Date</u>
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BILL OF SALE

Pursuant to the provisions of the Participation Agreement (BRAC Trust No. 2005-[ ]) dated as of May [ ], 2005 (the "Participation Agreement") among Budget Rent A Car System, Inc., as Lessee ("BRAC"), BRAC Trust No. 2005-[ ], as Owner Trust, Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated therein and otherwise solely in its capacity as Owner Trustee under the Trust Agreement, as Owner Trustee, Cendant Corporation, as Guarantor and [OWNER PARTICIPANT] as Owner Participant (all capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in Appendix A to the Participation Agreement), and for the consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, BRAC, (the "Seller") does hereby (i) confirm all of its representations and warranties contained in Section 4.1(f) of the Participation Agreement and (ii) grant, sell, assign, transfer and convey to the Owner Trust (the "Buyer"), and the Buyer's successors and assigns, all of the Seller's right, title and interest in and to the following assets (collectively, the "Property"):

- (1) the light-duty and medium-duty box trucks more fully described on Schedule A hereto (each individually a "Vehicle" and collectively, the "Vehicles");
- (2) the rights of the Seller under the Nominee Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, among Budget Truck Trust I, BRAC and the Owner Trust, in respect of the Vehicles;
- (3) all Warranties;
- (4) the certificates of title issued, or to be issued, by the applicable state governmental authorities and applications for certificates of title with respect to each of the Vehicles; and
- (5) the certificate of origin with respect to each of the Vehicles for which a certificate of title, or applications therefor, have been made.

TO HAVE AND TO HOLD the Vehicles hereby conveyed, sold, transferred, assigned and delivered unto the Buyer, and its successors and assigns, to its own use and behoof forever.

IN WITNESS WHEREOF, the Seller has caused this instrument to be executed by its duly authorized officer as of this \_\_th day of May, 2005.

BUDGET RENT A CAR SYSTEM, INC.

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



VEHICLE DESCRIPTION

<u>Count</u>	<u>Expected Truck Completion Date</u>	<u>Make</u>	<u>Model</u>	<u>V.I.N. Number</u>	<u>Unit Number</u>	<u>VehicleType</u>	<u>Chassis PO Number</u>	<u>Box Length</u>	<u>Purchase Price</u>
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DEFINITIONS

The following terms shall have the following meanings for all purposes and such meanings are equally applicable both to the singular and plural forms of the terms defined. Any agreement defined or referred to in this Appendix A shall include each amendment, modification and supplement thereto that may (in accordance with the terms of the Operative Documents) be effective from time to time, except as otherwise expressly indicated. The definition of any Person herein shall include its successors and permitted assigns.

“Adverse Business Relationship” shall mean the existence of (a) overtly threatened or pending material litigation or arbitral proceedings between a proposed transferee and the Lessee, the Guarantor or any Affiliate thereof or (b) any other event which the Lessee reasonably demonstrates constitutes a material adverse relationship between the proposed transferee and the Lessee, Guarantor or any Affiliate thereof.

“Affiliate” shall mean, with respect to any Person, any other Person controlled by, in control of or under common control with such Person, either directly or indirectly through other Affiliates.

“Anticipated Initial Funding Date” shall have the meaning provided on Schedule I hereto.

“Appraiser” shall mean Marshall & Stevens, Inc.

“Bank” shall mean the bank or trust company acting as Owner Trustee, in its individual capacity.

“Base Term” shall mean, for each Vehicle, the period beginning on the Funding Date therefor, and ending (1) as to a Gas Engine Vehicle, 42 months after the date on which the Funding Date in respect of such Vehicle occurred, and (2) as to a Diesel Engine Vehicle, 54 months after the date on which the Funding Date in respect of such Vehicle occurred.

“Basic Rent” shall mean the rent payable for the Vehicles on each Rent Payment Date pursuant to Section 3.1 of the Lease.

“Bill of Sale” shall mean, with respect to any Funding Date, the bill of sale of the Lessee, substantially in the form of Exhibit E to the Participation Agreement, conveying its owner-ship interest in the Funding Date Vehicles to the Lessor free and clear of all Liens (other than Permitted Liens).

“Budget Parties” shall mean the Lessee and the Guarantor.

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“Business Day” shall mean any day except Saturday, Sunday or any other day on which banks are required or authorized to close in New York, New York or Wilmington, Delaware.

“Closing Date” shall have the meaning provided on Schedule I hereto.

“Code” shall mean, except as otherwise provided, the Internal Revenue Code of 1986, as amended from time to time, unless the context otherwise requires.

“Commitment” shall have the meaning provided on Schedule I hereto.

“Corporate Trust Office” shall mean the principal corporate trust office of the Owner Trustee, which office is, on the date of delivery of the Trust Agreement, located at the address of the Owner Trustee set forth on Schedule III to the Participation Agreement.

“Costs or Expenses” shall have the meaning provided in Section 5.1 of the Participation Agreement.

“Default” shall mean an event or condition which, with notice or lapse of time or both, would become an Event of Default.

“Default Termination Date” shall mean the date, if any, the Lease is terminated pursuant to Section 11 thereof as a result of an Event of Default.

“Diesel Engine Vehicle” shall mean an Eligible Vehicle which is manufactured to operate on diesel fuel.

“Early Termination Date” shall have the meaning provided in Section 13 of the Lease.

“Eligible Vehicle” shall mean a light or medium duty box truck which is equipped with either a gas or a diesel engine, and having a chassis of 10, 16 or 24 feet, manu-factured by a Manufacturer and equipped with a cargo box and other improvements, which truck is further identified and described on Schedule IV to the Participation Agreement.

“Employee Benefit Plan” shall mean any employee benefit plan (as defined in Section 3(3) of ERISA) which is subject to Title IV of ERISA and which is maintained by or contributed to by the Lessee or any Related Person or to which the Lessee or any Related Person has any liability.

“Environmental Law” shall mean any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any govern-mental authority regulating, relating to or imposing liability standards of conduct concern-ing any Hazardous Waste or environmental protections, as now or at any time hereafter in effect, including, without limitation, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendments and Reauthorization Act of 1986, the Emergency Planning and Community Right to Know Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Toxic Substances Control Act, together, in each

case, with each amendment, supplement or other modification thereto, and the regulations promulgated thereunder and all substitutions therefor.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

“Event of Default” shall have the meaning provided in Section 10 of the Lease.

“Event of Loss” shall have the meaning provided in Section 12.1 of the Lease.

“Event of Loss Date” shall have the meaning provided in Section 12.1 of the Lease.

“Expiration Date” shall mean, in respect of any Vehicle, the earlier of (i) the Default Termination Date, (ii) the date on which a Vehicle is sold pursuant to Section 13.2 of the Lease, (iii) the Sale Termination Date (as defined in Section 13.1(b) of the Lease) and (iv) the Termination Date in respect of such Vehicle (or if such Vehicle shall have not been sold on or before the Termination Date, the Remarketing Termination Date).

“Fair Market Sales Value” of any or all of the Vehicles shall mean the open market wholesale sales value in a cash lump sum that a willing and informed buyer would pay for such Vehicle or Vehicles to a willing and informed seller in an arm’s-length purchase (which neither party is under any compulsion to enter into), “as-is, where-is with all faults” as determined by the Appraiser and if any Vehicle is not returned to the Lessor in compliance with the return provisions of the Lease, the Lessor’s cost for transporting such Vehicle to the closest location designated in Schedule I to the Lease shall be subtracted from the Fair Market Sales Value for such Vehicle.

“Final Funding” shall mean the Funding identified as the Final Funding in the notice delivered to the Owner Trustee by the Lessee pursuant to Section 2.3 of the Participation Agreement with respect to such Funding.

“Final Funding Date” shall mean the Funding Date on which the Final Funding is held.

“Fleet” shall mean, at any time, all Vehicles then subject to the Lease.

“Funding” shall mean the funding by the Owner Participant to the Owner Trust pursuant to Section 2.1 of the Participation Agreement on a Funding Date with respect to a portion of the Fleet.

“Funding Date” shall mean the date on which a Funding with respect to any portion of the Fleet is held, which shall fall on the last day of any given month (or, if such day is not a Business Day, the immediately preceding Business Day), or such other date as the Lessee and the Owner Participant may agree from time to time.

“Funding Date Lease Supplement” shall mean a Lease Supplement dated a Funding Date and entered into by the Lessor and the Lessee on such Funding Date, substantially

in the form of Exhibit B to the Lease, in accordance with the provisions of the Participation Agreement.

“Funding Date Vehicle” shall mean, with respect to any Funding Date, an Eligible Vehicle being purchased by the Owner Trust on such Funding Date pursuant to the terms of the Participation Agreement.

“GAAP” shall mean the generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect as of the relevant date of determination.

“Gas Engine Vehicle” shall mean an Eligible Vehicle which is manufactured to operate on gasoline.

“Governmental Body” shall mean any department, commission, board, bureau, court, legislature, agency, instrumentality or authority of the United States of America or any political subdivision thereof.

“Guarantor” shall mean Cendant Corporation, a Delaware corporation.

“Guaranty” shall have the meaning provided on Schedule I hereto.

“Hazardous Waste” means any hazardous materials, hazardous wastes, hazardous or toxic substances, defined or regulated as such in or under any Environmental Law, including, without limitation, asbestos, gasoline and any other petroleum products (including crude oil or any fraction thereof), and materials exhibiting the characteristics of ignitability, corrosivity, reactivity or extraction procedure toxicity, as such terms are defined in connection with hazardous materials or hazardous wastes or hazardous or toxic substances in any Environmental Law.

“Indemnified Person” shall mean each of the Owner Trustee, the Bank, any separate Owner Trust or additional Owner Trust, the Owner Participant, the Nominee Trustee, the Nominee, permitted successors and assigns and the respective directors, employees, servants, agents and Affiliates of such Persons.

“Information Memorandum” shall mean the Information Memorandum, dated \_\_\_\_\_, 2005, relating to a \$\_\_\_\_\_TRAC Lease Financing of New Light Duty and Medium-Duty Box Trucks.

“IRS” shall mean the Internal Revenue Service.

“Judgment” shall mean any judgment, decree, order or award of any arbitration board or any court or other Governmental Body.

“Lease” shall have the meaning provided on Schedule I hereto.

“Lease Supplement” shall mean a supplement to the Lease which is either a Funding Date Lease Supplement or a supplement entered into for the purpose of amending, modifying or supplementing the Lease or any Lease Supplement.

“Lease Term” shall mean, for any Vehicle, the period commencing on such Vehicle’s Funding Date and ending on the earlier to occur of such Vehicle’s Termination Date or on such Vehicle’s Remarketing Termination Date.

“Lessee” shall mean Budget Rent A Car System, Inc., a Delaware corporation.

“Lessee Person” means Lessee, Guarantor, their Affiliates, any agent or employee of Lessee, any of Lessee’s successors, assigns or transferees, any user of any Vehicle (or any part thereof) during the Lease Term or any Person having custody or possession of any Vehicle (or any part thereof) during the Lease Term for such Vehicle (but not including the Owner Participant or Owner Trust, or any person claiming through Owner Participant or Owner Trust).

“Lessee Sale Termination Date” shall have the meaning provided in Section 13.1(b) of the Lease.

“Lessor” shall mean the Owner Trust.

“Lessor’s Estate” shall mean all estate, right, title and interest of the Owner Trust in and to the Fleet, the Participation Agreement, the Lease, the Warranties, the Bill of Sale and the Nominee Agreement.

“Lessor’s Liens” shall mean the Owner Trustee’s Liens.

“Lessor’s Transaction Costs” shall mean those costs and expenses of the Lessor specified in clauses (ii) through (vii) of the definition of Transaction Costs.

“Lien” shall mean any mortgage, lien or charge on, security interest in or conditional sale or other title retention agreement or other encumbrance of any nature whatsoever.

“Manufacturers” shall mean General Motors Corporation, International Truck and Engine Corporation and Ford Motor Company, and “Manufacturer” shall mean any of such companies.

“Maximum Number of Owner Participants” shall have the meaning provided on Schedule I hereto.

“Merger Event” shall have the meaning provided in Section 2.8 of the Guaranty.

“Model Year” shall mean the model year designated for an Eligible Vehicle by the manufacturer thereof, which year shall be deemed for purposes hereof to commence on the day announced by such manufacturer as the first day of such year.

“Moody’s” shall mean Moody’s Investor Services, Inc.

“Net Economic Return” shall have the meaning provided on Schedule I hereto.

“Net Sales Proceeds” shall mean the net amount received upon a sale of any Vehicle after deducting any costs incurred in connection with such sale and, for purposes of the sale of a Vehicle to the Lessee pursuant to Sections 13.2 or 14.2(b) of the Lease, shall be not less than the Fair Market Sales Value of such Vehicle. In determining the Net Sales Proceeds of a Vehicle disposed of by the Lessor pursuant to Section 11(a) of the Lease upon the occurrence of an Event of Default (other than Section 11(a)(v) of the Lease), the costs of sale shall include, without limitation, the payment of costs and expenses specified in Section 11(a)(v)(B) of the Lease.

“Nominee” shall mean Budget Truck Trust I, a Delaware statutory trust.

“Nominee Agreement” shall have the meaning provided on Schedule I hereto.

“Nominee Trust Agreement” shall mean the Trust Agreement (Budget Truck Trust I), dated as of February 17, 2004, among Budget Rent A Car System, Inc., BRAC Trust No. 2004-1, such parties as may become party thereto from time to time, and Wilmington Trust Company, as trustee.

“Nominee Trust Supplement” shall have the meaning provided on Schedule I hereto.

“Nominee Trustee” shall mean Wilmington Trust Company, not in its individual capacity, but solely as trustee of the Nominee.

“Officer’s Certificate” of any entity shall mean a certificate executed on behalf of such entity by a Responsible Officer thereof.

“Operative Documents” shall mean the Participation Agreement, the Lease (including the Lease Supplements), the Nominee Agreement, the Nominee Trust Agreement, the Bill or Bills of Sale, the Powers of Attorney, the Guaranty, the Trust Agreement and the Tax Indemnity Agreement.

“Overdue Payment Rate” shall mean a floating per annum rate equal to the lesser of (i) two percent (2%) above the Reference Rate in effect from time to time and (ii) the maximum interest rate permitted by applicable law.

“Owner Participant” shall have the meaning provided on Schedule I hereto.

“Owner Participant’s Liens” shall mean all Liens against the Fleet, the warranties related to the Fleet, the insurance policies secured in respect of the Fleet as contemplated by Section 8 of the Lease and the proceeds of the foregoing which result from:

- (a) claims against the Owner Participant unrelated to the transactions contemplated by the Operative Documents,

(b) acts by the Owner Participant creating a Lien (unless such Lien is consented to by the Lessee), or

(c) breaches by the Owner Participant of any of its duties and obligations under any of the Operative Documents to which it is a party.

“Owner Trust” shall have the meaning provided on Schedule I hereto.

“Owner Trustee” shall mean Wilmington Trust Company, acting (except where express reference is made to the Owner Trustee in its individual capacity) not in its individual capacity but solely as trustee under the Trust Agreement.

“Owner Trustee’s Liens” shall mean all Liens against the Fleet, the warranties related to the Fleet, the insurance policies secured in respect of the Fleet as contemplated by Section 8 of the Lease and the proceeds of the foregoing which result from:

(a) claims against the Owner Trustee or the Bank unrelated to the transactions contemplated by the Operative Documents,

(b) acts by the Owner Trustee (in its individual or trust capacity) creating a Lien (unless such Lien is consented to by the Lessee or such acts are taken in connection with an Event of Default),

(c) breaches by the Owner Trustee or the Bank of any of its duties and obligations under any of the Operative Documents to which it is a party,

(d) claims of the Bank (except such claims as are expressly permitted by the Operative Documents), or

(e) any Tax on the Lessor’s Estate other than a Tax which is indemnified by the Lessee pursuant to Section 5.2 of the Participation Agreement.

“Participation Agreement” shall have the meaning provided on Schedule I hereto.

“Per Diem Rent” shall mean, in respect of any Vehicle , the product of (i) the Per Diem Rent Factor for such Vehicle and (ii) the Purchase Price for such Vehicle.

“Per Diem Rent Factor” shall have the meaning, in respect of any Vehicle Type, specified with respect thereto on Schedule II to the Lease, as such percentage may be adjusted pursuant to Section 3.3 of the Lease and set forth in the applicable Lease Supplement in respect of any Vehicle.

“Permitted Contest” shall mean a contest permitted by and meeting the require-ments of Section 5.2 of the Lease.

“Permitted Investments” shall mean (a) investments in direct obligations of the government of the United States or any instrumentality thereof, the obligations of which are guaranteed by such government, maturing within 90 days of the date of acquisition thereof, (b)



investments in obligations fully guaranteed by the government of the United States or any instrumentality thereof, the obligations of which are guaranteed by such government, maturing within 90 days of the date of acquisition thereof, (c) investments in open market commercial paper issued by any corporation rated at least P-1 by Moody's Investors Service, Inc. or A-1 by Standard & Poors Corporation maturing within 90 days from the date of acquisition thereof, (d) investments in certificates of deposit issued by, or bankers' acceptances of, or repurchase agreements (fully collateralized by transfer of any of the other obligations referred to above in this definition) with, or time deposits or a deposit account issued by, any bank, trust company or national banking association incorporated or doing business under the laws of the United States of America or any State thereof having a combined capital and surplus of at least \$500,000,000, in each case maturing within 90 days of the date of acquisition thereof, and (e) a money market fund registered under the Investment Company Act of 1940 (15 U.S.C. § 809-1 et seq. as from time to time amended), the portfolio of which is limited to United States government obligations and United States agency obligations as described in (a) and (b) above.

"Permitted Liens" shall mean:

(a) Liens for Taxes (i) not yet delinquent or (ii) being contested in good faith in a Permitted Contest;

(b) Liens of mechanics, laborers, garagemen, garbagekeepers, materialmen, suppliers, vendors, workmen and carriers and any other statutory or common law possessory Liens (other than Liens of the Manufacturers and the initial vendor) created in the ordinary course of business for sums of money (other than borrowed money) which under the terms of the related contracts are not at the time due, provided that any reserve or other appropriate provision required by generally accepted accounting principles shall have been made in respect thereof and provided that all such Liens permitted by this clause (b) shall not in the aggregate be material in respect of the condition or operations of the Lessee;

(c) the respective rights and interests of the Owner Participant, the Owner Trust, the Lessee, the Nominee and the Guarantor as are permitted by and contemplated under the Operative Documents;

(d) Liens arising out of judgments or awards against the party or parties obligated to keep the subject asset free of Liens with respect to which a timely appeal or proceeding for review is being prosecuted in good faith in a Permitted Contest;

(e) Liens arising out of pre-judgment garnishment, attachment or other similar actions or proceedings, provided the same are removed within 15 days of the date of creation thereof or fully bonded and so long as such actions do not involve any material risk of the sale, forfeiture or loss of the encumbered asset or material risk of any liability to the party or parties intended as the beneficiary of the requirement that the subject asset be kept free of Liens; and

(f) the Lessor's Liens and the Owner Participant's Liens.

"Permitted Use Agreements" shall have the meaning provided in Section 7.3 of the Lease.

“Person” shall mean and include any individual, firm, corporation, association, trust, partnership, joint venture, limited liability company, unincorporated organization or other enterprise or any government or any agency, political subdivision, department or instrumentality thereof.

“Powers of Attorney” shall mean the limited powers of attorney granted by the Owner Trust and the Nominee, respectively, to the Lessee on the Closing Date, substantially in the forms of Exhibits C-1, C-2, C-3 and C-4 to the Participation Agreement.

“Purchase Price” shall mean, in respect of each Vehicle, an amount set forth in the applicable Lease Supplement equal to the sum of (a) the actual purchase price paid or payable to the applicable Manufacturer in respect of such Vehicle, (b) the amount paid or payable to the applicable box manufacturer in respect of such Vehicle and (c) freight, installation, and point of purchase expenses as are necessary to place such Vehicle into commercial service.

“Qualified Entity” shall mean a corporation, partnership, limited liability company or business trust (1) which, as of the date of determination, has an unsecured debt rating of not less than Baa1 from Moody’s and BBB from S&P (or, if such entity is not rated by Moody’s or S&P, a comparable rating from another nationally recognized rating agency) and (2) to which the Owner Participant has not objected within thirty (30) days of receipt of the notice referred to in Section 5.4 of the Participation Agreement and receipt by the Owner Participant of all relevant information, which objection must be based upon one or more of the following: (A) legal or regulatory prohibitions or constraints which would apply to the Owner Participant if the proposed Qualified Entity were the Lessee or a guarantor thereof and a legal opinion to such effect has been provided; (B) internal limitations of the Owner Participant with respect to total credit exposure to the proposed Qualified Entity, the country in which such proposed Qualified Entity is domiciled or the industry (other than the vehicle rental industry) of such Qualified Entity, so long as such limitations are based on an established policy of the Owner Participant or, if no established policy exists, limitations reasonably determined at the time in good faith by Owner Participant and presented to the Lessee, together with an explanation as to the reasons for such limitations; (C) the existence of overtly threatened or pending material litigation or arbitral proceedings between the proposed Qualified Entity or any of its Affiliates and the Owner Participant or any of its Affiliates and evidence to such effect; or (D) any other written, established policy of the Owner Participant which would preclude a relationship with the proposed Qualified Entity and evidence to such effect has been provided.

“Qualified Merger Entity” shall be a corporation, partnership, limited liability company or business trust which, following such Merger Event, shall have unsecured debt ratings from S&P or Moody’s which are not (i) two (2) full notches or more lower than the unsecured debt ratings of Guarantor from either of such rating agencies immediately prior to such Merger Event or (ii) in any case, lower than BBB- from S&P or Baa3 from Moody’s, unless, in the case of clause (ii), the unsecured debt ratings of Guarantor prior to such Merger Event were lower than BBB- from S&P or Baa3 from Moody’s in which case the Surviving Entity shall have an unsecured debt rating from each rating agency which is equal to or greater than Guarantor’s ratings.

“Quarterly Rent Factor” shall have the meaning, with respect to any Vehicle Type, specified with respect thereto on Schedule II to the Lease, as such percentage may be adjusted pursuant to Section 3.3 of the Lease and set forth in the applicable Lease Supplement in respect of any Vehicle.

“Reference Rate” shall mean such rate as announced from time to time by Citibank, N.A., as its prime rate.

“Regulations” shall mean regulations promulgated by the United States Treasury Department under the Code.

“Related Indemnitee” shall mean, with respect to an Indemnified Person, (i) the Affiliates of such Person and (ii) the agents, shareholders, directors, employees and officers of such Indemnified Person and its Affiliates.

“Related Person” shall mean any trade or business, whether or not incorporated, that (together with the Lessee) is under common control as described in Sections 414(b) and (c) of the Code and with respect to Section 412 of the Code and Section 302 of ERISA, Sections 414(b), (c), (m) and (o) of the Code.

“Remarketing Agent” shall mean any Person acting as a remarketing agent with respect to the remarketing of the Vehicles.

“Remarketing Payment Date” shall have the meaning provided in Section 14.2(b) of the Lease.

“Remarketing Termination Date” shall have the meaning provided in Section 14.2(d) of the Lease.

“Remedy Payment Date” shall have the meaning provided in Section 11 of the Lease.

“Renewal Rent” shall mean, in respect of a given Vehicle during the Renewal Term for such Vehicle, if a payment of Renewal Rent is payable on a Rent Payment Date, the product of (a) the Purchase Price for such Vehicle and (b) the Quarterly Rent Factor for such Vehicle and, in cases in which the Renewal Rent is to be paid on a date other than a Rent Payment Date, Per Diem Rent for such Vehicle multiplied by the number of days since the date on which Basic Rent or Renewal Rent was last payable.

“Renewal Sale Date” shall have the meaning provided in Section 13.1(c) of the Lease.

“Renewal Settlement Date” shall have the meaning provided in Section 13.1(c) of the Lease.

“Renewal Term” shall have the meaning provided in Section 14.1(b) of the Lease.

“Renewal TRAC Percentage” shall, as of any date of determination, with respect to any Vehicle Type, equal the percentage applicable to the calculation of Termination Value for such Vehicle Type as of such date, as set forth on the Lease Supplement in respect of such Vehicle; *provided* that in all cases, the Renewal TRAC Percentage of any Vehicle of a particular Vehicle Type as of the date which is one year after the commencement of the Renewal Term, if any, with respect to such Vehicle shall be as indicated on Schedule IV to the Lease.

“Rent” shall mean Basic Rent, Supplemental Rent, and any Renewal Rent, if applicable.

“Rent Payment Date” shall mean, during the Lease Term for each Vehicle, for the initial Rent Payment Date, the 30<sup>th</sup> day of the third calendar month after the Funding Date for such Vehicle (or if such day is not a Business Day, on the immediately preceding Business Day), and thereafter the 30<sup>th</sup> day of the third calendar month after the preceding Rent Payment Date (or if such day is not a Business Day, on the immediately preceding Business Day).

“Rent Period” shall mean, as to each Vehicle, each succeeding Rent Period determined in accordance with Section 3.2 of the Lease.

“Responsible Officer” shall mean:

(a) with respect to the Lessee, (i) any of the Lessee’s management or supervisory personnel in the Lessee’s fleet administration or motor vehicle accounting departments at its North American headquarters (including their supervisors) or (ii) any of the Lessee’s management or supervisory personnel who at the time are responsible for the administration of the Operative Documents (including their supervisors);

(b) with respect to the Owner Participant, any of the Owner Participant’s management or supervisory personnel who at the time are responsible for the administration of the Operative Documents (including their supervisors); and

(c) with respect to the Owner Trust, any officer thereof who at the time is authorized to act in connection with the transactions contemplated by the Operative Documents or any officer with direct responsibility for administration of the Trust Estate.

“S&P” shall mean Standard & Poor’s Corporation.

“Scheduled Expiration Date” shall mean, in respect of any Vehicle, the last day of the Base Term for such Vehicle, which date shall be indicated on Schedule A to the Funding Date Lease Supplement relating to such Vehicle.

“Securities Act” shall mean the Securities Act of 1933 as in effect from time to time.

“Specific Identification”, “Specifically Identify”, “Specifically Identifies” and “Specifically Identified” shall mean, with respect to any Vehicle, identification of the make, model, vehicle identification number, unit number and box length for such Vehicle.

“Specified Default” shall mean any Default under Sections 10(a), (b) (e), (f) or (g) of the Lease or any Event of Default.

“Supplemental Rent” shall mean (without duplication of Basic Rent): (a) all amounts, liabilities and obligations which the Lessee expressly assumes or agrees to pay to or for the benefit of the Owner Trust, the Nominee, the Owner Participant or any Indemnified Person under the Operative Documents, whether or not designated as Supplemental Rent, including, without limitation, damages for breach of any covenant, representation, warranty or agreement therein and payments of Termination Value, but excluding Basic Rent; and (b) all amounts payable by the Lessor pursuant to the Nominee Agreement, at the time when such amounts are payable by the Lessor.

“Surviving Entity” shall have the meaning provided in Section 5.4 of the Participation Agreement.

“Tax” and “Taxes” shall have the meanings provided in Section 5.2 of the Participation Agreement.

“Tax Assumptions” shall mean those assumptions set forth in Section 2 of the Tax Indemnity Agreement.

“Tax Indemnity Agreement” shall have the meaning provided on Schedule I hereto.

“Tax Law Change” shall mean any change (or any change proposed by the chairman of the House of Representatives Ways and Means Committee or the Senate Finance Committee or approved by either such committee, or set forth in a budget proposal by the Department of the Treasury which could have an effective date applicable to the Vehicles to be purchased on a Funding Date) in the Code or the United States Treasury Income Tax Regulations that would affect the anticipated U.S. federal income tax consequences to the Owner Participant of the transactions contemplated by the Operative Documents.

“Termination Date” shall mean, for any Vehicle, the date that such Vehicle is sold pursuant to Section 14.2 of the Lease.

“Termination Value” shall mean, as of any date of determination of such value in respect of a Vehicle, (i) if such date of determination is a Rent Payment Date or another date specified on Schedule B to the Funding Date Lease Supplement for such Vehicle (a “Specified Date”), the percentage of the Purchase Price for such Vehicle indicated for such date on Schedule B to the Funding Date Lease Supplement relating to such Vehicle (as such percentage may be adjusted pursuant to Section 3.3 of the Lease and set forth in the applicable Lease Supplement in respect of any Vehicle); (ii) if such date of determination is not a Rent Payment Date or another Specified Date, the Purchase Price for such Vehicle multiplied by the interpolated percentage derived with reference to the percentage indicated on Schedule B to the Funding Date Lease Supplement relating to such Vehicle (as such percentage may be adjusted pursuant to Section 3.3 of the Lease and set forth in the applicable Lease Supplement in respect of any Vehicle) for the Rent Payment Dates or the Specified Dates immediately preceding and

immediately succeeding such date of determination; *provided, that*, if such date of determination is not a Rent Payment Date or another date specified on Schedule B to the Funding Date Lease Supplement and occurs within the month immediately preceding (but excluding) a Rent Payment Date, such amount shall be the sum of (x) the percentage of the Purchase Price for such Vehicle indicated on Schedule B to the applicable Lease Supplement in respect of such Vehicle on the specified date immediately preceding such date of determination and (y) the product of the Per Diem Rent for such Vehicle and the number of days elapsed after such Specified Date.

“TRAC Amount” shall mean, as of any date of determination and with respect to any Vehicle sold by or on behalf of the Lessor (whether to the Lessee or a third party), an amount equal to the TRAC Percentage or Renewal TRAC Percentage, as applicable, of the Purchase Price for such Vehicle as of such date of determination with respect to such Vehicle minus the Net Sales Proceeds with respect to such Vehicle (it being understood that if a Vehicle is unsold, the Net Sales Proceeds equals zero).

“TRAC Certificate” shall have the meaning provided in Section 2 of the Lease.

“TRAC Percentage” shall have the meaning, with respect to any Vehicle Type, specified in Schedule IV to the Lease. The TRAC Percentage shall apply to any calculation of the TRAC Amount on the last day of the Base Term in respect of a Vehicle.

“Transaction Costs” means all of the out-of-pocket costs, fees and expenses incurred by the Lessee, the Guarantor, the Owner Participant, the Owner Trust, the Bank and the Nominee in connection with the negotiation, preparation, execution, delivery, filing and recording of the Operative Documents and the transactions contemplated thereby, including:

(i) (A) the reasonable fees and disbursements of White & Case LLP, special counsel to the Lessee and the Guarantor; (B) the reasonable fees and disbursements of McAfee & Taft, special Oklahoma counsel to the Lessee and the Guarantor; and (C) the reasonable fees of BTM Financial Services, Inc., as the Lessee’s advisor;

(ii) the reasonable fees, expenses and disbursements of (A) Thelen Reid & Priest LLP, special counsel for the Owner Participant and any other special local counsel for the Owner Participant, (B) Richards, Layton & Finger, P.A., special counsel for the Owner Trust and the Bank, (C) Richards, Layton & Finger, P.A., special counsel for the Nominee and (D) Richards, Layton & Finger, P.A., counsel to the Nominee Trustee;

(iii) the reasonable out-of-pocket costs and expenses of the Owner Participant, the Lessee and the Guarantor;

(iv) the cost of preparation and filing of UCC financing statements;

(v) the fees and out-of-pocket costs and expenses of the Nominee;

(vi) the fees and expenses of the Appraiser; and

(vii) the initial but not ongoing fees and expenses of the Owner Trust.

“Transaction Cost Maximum” shall have the meaning provided on Schedule I hereto.

“Trigger Event” shall mean that the Lessor shall have obtained, shall have demanded or shall be seeking to obtain, physical possession of the Fleet pursuant to Section 11 of the Lease by reason of the occurrence of an Event of Default.

“Trust Agreement” shall have the meaning provided on Schedule I hereto.

“U.C.C.” shall mean the Uniform Commercial Code as adopted in any applicable jurisdiction as may be in effect from time to time.

“United States Person” shall have the meaning provided in Section 7701(a)(30) of the Code.

“Unsold Vehicle” shall have the meaning provided in Section 14.2(d) of the Lease.

“Vehicle” shall mean, at any time, an Eligible Vehicle which at any time was purchased by the Lessor pursuant to the Participation Agreement and made subject to the Lease.

“Vehicle Type” shall mean, with respect to any Vehicle, a Vehicle designation of [“Vehicle Type A” or “Vehicle Type B”]<sup>1</sup>, as set forth in the applicable Lease Supplement in respect of any Vehicle.

“Vehicle Type A” shall mean Gas Engine Vehicles, specifically it includes E350 10 foot box trucks and E350 15 foot box trucks manufactured by Ford Motor Company and Savana 15 foot box trucks manufactured by General Motors Corporation.

“Vehicle Type B” shall mean Diesel Engine Vehicles, specifically it includes TC 7500 24 foot box trucks manufactured by General Motors Corporation, 4200 24 foot box trucks and 4300 24 foot box trucks manufactured by International Truck and Engine Corporation.

“Warranties” shall have the meaning provided in Section 4.2 of the Lease.

Certain Definitions

“Anticipated Initial Funding Date” shall mean May [ ], 2005.

“Closing Date” shall mean May [ ], 2005, or such later date as shall be agreed by the parties to the Participation Agreement.

“Commitment” shall mean \$[\_\_\_\_\_].

“Guaranty” shall mean the Guaranty Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, by the Guarantor in favor of the Owner Trust and the Owner Participant.

“Lease” shall mean the Lease Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, between the Lessee and the Lessor.

“Maximum Number of Owner Participants” shall mean one (1).

“Net Economic Return” shall mean [\_\_\_\_\_]<sup>2</sup>.

“Nominee Agreement” shall mean the [Nominee Agreement (BRAC Trust No. 2005-[ ]) dated as of May [ ], 2005 among the Nominee, the Lessee and the Lessor].

“Nominee Trust Supplement” shall mean the Trust Supplement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, among the Lessee, the Lessor and the Bank.

“Owner Participant” shall mean [OWNER PARTICIPANT].

“Owner Trust” shall mean BRAC Trust No. 2005-[ ], a Delaware statutory trust.

“Participation Agreement” shall mean the Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, among the Lessee, the Owner Participant, the Owner Trust, the Guarantor and Wilmington Trust Company, in its individual capacity only to the extent expressly therein and otherwise as Owner Trustee.

“Tax Indemnity Agreement” shall mean the Tax Indemnity Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, between the Lessee and the Owner Participant.

“Transaction Cost Maximum” shall mean \$[\_\_\_\_\_].



“Trust Agreement” shall mean the Trust Agreement (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, between the Bank and the Owner Participant.

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LEASE AGREEMENT  
(BRAC Trust No. 2005-[ ])

Dated as of May \_\_\_\_, 2005

among

BRAC Trust No. 2005-[ ], as Lessor

WILMINGTON TRUST COMPANY, in its individual  
capacity only to the extent expressly stated in Section 18.10  
hereof and otherwise not in its individual capacity but solely as  
trustee under the Trust Agreement (BRAC Trust No. 2005-[ ])  
and

BUDGET RENT A CAR SYSTEM, INC., as Lessee

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THIS LEASE AGREEMENT HAS BEEN EXECUTED IN SEVERAL COUNTER-PARTS. ONLY THE "ORIGINAL" COUNTERPART OF THIS LEASE AGREEMENT CONTAINING THE RECEIPT THEREFOR EXECUTED BY WILMINGTON TRUST COMPANY, AS OWNER TRUSTEE, ON THE SIGNATURE PAGE THEREOF EVIDENCES THE MONETARY OBLIGATIONS OF LESSEE HEREUNDER AND TO THE EXTENT, IF ANY, THAT THIS LEASE AGREEMENT CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE JURISDICTION), NO SECURITY INTEREST IN THIS LEASE AGREEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN SAID "ORIGINAL" COUNTERPART.

Lease Agreement

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TABLE OF CONTENTS

	Page
SECTION 1. DEFINITIONS	1
SECTION 2. LEASE OF VEHICLES	1
SECTION 3. RENT; FEES	1
3.1 <u>Rent</u>	1
3.2 <u>Rent Periods; Allocation of Rent</u>	2
3.3 <u>Certain Adjustments to Basic Rent</u>	2
3.4 <u>Supplemental Rent</u>	3
3.5 <u>Payments</u>	4
SECTION 4. DISCLAIMER OF WARRANTIES	4
4.1 <u>Disclaimer of Warranties</u>	4
4.2 <u>Certain Agreements</u>	5
SECTION 5. LIENS	6
5.1 <u>Restrictions on Lessee</u>	6
5.2 <u>Permitted Contests</u>	6
SECTION 6. QUIET ENJOYMENT	7
SECTION 7. OPERATION AND MAINTENANCE; SUBLEASING	8
7.1 <u>Vehicle Records</u>	8
7.2 <u>Title to Remain in Nominee; Vehicle Management; Location of Vehicles</u>	8
7.3 <u>Subleasing</u>	9
7.4 <u>Maintenance of the Vehicles</u>	9
SECTION 8. INSURANCE	10
SECTION 9. INSPECTION	11
SECTION 10. EVENTS OF DEFAULT	11
SECTION 11. REMEDIES	13
SECTION 12. EVENT OF LOSS	16
12.1 <u>Event of Loss</u>	16
12.2 <u>Application of Payments from Others and Salvage</u>	16

12.3	<u>Application of Payments During the Existence of an Event of Default</u>	17
SECTION 13.	EARLY TERMINATION	17
13.1	<u>Early Termination</u>	17
13.2	<u>Remarketing of Vehicles</u>	18
SECTION 14.	END OF LEASE OPTIONS; DISPOSITION	19
14.1	<u>Expiration of Lease</u>	19
14.2	<u>Lessee Sale of Vehicles</u>	20
14.3	<u>Condition of a Vehicle at End of Lease; Storage</u>	21
14.4	<u>Holding Over</u>	21
SECTION 15.	CERTAIN COVENANTS	22
15.1	<u>Further Assurances</u>	22
15.2	<u>Filing Financing and Continuation Statements</u>	22
SECTION 16.	PAYMENT DUTY ABSOLUTE	22
SECTION 17.	ASSIGNMENT	23
SECTION 18.	MISCELLANEOUS	23
18.1	<u>Notices</u>	23
18.2	<u>Survival</u>	23
18.3	<u>Confidentiality</u>	23
18.4	<u>Amendments</u>	23
18.5	<u>Severability</u>	23
18.6	<u>Successors and Assigns</u>	24
18.7	<u>Counterparts</u>	24
18.8	<u>Construction</u>	24
18.9	<u>Governing Law</u>	24
18.10	<u>The Lessor Not Acting in Individual Capacity</u>	24
18.11	<u>Chattel Paper</u>	24
18.12	<u>Forum Selection and Consent to Jurisdiction</u>	24
18.13	<u>Waiver of Jury Trial</u>	25
SCHEDULE I	- Return Locations	
SCHEDULE II	- Closing Date Rent Factors	
SCHEDULE III	- Pricing Assumptions	
SCHEDULE IV	- TRAC Amounts	
SCHEDULE V	- Closing Date Renewal Termination Values	
EXHIBIT A	- TRAC Certificate	



LEASE AGREEMENT  
(BRAC Trust No. 2005-[ ])

LEASE AGREEMENT (BRAC Trust No. 2005-[ ]), dated as of May [ ], 2005, among BRAC TRUST NO. 2005-[ ], as Lessor, WILMINGTON TRUST COMPANY, in its individual capacity only to the extent expressly stated in Section 18.10 hereof and otherwise not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ]), and BUDGET RENT A CAR SYSTEM, INC., as Lessee.

SECTION 1. DEFINITIONS

All capitalized terms used herein which are not defined in the body hereof shall have the meanings specified in Appendix A to the Participation Agreement.

SECTION 2. LEASE OF VEHICLES

On each Funding Date, upon execution and delivery of a Funding Date Lease Supplement and the satisfaction of the conditions set forth in Section 3 of the Participation Agreement, the Lessor will lease to the Lessee, and the Lessee will lease from the Lessor, on the terms and subject to the conditions of this Lease, each Funding Date Vehicle specified in such Funding Date Lease Supplement which shall be incorporated herein and made a part hereof, for the period from and including such Funding Date through the Expiration Date in respect of such Funding Date Vehicle. Annexed to such Funding Date Lease Supplement and incorporated therein and made a part thereof shall be (a) a schedule which sets forth for each such Funding Date Vehicle: (i) the Specific Identification thereof; (ii) the Purchase Price therefor; (iii) the Per Diem Rent Factor therefor (if applicable) pertaining to each of the Base Term and the Renewal Term; (iv) the Quarterly Rent Factor therefor pertaining to each of the Base Term and the Renewal Term; and (v) the Scheduled Expiration Date therefor; (b) a schedule of percentages to be used in calculating the Termination Value therefor from time to time pertaining to each of the Base Term and the Renewal Term, and (c) a tax certification in the form of Exhibit A hereto (the "TRAC Certificate") by which the Lessee (i) certifies under penalty of perjury that it intends that more than 50 percent of the use of the Vehicles leased hereunder will be in a trade or business of the Lessee and (ii) states that it has been advised that it will not be treated as the owner of the Vehicles for federal income tax purposes and by which the Lessor acknowledges that it has no knowledge that the certification given by the Lessee is false. The execution and delivery by the Lessor and the Lessee, respectively, of each Funding Date Lease Supplement shall, without further act, constitute irrevocable acceptance by the Lessee of the delivery of the Vehicles which are the subject thereof for all purposes of this Lease and the other Operative Documents on the terms set forth herein and therein.

SECTION 3. RENT; FEES

3.1 Rent. The Lessee shall pay to the Lessor, as Basic Rent for all Vehicles leased hereunder on each Rent Payment Date during the Lease Term, an amount equal to the aggregate of the Basic Rent due for each Vehicle leased hereunder on such Rent Payment Date. Subject to adjustment as provided in Section 3.3, the Basic Rent due on each Vehicle leased hereunder during the Base Term applicable thereto shall be an amount equal to the product of (a)

the Purchase Price of such Vehicle, multiplied by (b) the Quarterly Rent Factor applicable to such Vehicle, and such Basic Rent shall be payable on each Rent Payment Date in respect of such Vehicle following the commencement of the Base Term therefor. The Rent payable during any Renewal Term shall be as described in Section 14, including any adjustment as may be required by Section 3.3, and shall be payable on the dates indicated in Section 14.

3.2 Rent Periods; Allocation of Rent. The first Rent Period in respect of a Vehicle shall commence on (and include) the Funding Date for such Vehicle and end on (but exclude) the first Rent Payment Date to occur following such Funding Date. Each succeeding Rent Period shall commence on (and include) a Rent Payment Date and end on (but exclude) the next succeeding Rent Payment Date. Basic Rent shall be allocated to each Rent Period as set forth on Schedule C to the applicable Funding Date Lease Supplement. The Lessor and the Lessee agree that such allocation is intended to constitute an allocation of fixed rent within the meaning of Regulations Section 1.467-1(c)(2)(ii)(A).

3.3 Certain Adjustments to Basic Rent. (a) Adjustment for Tax Law Change. (i) In the event that a Tax Law Change shall occur after the Closing Date and on or prior to a Funding Date and the Owner Participant shall have notified the Lessee of such Tax Law Change prior to the Funding on such Funding Date, the Per Diem Rent Factor and the schedules of Basic Rent and Termination Value in respect of each of the Base Term and Renewal Term shall be adjusted upwards or downwards by such amounts as will preserve the Owner Participant's Net Economic Return, which adjustments shall be computed solely on the basis of the Tax Assumptions set forth in the Tax Indemnity Agreement (as such Tax Assumptions may be adjusted pursuant to this Section 3.3(a)) and otherwise utilizing the same methodology as was used in the initial calculation of the Per Diem Rent Factor, Basic Rent, and Termination Value payable pursuant to this Lease. The Owner Participant shall deliver a certificate to the Lessee setting forth such revised schedules of Basic Rent and Termination Values certifying that the Per Diem Rent Factor and such schedules were calculated in accordance with this Section 3.3(a). At the request of the Lessee, the accuracy of any such calculation shall be subject to confirmation by an independent accounting firm selected by the Lessee and reasonably acceptable to the Owner Participant, with the fees and expenses of such firm paid by the Lessee (unless the net present value of such adjustments to Basic Rent and Termination Values differ from such adjustments as calculated by such firm by more than 10 basis points (using a discount rate equal to 4.00%), in which case the Owner Participant shall pay such fees and expenses).

Notwithstanding the foregoing, no such adjustments to the Per Diem Rent Factor, Basic Rent or Termination Value shall take effect without the prior written consent of the Lessee, it being understood that if the Lessee has not provided such consent on or prior to a proposed Funding Date, such Funding Date shall be postponed until such consent has been given or the Commitment of the Owner Participant in respect of the Vehicle for which the adjustment has been proposed has been terminated as provided in Section 2.9 of the Participation Agreement.

(ii) Following receipt of a notice of Funding as provided in Section 2.3 of the Participation Agreement, the Owner Participant shall calculate the Per Diem Rent Factor, the Quarterly Rent Factor, and the Termination Values in respect of each of the Base Term and the Renewal Term (such factors, the "Rent Factors") for the applicable Funding Date Vehicles. Attached hereto as Schedule II are the Rent Factors for each Vehicle Type which would be

applicable on the Anticipated Initial Funding Date assuming pricing assumptions (as set forth on Schedule III hereto) are identical to those existing on [May [ ], 2005] (the "Closing Date Rent Factors"). The calculation of the Rent Factors for any Funding Date shall be computed solely on the basis of the pricing assumptions attached hereto as Schedule III, and otherwise shall utilize the same methodology as was used in calculating the Closing Date Rent Factors. The Owner Participant shall deliver a certificate to the Lessee setting forth such revised schedules of Rent Factors certifying that such schedules were calculated in accordance with this Section 3.3(a)(ii). At the request of the Lessee, the accuracy of any such calculation shall be subject to confirmation by an independent accounting firm selected by the Lessee and reasonably acceptable to the Owner Participant, with the fees and expenses of such firm paid by the Lessee (unless the net present value of such adjustments to the Closing Date Rent Factors differ from such adjustments as calculated by such firm by more than 10 basis points (using a discount rate equal to 4.00%), in which case the Owner Participant shall pay such fees and expenses).

Notwithstanding the foregoing, no such adjustments to the Rent Factors shall take effect without the prior written consent of the Lessee, it being understood that if the Lessee has not provided such consent on or prior to a proposed Funding Date, such Funding Date shall be postponed until such consent has been given or the Commitment of the Owner Participant in respect of the Vehicle for which the adjustment has been proposed has been terminated as provided in Section 2.9 of the Participation Agreement.

(b) Adjustments for TRAC Amounts. On (i) the Termination Date in respect of any Vehicle or, in the case of terminations pursuant to Section 13.1(a) occurring in the final Rent Period of the Base Term, at the end of the Base Term or, in the case of any Vehicle sold pursuant to Section 13.1(c) during a Renewal Term, on the Renewal Settlement Date therefor, the TRAC Amount with respect to such date shall be added to and constitute a portion of the installment of Basic Rent due and payable thereon. Without limiting the foregoing, the Lessee's obligations hereunder shall not terminate with respect to a Vehicle until all amounts due and owing for such Vehicle (including the portion of the installment of Basic Rent which constitutes the TRAC Amount, any amount of Supplemental Rent and the Net Sales Proceeds with respect to such Vehicle) are paid in full.

(c) Offset Adjustments. If an adjustment to Basic Rent pursuant to Section 3.3(b) results in a negative amount of Basic Rent due on such date, then the Lessee shall (and is hereby authorized by the Lessor to) subtract the absolute value of such negative amount from the Net Sales Proceeds otherwise payable to the Lessor on such Rent Payment Date and retain such amount for its own account. If any Unsold Vehicle has been remarketed or sold pursuant to Section 14.2(d) and Lessee has paid all amounts due hereunder to the Lessor, the Net Sales Proceeds of such Vehicle shall be distributed as provided in Section 14.2(f).

3.4 Supplemental Rent. The Lessee also agrees to pay to the Lessor, or to whomever shall be entitled thereto, from time to time any and all Supplemental Rent, promptly as the same shall become due and owing. The Lessee shall also pay, to the fullest extent permitted by applicable law, on demand, as Supplemental Rent, interest at a rate per annum



equal to the Overdue Payment Rate on any overdue payment of Rent from (and including) the date otherwise due hereunder or under any other Operative Document until (but excluding) the date the same shall be paid.

3.5 Payments. All payments of Rent due to the Lessor shall be paid to the Lessor at its account specified in Schedule I to the Participation Agreement on the date due in immediately available funds which shall be legal tender for the payment of public and private debts in the United States of America not later than 12:00 noon, New York time, at the place of payment, or at such other account at a commercial bank in the United States as the Lessor shall specify to the Lessee on at least four Business Days' prior written notice. All payments of Supplemental Rent due to the Owner Participant or the Nominee shall be paid to the Owner Participant or the Nominee, as applicable, at its account specified in Schedule I to the Participation Agreement on the date due in immediately available funds which shall be legal tender for the payment of public and private debts in the United States of America not later than 12:00 noon, New York time, or at such other account at a commercial bank in the United States as the Owner Participant or the Nominee, as applicable, shall specify to the Lessee on at least four Business Days' prior written notice.

#### SECTION 4. DISCLAIMER OF WARRANTIES

4.1 Disclaimer of Warranties. (a) THE LESSOR LEASES AND THE LESSEE TAKES THE VEHICLES "AS IS, WHERE IS" AND "WITH ALL FAULTS," IN WHATEVER CONDITION THEY MAY BE. THE LESSEE REPRESENTS, WARRANTS, ACKNOWLEDGES AND AGREES THAT (i) EACH VEHICLE IS THE SIZE, DESIGN, AND MANUFACTURE SELECTED BY THE LESSEE OR ON BEHALF OF THE LESSEE, (ii) THE LESSEE IS SATISFIED THAT EACH VEHICLE IS SUITABLE FOR ITS PURPOSES, (iii) NEITHER THE LESSOR NOR THE OWNER PARTICIPANT IS A MANUFACTURER OF OR A DEALER IN VEHICLES, (iv) EACH VEHICLE IS LEASED HEREUNDER IN THE STATE AND CONDITION WHEN THE SAME FIRST BECAME OR BECOMES SUBJECT TO THIS LEASE, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY THE LESSOR, THE OWNER PARTICIPANT OR THE NOMINEE, EXPRESS OR IMPLIED, AS TO THE VALUE, TITLE, MERCHANTABILITY, COMPLIANCE WITH SPECIFICATIONS, CONDITION, DESIGN, OPERATION, FITNESS FOR ANY PARTICULAR PURPOSE, FREEDOM FROM PATENT OR TRADEMARK INFRINGEMENT, ABSENCE OF LATENT DEFECTS OR FITNESS FOR USE OF THE COMPONENT PARTS THEREOF OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY VEHICLE OR THE FLEET, IT BEING AGREED THAT ALL RISKS INCIDENT TO THE FOREGOING SHALL BE BORNE BY THE LESSEE AND THAT NEITHER THE LESSOR NOR THE OWNER PARTICIPANT NOR THE NOMINEE SHALL HAVE ANY LIABILITY OR RESPONSIBILITY WITH RESPECT THERETO; *except* that the Lessor represents and warrants that on each Funding Date, it shall have received whatever ownership interest in each Vehicle being subjected to this Lease as was conveyed to it on such Funding Date free and clear of all Lessor's Liens.

(b) Without limiting the generality of the foregoing, neither the Lessor, the Owner Participant, the Nominee, nor any of their respective successors or assigns, shall have any responsibility to the Lessee or any other Person with respect to any of the following:

(i) any liability (including without limitation, any theory in torts), loss or damage caused or alleged to be caused directly or indirectly by any Vehicle or by any inadequacy or condition thereof or deficiency or defect therein or by any other circumstances in connection therewith;

(ii) the use, operation or performance of any Vehicle or any risk relating thereto;

(iii) any interruption of service, loss of business or anticipated profits or consequential, special, incidental or indirect damages; or

(iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Vehicle.

(c) The provisions of this Section 4.1 have been negotiated and, except as otherwise expressly provided in the Operative Documents, the foregoing provisions are intended to be a complete exclusion and negation of any representations or warranties by the Lessor, the Owner Participant or the Nominee, express or implied, with respect to each such Vehicle, whether arising pursuant to the U.C.C. or any other law now or hereafter in effect, or otherwise. Nothing contained herein shall in any way diminish or otherwise affect any right the Lessee may have with respect to any such Vehicle against any third person which is not an Indemnified Person. Neither the Lessor, the Owner Participant nor the Nominee shall at any time be required to inspect such Vehicle, nor shall any inspection by the Lessor or the Owner Participant be deemed to affect or modify the provisions of this Section 4.1. The Lessee acknowledges that it has selected each Vehicle on the basis of its own judgment, that it has not relied on any statements, representations or warranties of the Lessor, the Owner Participant or the Nominee as to any thereof, and that neither the Lessor, the Owner Participant nor the Nominee is a manufacturer of, or dealer in, Vehicles. The Lessee's delivery of a Funding Date Lease Supplement shall be conclusive evidence, as between the Lessee, on the one hand, and the Lessor, the Owner Participant or the Nominee, on the other hand, that the Vehicles described therein are in all respects satisfactory to the Lessee.

4.2 Certain Agreements. As provided in each Bill of Sale, the Lessee shall have assigned all Warranties to the Lessor as of the related Funding Date. The Lessor hereby authorizes the Lessee, at the Lessee's expense, so long as an Event of Default shall not have occurred and be continuing, to assert any and all claims, and to prosecute any and all suits, actions and proceedings, in its own name or in the name of the Lessor or the Nominee on behalf of the Lessor (*provided* that the indemnities under Sections 5.1 and 5.2 of the Participation Agreement shall apply thereto), at the Lessee's expense, and to receive any amounts payable to the Lessor or to the Nominee, in respect of any warranties or undertakings, express or implied, relating to any of the Vehicles from any Manufacturer, or any contractor or subcontractor (including any equipment or parts supplied therewith) (herein "Warranties"), *provided* that (x) after the occurrence of an Event of Default, such authorization shall terminate, and the Lessor

may assert and enforce, at the Lessee's sole cost and expense, such claims, suits, actions and proceedings, and (y) at the time the Lessee receives the proceeds of any such claims, suits, actions and proceedings, and so long as no Event of Default shall have occurred and be continuing, the Lessee is authorized to retain all such proceeds subject to the Lessee's continued compliance with its maintenance and repair obligations pursuant to Sections 7.4 and 14.3; it being the intention of the Lessor and the Lessee that all such proceeds be applied to the repair and maintenance of the Vehicle (or the reimbursement of the Lessee for the same) to the extent necessary to restore any diminution in value of the Vehicle which gave rise to such claims, suits, actions and proceedings. If an Event of Default exists at the time such proceeds are received by the Lessee, such proceeds shall be promptly paid over to the Lessor. The Lessor shall make reasonable efforts to cooperate with the Lessee in order to enable the Lessee to assert any such claim and prosecute any such suit, action or proceeding; *provided, however*, that the Lessor and the Owner Participant shall be fully indemnified by the Lessee against all liabilities, costs and expenses, including attorneys' fees and expenses incurred in connection therewith or resulting therefrom.

## SECTION 5. LIENS

5.1 Restrictions on Lessee. (a) The Lessee will not directly or indirectly create, incur, assume or permit or suffer to be created or to exist, and will promptly discharge, at its own expense, any Lien or Judgment with respect to any Vehicle, the Lessor's Estate, title thereto, any proceeds from the sale thereof or any interest therein, except Permitted Liens.

(b) Except as otherwise permitted or required by this Lease or any other Operative Document, including, without limitation, pursuant to Section 12, the Lessee shall not sell or otherwise dispose of any Vehicle during the Lease Term in respect thereof.

(c) The Lessee, at its own expense, will warrant and defend the Lessor's title to and security interest in any Vehicle, the Lessor's Estate, or any right or interest therein, against all third parties claiming by, through or under the Lessee, except to the extent such claims constitute Permitted Liens. The Lessee shall promptly, at its own expense, take such action as may be necessary to discharge, eliminate or bond in a manner that is satisfactory to the Lessor any such Lien (other than Permitted Liens) if the same should arise at any time. The Lessee further agrees that, except for any period during which payment is excused under this Section 5, it shall pay or cause to be paid on or before the time or times when due, and prior to the accrual of any penalty, all taxes, assessments, fees or charges imposed on the Lessee (or any Affiliate or related group of which the Lessee is a member) under the laws of any jurisdiction that, if unpaid, reasonably could be expected to result in a Lien (other than a Permitted Lien) on any Vehicle, the Lessor's Estate, title thereto, any proceeds from the sale thereof or any interest therein. The Lessee agrees, promptly upon obtaining knowledge thereof, to give the Lessor notice of any Lien which the Lessee is obligated to discharge pursuant to this Section 5.

5.2 Permitted Contests. (a) After prior notice to the Lessor, the Lessee may at its expense contest, by appropriate proceedings conducted in good faith and with due diligence, any Lien permitted to be contested under clause (c) and (d) of the definition of Permitted Liens or Judgment which the Lessee would otherwise be obligated to discharge or pay pursuant to Section 5.1 hereof, *provided* that (i) adequate bonding has been made for the payment of such Lien or

Judgment, (ii) such proceedings do not, in the good faith opinion of the Lessor, involve any material risk of sale, forfeiture or loss of the assets subject to such Lien or Judgment or any civil or criminal liability to the Lessor, the Bank, the Nominee or the Owner Participant and (iii) the failure of the Lessee to discharge or pay such Judgment or Lien pending the contest thereof shall not, in the good faith opinion of the Lessor, have a material adverse effect on (x) the condition or operations of the Fleet or (y) the interests (including, without limitation, the security interest granted to the Lessor pursuant to Section 17) of the Lessor or the Owner Participant.

(b) The Lessor shall make reasonable efforts, at the Lessee's cost and expense, to cooperate with the Lessee in order to enable the Lessee to assert any claim and prosecute any suit, action or proceeding relating to any Judgment or Lien which the Lessee is permitted to contest pursuant to Section 5.2(a). If the Lessee does not have standing to contest any such Judgment or Lien but the Lessor has such standing, then the Lessor, at the Lessee's request and expense, so long as no Event of Default or Specified Default shall have occurred and be continuing, shall make reasonable efforts to contest the same as directed by the Lessee. Without limiting the generality of the foregoing, so long as no Event of Default or Specified Default shall have occurred and be continuing, the Lessor shall make reasonable efforts to (i) at the Lessee's cost and expense, if requested by the Lessee, join in any proceedings or litigation to which the Lessor is either (A) the real party in interest or (B) a necessary party, (ii) notify the Lessee within 15 days of the receipt of any correspondence or notification, formal or informal, from any court or other Person with respect to the Vehicles or the transactions contemplated hereby (provided the failure to so notify the Lessee shall not affect the Lessee's obligations hereunder), and (iii) pay or timely discharge (to the extent of the funds provided therefor by the Lessee) or, subject to the provisions of Section 5.1 or 5.2(a), refrain from paying or discharging, any such contested Judgment or Lien (and interest thereon) if, in the opinion of independent counsel for the Lessee reasonably acceptable to the Lessor, the nonpayment or nondischarge, or the payment or discharge, thereof (as the case may be) would or could adversely affect either the litigation of the contested matter or the choice of forum in which the Lessee desires to contest such matter.

(c) Without duplication of any payment made by the Lessee pursuant to Section 5.1 or 5.2 of the Participation Agreement and excluding all Taxes, the Lessee will pay, and save the Lessor, the Nominee and the Owner Participant harmless against, all losses, liabilities (including liabilities for penalties), judgments, damages, writs, warrants, decrees, awards and costs, including reasonable attorneys' fees and expenses, in connection with any contest conducted pursuant to this Section 5.2 and will, promptly after the final determination of such contest, pay and discharge the amounts which shall be imposed or determined to be payable therein, together with all penalties, costs and expenses incurred in connection therewith.

## SECTION 6. QUIET ENJOYMENT

So long as no Event of Default has occurred and is continuing, the Lessor agrees that it will not take or cause or authorize any Person to take any affirmative action to prevent the Lessee from having quiet and peaceable possession and enjoyment of each Vehicle during the Lease Term in respect thereof in accordance with the provisions of this Lease except as expressly provided in this Lease or any other Operative Document.

SECTION 7. OPERATION AND MAINTENANCE; SUBLEASING

7.1 Vehicle Records. The Lessee at its cost and expense shall maintain, or cause to be maintained, on a current basis, records which shall contain (a) the Specific Identification of each Vehicle, (b) a copy of the Manufacturer's factory invoice for each Vehicle and (c) the certificate of title and registration for each Vehicle, it being understood that the certificates of title will be held by the Nominee in accordance with the Nominee Agreement. The Lessee agrees that it will keep the Lessor named as a secured party on the certificate of title to each Vehicle and will take all such other actions and file such documents and instruments as are necessary or reasonably requested by the Lessor to maintain the Lessor's ownership of and perfected first priority security interest in each Vehicle, it being understood that title shall be in the name of the Nominee as stated in Section 7.2(a).

7.2 Title to Remain in Nominee; Vehicle Management; Location of Vehicles. (a) During the period of the Lease Term with respect to any Vehicle, except as expressly provided herein, the Lessee acknowledges and agrees that title to each Vehicle shall at all times remain in the name of the Nominee (who shall be acting pursuant to the Nominee Agreement and shall be holding title for the benefit of the Lessor). At all times during the Lease Term, the Lessee at its cost and expense will, as the agent for the Nominee and the Lessor, properly register and reregister, or cause to be registered or reregistered, when necessary under applicable law the Vehicles in the name of the Nominee. The Nominee shall hold (either directly or through an agent acceptable to the Owner Participant) all certificates of title; *provided, however*, that if a Trigger Event or an Event of Default under Section 10(a), (b), (e), (f) or (g) shall have occurred and be continuing or the unsecured debt of the Guarantor shall cease to be rated at least investment grade by either Moody's or S&P, then the Nominee shall promptly deliver, or cause to be delivered, all certificates of title to the Lessor. Each Vehicle shall at all times be titled in the name of the Nominee, with the name of the Lessor noted therein as first lienholder (or application for the Lessor to be so named shall be pending) and registered in the State of Oklahoma. Notwithstanding the foregoing, the Lessee may change the state in which any Vehicle is titled or registered, *provided* that titling or registration in such state will not cause violation of any law, rule or regulation of any Governmental Body by the Lessee, the Lessor, the Nominee or the Owner Participant or in and of itself require the Owner Participant to be licensed or qualified in such state, and *provided, further*, that the Lessee shall deliver to the Lessor three (3) Business Days prior to the effective date of such change a certificate of a Responsible Officer certifying that the Lessee (i) has or shall promptly (but in any event the Lessee shall within 30 days make application to) reregister or retitle, respectively, such Vehicle in the name of the Nominee and, in the case of retitling, noting the security interest of the Lessor, in such new state and (ii) has done and performed any other act and executed any and all further instruments required by law, rule or regulation or reasonably requested by the Lessor for the purpose of protecting the Nominee's title (for the benefit of the Lessor) in the Vehicles and the Lessor's perfected security interest in such Vehicle. If requested by the Lessee, immediately upon Lessor's satisfaction and receipt of the certification specified in the immediately preceding sentence, the Lessor shall deliver, and shall consent to delivery by the Nominee of, powers of attorney to the Lessee to permit the Lessee to take the actions set forth in clause (i) above.

(b) The Lessor and the Lessee agree that it is intended that the Lessor is the owner of the Vehicles and, as owner of the Vehicles, shall be entitled to all federal, state and

local income tax benefits attributable to ownership of the Vehicles. Each of the Lessee and the Lessor agrees that it shall not take any position on its federal, state or local income tax returns inconsistent with the parties' intent.

(c) Except as otherwise expressly limited by this Lease, the Lessee shall have the exclusive right to use the Vehicles in any lawful manner consistent with the terms and conditions of this Lease and the other Operative Documents and the Lessee is hereby designated, during the Lease Term and absent an Event of Default, as the lawful representative of the Lessor or the Nominee, and as the Lessor's agent, in all dealings with the Manufacturers in connection with the Vehicles, including as provided in Section 4.2 hereof (subject always to the provisions of the Nominee Agreement) and, subject to Sections 7.1 and 7.2(a), in registering Vehicles for operation under the laws of any jurisdiction which has authority over the acquisition, ownership, possession, utilization or sale of the Vehicles, *provided* that the Lessee is not authorized to act as the lawful representative of the Lessor or the Nominee in a manner which would constitute a violation of this Lease or any other Operative Document or any law, rule or regulation of any Governmental Body.

(d) During the Lease Term with respect to any Vehicle, the Lessee shall not permit such Vehicle to be maintained or located outside of the continental United States or Hawaii, other than in connection with incidental use by a rental customer of Lessee in the ordinary course of its business. Lessee shall use, register or title the Vehicles only in a manner which complies with all laws, ordinances, governmental rules and regulations and will not use the Vehicles in any manner which will expose the Lessor, the Owner Participant or the Nominee to any civil or criminal liability or in and of itself require the Owner Participant to be licensed or qualified in any jurisdiction.

7.3 Subleasing. (a) Unless a Trigger Event shall have occurred and be continuing, the Lessee shall have the right, with respect to any Vehicle, to enter into mini-leases (rentals of up to thirty (30) days), other similar leases and rentals entered into in the ordinary course of the Lessee's rental business ("Permitted Use Agreements"); *provided* no Permitted Use Agreement shall contain any purchase option. No such lease or rental shall reduce the Lessee's obligations hereunder or under any other Operative Document. EXCEPT AS PROVIDED HEREIN AND IN SECTION 5.4 OF THE PARTICIPATION AGREEMENT, LESSEE SHALL NOT SELL, TRANSFER, ASSIGN, SUBLEASE, CONVEY, PLEDGE, MORTGAGE OR OTHERWISE ENCUMBER ITS OR LESSOR'S INTEREST IN AND TO THE LEASE OR ANY OF THE VEHICLES AND ANY SUCH SALE, TRANSFER, ASSIGNMENT, SUBLEASE, CONVEYANCE, PLEDGE, MORTGAGE OR ENCUMBRANCE, WHETHER BY OPERATION OF LAW OR OTHERWISE, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR, SHALL BE NULL AND VOID.

(b) In connection with a sale of the business of the Lessee pursuant to Section 5.4 of the Participation Agreement, the Lessee shall have the right to assign all of its rights and obligations under this Lease consistent with such provisions.

7.4 Maintenance of the Vehicles. The Lessee, at its own expense, (a) will cause the Vehicles to be maintained in the condition when first delivered new from the Manufacturer thereof subject to normal wear and tear, (b) will cause the Vehicles to be maintained in

accordance with customary industry standards and in all events in a non-discriminatory manner with the standards the Lessee or its Affiliates use in the maintenance of similar vehicles owned or leased by it, and in good working order and repair, (c) will comply with all governmental rules and regulations applicable to the titling, registration, use, repair, maintenance, operation and rental of the Vehicles (including obligations of the Lessor or the Nominee to become licensed as a dealer or vehicle lessor under applicable law), and (d) will comply with all Manufacturer's instructions, standards and guidelines and all insurance standards applicable, if any, to the maintenance and operation of the Vehicles.

## SECTION 8. INSURANCE

Lessee shall obtain and maintain with respect to all Vehicles that are subject to this Lease (a) vehicle liability insurance to the full extent required by law and in any event not less than \$500,000 per Person and \$3,000,000 per occurrence, (b) property damage insurance with a limit of \$1,000,000 per occurrence, and (c) excess coverage public liability insurance with a limit of not less than \$50,000,000 or the limit maintained from time to time by the Lessee at any time hereafter, whichever is greater, with respect to all Vehicles comprising the Fleet. The Lessor acknowledges and agrees that the Lessee may, to the extent permitted by applicable law, self-insure for the first \$3,000,000 per occurrence of vehicle liability and property damage which is otherwise required to be insured hereunder. All such policies shall be from financially sound and reputable insurers, shall name the Lessor, the Nominee and the Owner Participant and their successors and assigns as a named additional insured, in the case of catastrophic physical damage insurance on such Vehicles, shall name Owner Participant as lender loss payee as its interest may appear and will provide that the Lessor, the Nominee and the Owner Participant and their successors and assigns shall receive at least 30 days' prior written notice of cancellation or material change of such policies. The Lessee will notify promptly the Lessor of any curtailment or cancellation of the Lessee's right to self-insure in any jurisdiction.

Each policy referred to in this Section 8 shall provide that (1) the interests of the Lessor and the Owner Participant shall not be invalidated by any act or negligence of, or breach of representation or warranty by, the Lessee or any Person having an interest in the Vehicles (other than the Lessee's failure to pay premiums), (2) such insurance is primary with respect to any other insurance carried by or available to the Lessor or the Owner Participant, (3) the insurer shall waive any right of subrogation, setoff, counterclaim, or other deduction, whether by attachment or otherwise, against the Lessor and the Owner Participant, (4) the insurer shall waive any right to claim any premiums or commission against the Lessor and the Owner Participant, and (5) such policy shall contain a severability of interests clause providing for coverage of the Lessor and the Owner Participant as if separate policies had been issued to each of them except with respect to the limit of such insurance which shall in no event increase as a result of such additional language. Nothing in this Section 8 shall prohibit the Lessor and the Owner Participant from obtaining insurance for its own account and at its own expense and any proceeds payable thereunder shall be payable as provided in the insurance policy relating thereto.

The Lessee shall provide or cause to be provided on the Closing Date, and at each policy renewal, certificates issued by the insurer(s) or insurance broker(s) for the insurance maintained pursuant to this Section 8; *provided, however*, that if the delivery of any certificate is delayed, the Lessee shall not be deemed to be in violation of the obligation to deliver such

certificate if, within a 30 day period, the Lessee delivers an executed binder with respect thereto and thereafter delivers the certificate upon receipt thereof. In any event (not less frequently than once in any 12-month period), the Lessee shall send or cause to be sent certificates evidencing the insurance required under this Section 8 to the Lessor and the Owner Participant.

In the event that the Lessee shall fail to maintain or cause to be maintained insurance as herein required, the Lessor or the Owner Participant may at its sole option provide such insurance and, in such event, the Lessee shall, upon demand, reimburse the Lessor or the Owner Participant, as applicable, as Supplemental Rent, for the cost thereof.

Nothing contained in this Section 8 shall modify or limit in any respect the rights and indemnities of the Lessor, the Nominee and the Owner Participant, or the obligations of the Lessee set forth in Section 12 hereof and in Sections 5.1 and 5.2 of the Participation Agreement.

#### SECTION 9. INSPECTION

The Lessor or any authorized representative may, upon not less than three Business Days' notice (five Business Days in the case of clause (b); *unless*, in the case of either clause (a) or (b), an Event of Default shall have occurred and be continuing, in which case upon not less than 12 hours notice), (a) enter the premises of the Lessee or any Affiliate who has possession of any Vehicle, at a reasonable time and during normal business hours, in order to inspect the Vehicles (subject to the availability thereof for inspection) and to inspect, audit and make copies of all documents and instruments in the possession of the Lessee or such Affiliate which relate to the manufacture, delivery, use, maintenance, repair, exchange or disposition of Vehicles and which are reasonably necessary for the Lessor or any such authorized representative to determine the truth and accuracy of any schedule, annex, exhibit or representation delivered or made hereunder or under the Operative Documents to the Lessor or any authorized representative or compliance by the Lessee with any of the agreements contained herein or in the Operative Documents and (b) discuss, at a reasonable time and during normal business hours, the condition and performance of the Vehicles with a Responsible Officer of the Lessee or any Affiliate who has possession of any Vehicles, and the Lessee agrees to take such reasonable and customary steps as are appropriate to facilitate such inspections and discussions; *provided, however*, that the foregoing shall not require the Lessee to permit the inspection, auditing or copying of any document or instrument, the inspection of any property (other than the Vehicles) or operation or the furnishing of any information by any Person to an extent which would require disclosure of any of the Lessee's trade secrets (provided that, in no event shall "trade secrets" include information that has been agreed to be provided pursuant to any of the Operative Documents). The Lessee agrees that any documents required to be maintained pursuant to the Operative Documents shall be so maintained at the offices of the Lessee. The Lessee shall notify the Lessor promptly upon request of the location of the specific office of the Lessee at which any such documents are maintained.

#### SECTION 10. EVENTS OF DEFAULT

Each of the following events shall constitute an "Event of Default" (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule



or regulation of any administrative or governmental officer, commission, authority, body or agency or otherwise):

(a) default in the payment of any installment of Basic Rent or Renewal Rent (including, without limitation, any payment pursuant to Sections, 12.2, 13.2 or 14 hereof) on the date such payment is due and the continuance of any such default for five Business Days after such payment is due; or

(b) except as specified in clause (a) above, default in the payment of any monetary obligation required to be made hereunder or under any other Operative Document and the continuance of any such default for 30 days after written notice of nonpayment from the Person entitled to such payment; or

(c) (i) failure by the Lessee to maintain the insurance required under Section 8; or

(ii) default in the performance of any obligation contained, or incorporated by reference, in Section 5.4 of the Participation Agreement; or

(iii) default in the performance in any material respect of any other covenant on the part of the Lessee or the Guarantor contained herein or in any other Operative Document and the continuance of any such default for 30 days after the earlier of actual knowledge thereof by a Responsible Officer of the Lessee or the Guarantor, as applicable, or written notice to the Lessee or the Guarantor, as applicable, from the Lessor or the Owner Participant; provided that if such default is capable of cure but cannot reasonably be cured within such 30 day period, no Event of Default shall occur so long as the Lessee or the Guarantor is diligently attempting to cure such default and such default is cured within 90 days of receipt of such notice; or

(d) any representation or warranty made by the Lessee or the Guarantor herein or in any other Operative Document (other than the Tax Indemnity Agreement) (or in any certificate or instrument delivered pursuant to an Operative Document (other than the Tax Indemnity Agreement)) shall be false or misleading in any materially adverse respect on the date as of which made; *provided* that if such default is capable of cure but cannot reasonably be cured within such 30 day period, no Event of Default shall occur so long as the Lessee or the Guarantor is diligently attempting to cure such default and such default is cured within 90 days of receipt of such notice; or

(e) either (i) the Lessee, the Guarantor or the Nominee shall (A) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its property, or commence a voluntary proceeding toward liquidation or dissolution, (B) make a general assignment for the benefit of creditors, (C) have an order of relief entered against it in any bankruptcy or insolvency proceeding, (D) commence any proceeding with respect to itself under any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution of debt, dissolution or liquidation law or statute, or (E) file an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute or (ii) corporate action shall be taken by the Lessee, the Guarantor or the Nominee for the purposes of effecting any of the foregoing; or

(f) (i) any petition shall be filed or a proceeding commenced against the Lessee, the Guarantor or the Nominee seeking (A) the adjudication of the Lessee, the Guarantor or the Nominee as bankrupt or (B) its reorganization or an arrangement of its debts or its liquidation or dissolution under any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute and (ii) in any such case, such petition or proceeding shall not be dismissed within 90 days after the filing or commencement thereof as the case may be; or

(g) any material obligation of the Guarantor under the Guaranty shall at any time cease to constitute the legal, valid and binding obligation of the Guarantor or the Guarantor shall at any time assert the same in writing (or orally during a judicial proceeding).

#### SECTION 11. REMEDIES

(a) Upon the occurrence of an Event of Default and at any time thereafter, so long as the same shall be continuing, the Lessor may, at its option, by notice given to the Lessee, declare the Lease to be in default, and at any time thereafter may do one or more of the following with respect to the Vehicles, the Lessee and/or this Lease, as the Lessor in its sole discretion shall elect to the extent permitted by, and subject to compliance with, any mandatory requirements of applicable law, *provided* that, upon the occurrence of an Event of Default specified in Sections 10(e) or (f) with respect to the Lessee, this Lease shall automatically be in default without the giving of any notice to the Lessee by the Lessor or the taking of any other action by the Lessor:

(i) the Lessor may, by notice to the Lessee, terminate this Lease as to any or all Vehicles;

(ii) the Lessor may (A) demand that the Lessee, and the Lessee shall upon the written demand of the Lessor, promptly return any or all Vehicles, together with the certificates of title thereto and the other related documents described in Section 14.2(h) (i), to the Lessor in the manner and condition required by, and otherwise in accordance with all the provisions of, Sections 7 and 14 as if such Vehicles were being returned to the Lessor at the end of the Lease Term and the Lessor shall not be liable for the reimbursement of the Lessee for any costs and expenses incurred by the Lessee in connection therewith and (B) enter upon the premises where any Vehicles or the certificates of title thereto shall be located or reasonably believed to be located and take immediate possession of (to the exclusion of the Lessee) any Vehicles and the certificates of title thereto, by summary proceedings or otherwise, all without liability to the Lessor for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such taking or otherwise, except to the extent attributable to the Lessor's gross negligence or willful misconduct;

(iii) the Lessor may sell any Vehicle at public or private sale, as the Lessor may determine, free and clear of any rights of the Lessee and without any duty to account to the Lessee with respect to such action or inaction or any proceeds with respect thereto following any such sale; in which event the Lessee's obligation to pay Basic Rent

hereunder for periods commencing after the date of such sale shall be terminated with respect to the Vehicles sold;

(iv) the Lessor may hold, keep idle or lease to others any Vehicle, as the Lessor in its sole discretion may determine, free and clear of any rights of the Lessee and without any duty to account to the Lessee with respect to such action or inaction or for any proceeds with respect to such action or inaction, except that the Lessee's obligation to pay Basic Rent with respect to any Vehicle for periods commencing after the Lessee shall have been deprived of use of such Vehicle pursuant to this paragraph (iv) shall be reduced by the net proceeds, if any, received by the Lessor from leasing such Vehicle to any Person other than the Lessee for the same period or any portion thereof;

(v) the Lessor may demand, by written notice to the Lessee specifying a payment date which shall be a Rent Payment Date (the "Remedy Payment Date") not less than five Business Days after such notice is given, that the Lessee pay to the Lessor, and the Lessee shall pay to the Lessor on such Remedy Payment Date, the sum of: (A) accrued and unpaid Rent (including Supplemental Rent) then due to the Lessor, plus (B) any additional damage and reasonable expenses which the Lessor shall have sustained by reason of the Lessee's default hereunder including, without limitation, reasonable expenses incurred in the seizure, storage, repair, refurbishing, rental, sale of the Vehicles and/or in the enforcement of any right or privilege hereunder, including reasonable attorneys' fees, if any, plus (C) whichever of the following amounts the Lessor, in its sole discretion, shall specify, as liquidated damages for loss of the bargain and not as a penalty (and in lieu of Basic Rent accruing after the Remedy Payment Date): (1) an amount equal to the Termination Value determined as of such date in respect of all Vehicles then subject to the Lease, and, in this event, upon full payment by the Lessee of all Rent, the Lessor shall transfer to the Lessee or its designee, on an "as-is where-is, with all faults" basis without recourse or warranty, all of the Lessor's right, title and interest, if any, in and to the Vehicles remaining subject to this Lease; or (2) an amount equal to the excess, if any, of such Termination Value determined as of such date in respect of all Vehicles then subject to the Lease over the Fair Market Sales Value of such Vehicles as of the Remedy Payment Date. Upon the payment of the foregoing amounts by the Lessee, this Lease shall terminate; and

(vi) the Lessor may exercise any other right or remedy that may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages, costs, charges and expenses (including reasonable attorneys' fees) for the breach hereof.

(b) [Intentionally omitted].

(c) (i) Except as expressly provided herein, none of the remedies under this Lease is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Lease or otherwise available to the Lessor at law, in equity or by statute and each and every right, power and remedy whether specifically given herein or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Lessor. No delay or omission by the Lessor in the exercise of any

right, power or remedy shall be construed to be a waiver of any default on the part of the Lessee or to be an acquiescence therein. No express or implied waiver by the Lessor of any Default or Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Default or Event of Default. To the extent permitted by applicable law, the Lessee hereby waives any rights now or hereafter conferred by statute or otherwise that may require the Lessor to sell, lease or otherwise use the Vehicles or any part thereof in mitigation of the Lessor's damages upon the occurrence of an Event of Default or that may otherwise limit or modify any of the Lessor's rights or remedies under this Section 11. Any repossession, return or subsequent sale or lease by the Lessor of any Vehicle or part thereof shall not bar an action for a deficiency for any portion of the Termination Value or unpaid Rent not collected by the Lessor as a result of such sale or lease and the bringing of an action or the entry of judgment against the Lessee and shall not bar the Lessor's right to repossess any or all other Vehicles. The exercise or beginning of exercise by the Lessor of any one or more such remedies shall not preclude the simultaneous or later exercise by the Lessor of any or all such other remedies. **THE LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF ANY VEHICLE BY THE LESSOR UPON AN EVENT OF DEFAULT** (it being understood that this waiver does not affect any rights to notice expressly granted to the Lessee under the Operative Documents).

(ii) No termination of this Lease under Section 11(a), in whole or in part, or repossession of any Vehicles or exercise of any remedy under Section 11(a) shall, except as specifically provided therein, relieve the Lessee of any of its liabilities and obligations under this Lease. In addition, the Lessee shall be liable, except as otherwise provided above (without duplication of amounts payable hereunder), for any and all unpaid Rent due before, after or during the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses (including fees of the Appraiser in determining the Fair Market Sales Value for purposes of Section 11(a)(v)(C)(2)) incurred by the Lessor and the Owner Participant by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto including all costs and expenses incurred in connection with the return of the Vehicles in the manner and condition required by, and otherwise in accordance with the provisions of, Sections 7 and 14 as if the Vehicles were being returned to the Lessor at the end of the Lease Term. At any sale of the Vehicles pursuant to Section 11(a), the Lessor or the Owner Participant may bid for and purchase such property.

(d) If the Lessee fails to make any payment of Supplemental Rent hereunder or fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder (other than the payment of Basic Rent) the Lessor may, but shall not be required to, upon written notice to the Lessee, take any action reasonably calculated to cure the Lessee's failure and the reasonable costs and expenses of the Lessor incurred in connection with that action, together with interest at the Overdue Payment Rate, shall be payable by the Lessee to the Lessor on written demand.

(e) If requested by the Lessor during the continuance of an Event of Default, the Lessee shall cease and desist from using and shall return each of the Powers of Attorney to the Lessor.

## SECTION 12. EVENT OF LOSS

12.1 Event of Loss. An Event of Loss with respect to any Vehicle shall occur on a date (the "Event of Loss Date") which is the earliest of the date which is (a) the earlier of (x) the Expiration Date and (y) the 180th day, in each case, after the date of the loss or theft of such Vehicle, if such Vehicle has not been recovered from such loss or theft by such 180<sup>th</sup> day or if recovered, is in a condition that would make clause (b) applicable, (b) the earlier of (x) the Expiration Date and (y) the date such Vehicle is or becomes, in the Lessee's good faith judgment, destroyed or damaged beyond repair or otherwise rendered permanently unfit for use in the Lessee's truck rental operations or (c) the earlier of (x) the Expiration Date and (y) the date that such Vehicle has been condemned, confiscated or seized by any Governmental Body or the date which is three months (but in no event beyond the Lease Term for such Vehicle) after such Vehicle has been requisitioned for use by any Governmental Body and shall not have been recovered for use in the Lessee's truck rental operations (any loss, theft or requisition that so continues and/or any such destruction or damage and/or any such condemnation, confiscation or seizure herein called an "Event of Loss").

12.2 Application of Payments from Others and Salvage. (a) Event of Loss. Subject to the provisions of Section 12.3, the Lessee shall either (x), (1), in the case of an Event of Loss occurring on a date which is not an Expiration Date pursuant to Section 12.1(a) or (c), on the next succeeding Rent Payment Date after the Event of Loss Date, or (2) in the case of an Event of Loss occurring on a date which is not an Expiration Date pursuant to Section 12.1(b), on a date, specified on Schedule B to the relevant Funding Date Lease Supplement, occurring on or prior to the first such date which is at least 90 days after the applicable regional sales manager for the Lessee shall have received a completed accident report with respect to such Vehicle (unless the Lessee shall have given the Lessor notice prior to the expiration of such ninety (90) day period of its intention to replace such Vehicle pursuant to clause (y) hereof), or (3) if the Event of Loss Date is the Expiration Date, the Lessee shall, on the Expiration Date, pay to the Lessor an amount equal to the sum of (i) the Termination Value for the Vehicle or Vehicles subject to the Event of Loss, (ii) any Rent due and payable on such payment date described in clauses (x)(1), (2) or (3), as applicable, with respect to the Vehicle or Vehicles subject to the Event of Loss, and (iii) to the extent not theretofore paid, Rent due and payable prior to (but not on) such payment date described in clauses (x)(1), (2) or (3), as applicable, or (y) provided no Specified Default or Event of Default shall have occurred and be continuing, replace the Vehicle suffering the Event of Loss with another Eligible Vehicle of the same Model Year and Vehicle Type and having a Fair Market Sales Value not less than the Fair Market Sales Value of the Vehicle being replaced (assuming for this purpose that such replaced Vehicle had not suffered the Event of Loss and was in the condition required by the Lease), which replacement shall be made on or prior to the 30<sup>th</sup> day after the notice of replacement has been given, in which case the replacement Vehicle shall become subject to the Lease and the Rent payable under the Lease shall not be reduced. Upon payment of the amounts specified in clauses (x)(i), (ii) and (iii) above, subject to the provisions of Section 12.3, the Lessor hereby authorizes the Lessee to transfer to the Lessee or the Nominee, acting on behalf of the Lessee, "as-is, where-is, with all faults," all right, title and interest to any insurance proceeds or condemnation proceeds remaining after such payment and any salvage of the Vehicle subject to such Event of Loss, without recourse or warranty except for the absence of Lessor's Liens and without further action such insurance proceeds, condemnation proceeds and/or salvage shall cease to be subject to this

Lease. Upon payment of all sums required to be paid pursuant to clause (x) of this Section 12.2(a) with respect to a Vehicle, the Lessee's obligation to pay Basic Rent hereunder with respect to such Vehicle for any period commencing after the date of the payment of such amounts shall be terminated.

(b) No Event of Loss. Subject to the provisions of Section 12.3, any insurance proceeds, awards or other payments received from any Person with respect to any Vehicle in connection with any loss, theft, destruction, damage, condemnation, confiscation or seizure which does not constitute an Event of Loss pursuant to the provisions of Section 12.1 shall be paid to the Lessee. If any such proceeds, awards or other payments are paid with respect to any damage to any Vehicle (or part thereof), the same shall be applied to repair or replace such Vehicle or part thereof by or at the direction of the Lessee to the extent required under Section 7 or, if such damage shall have already been repaired at the Lessee's sole cost, to reimburse the Lessee for the cost thereof and the balance, if any, shall be retained by the Lessee. Subject to Section 12.3, if any payment payable to the Lessee under this Section 12.2(b) is received by the Lessor or the Owner Participant, it shall be promptly paid over to the Lessee. Subject to the provisions of Section 12.3, the Lessor hereby authorizes the Nominee to transfer to the Lessee or the Nominee, acting on behalf of the Lessee, on an "as-is, where-is, with all faults" basis, all right, title and interest to any salvage removed from any Vehicle in connection with any event not constituting an Event of Loss and not required in connection with the repair or restoration of such Vehicle without recourse or warranty except for the absence of Lessor's Liens, and any salvage so transferred shall, without further action, cease to be subject to this Lease.

(c) Except as otherwise provided in Section 12.2(a), the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Event of Loss to, or other loss, change, or partial destruction of, any Vehicle during the Lease Term and thereafter until all of the Lessee's obligations hereunder are fully performed.

12.3 Application of Payments During the Existence of an Event of Default. Any amount (including insurance and condemnation proceeds) or salvage referred to in Section 12.2 which would otherwise be payable or transferable to the Lessee shall not be paid or transferred to the Lessee, or if paid to the Lessee, shall promptly be remitted to the Lessor, if at the time of such payment or transfer a Specified Default or an Event of Default shall have occurred and be continuing, but shall be held by the Lessor as security for the obligations of the Lessee under the Lease and applied to such obligations at such time and in such manner as the Lessor may reasonably determine. All such remaining amounts not otherwise applied by the Lessor pursuant to the preceding sentence and salvage shall promptly be distributed to the Lessee.

### SECTION 13. EARLY TERMINATION

13.1 Early Termination. (a) Provided no Event of Default shall have occurred and be continuing, during the Base Term for any Vehicle the Lessee may irrevocably elect to terminate this Lease with respect to any Vehicle which it has determined to be economically obsolete or surplus to its requirements on a Rent Payment Date, or, during the final Rent Period of the Base Term, on any Business Day (the date so elected, an "Early Termination Date") by providing the Lessor with notice in writing not later than 3:00 p.m., New York time, on the fifth Business Day prior to such Early Termination Date, such notice to include (a) the Early

Termination Date, (b) the applicable Termination Value of the Vehicles as to which the Lease is to be terminated, and (c) a certification from a Responsible Officer of the Lessee that such Vehicles are economically obsolete or surplus to its requirements.

(b) The Lessee may irrevocably elect to terminate this Lease with respect to and purchase all, but not less than all, of the Vehicles effective upon the consummation of a sale or a merger or consolidation of, or sale of all or substantially all of the assets of, either (i) the business of the Lessee as contemplated by Section 5.4 of the Participation Agreement (the date of such termination, a "Lessee Sale Termination Date"), or (ii) the business of the Guarantor as contemplated by Section 2.9 of the Guaranty (the date of such termination, a "Guarantor Sale Termination Date", and together with the Lessee Sale Termination Date, each a "Sale Termination Date" ), in the case of either (i) or (ii) by providing the Lessor with a preliminary notice in writing not later than 3:00 p.m., New York time, on the third Business Day prior to such Sale Termination Date, such notice to include (a) the proposed Sale Termination Date and (b) a preliminary estimate of the Fair Market Sales Value and the Termination Value as of such date for all the Vehicles. In addition, no later than 1:00 p.m., New York time, on the Business Day immediately preceding the Sale Termination Date, the Lessee shall give written notice to the Lessor which states (a) the Sale Termination Date and (b) the Fair Market Sales Value and the Termination Value as of such date for all the Vehicles. On the Sale Termination Date the Lessee shall pay to the Lessor the sum of (i) the higher of the Fair Market Sales Value or the Termination Value for all of the Vehicles, (ii) any Rent due and payable on such Sale Termination Date and (iii) to the extent not theretofore paid, Rent due and payable prior to (but not on) such Sale Termination Date.

(c) During the Renewal Term for any Vehicle the Lessee may irrevocably elect to terminate this Lease with respect to any Vehicle on any date during such Renewal Term and sell such Vehicle (in accordance with Section 13.2) (any date so elected, the "Renewal Sale Date"). The Lessee shall provide notice (a "Renewal Term Sale Notice") to the Lessor in writing not later than 3:00 p.m., New York time, on the tenth Business Day prior to the last Business Day of each month occurring during the Renewal Term (such date, the "Renewal Settlement Date"), such notice to include (i) the Renewal Settlement Date and (ii) the applicable Termination Value of any Vehicles which have been so sold in the period commencing on the date of the Renewal Term Sale Notice immediately preceding the most recent Renewal Term Sale Notice (or the commencement of the Renewal Term, if no earlier Renewal Term Sale Notice has been given) and ending on the date of the most recent Renewal Term Sale Notice, and as to which the Lease is to be terminated.

13.2 Remarketing of Vehicles. (a) Remarketing Agent. The Lessor hereby appoints the Lessee, and the Lessee hereby agrees to act, as the exclusive Remarketing Agent for the Lessor with respect to all of the Vehicles specified in any notice described in Section 13.1(a) or (c) for each Early Termination Date or Renewal Settlement Date and the Lessee shall, as agent for the Lessor, use its best efforts to sell all (but not less than all) of such Vehicles to one or more purchasers on or prior to such Early Termination Date or Renewal Settlement Date and the Lessor hereby authorizes the Lessee, acting on behalf of the Lessor, to transfer to the purchaser of such Vehicle, "as-is, where-is, with all faults," all right, title and interest of the Lessor to such Vehicle, without recourse or warranty, except for the absence of Lessor's Liens. For the avoidance of doubt, it is understood and agreed that, as such Remarketing Agent, the Lessee is

authorized to make transfers to purchasers in advance of a Renewal Settlement Date, notwithstanding the fact that payment to the Lessor in respect of the Vehicle so sold will not be made to the Lessor until the Renewal Settlement Date as provided in Section 13.2(b). The Lessee or its designee shall have the right to bid for and purchase any Vehicle as part of a bona fide public sale pursuant to Section 13.1(c), provided that a public sale need not be conducted if the Lessee reasonably believes that the net Fair Market Sales Value which would be received at a bona fide public sale would be less than the TRAC Amount.

(b) With respect to each Vehicle for which the Lessee has exercised an early termination option pursuant to Section 13.1(a) or (c) and which is sold pursuant to Section 13.2, the Lessee shall pay to the Lessor on the Early Termination Date or Renewal Settlement Date, as applicable, or in the case of terminations pursuant to Section 13.1(a) occurring in the final Rent Period of the Base Term, on the date that the Base Term ends, an amount equal to the sum of (i) the Net Sales Proceeds of such Vehicle, (ii) any Rent due and payable on such Early Termination Date, Renewal Settlement Date, or in the case of terminations pursuant to Section 13.1(a) occurring in the final Rent Period of the Base Term, on the date that the Base Term ends, as applicable, (including, in the case of a termination pursuant to 13.1(c), any TRAC Amount determined in accordance with Sections 3.3(b) and (c)), (iii) to the extent not theretofore paid, Rent due and payable prior to (but not on) such Early Termination Date, Renewal Settlement Date, or the end of the Base Term, as applicable, and (iv) in case of a termination pursuant to Section 13.1(a) (other than terminations under such Section occurring during the final Rent Period of the Base Term), the excess of the Termination Value of such Vehicle over the Net Sales Proceeds on such Early Termination Date. Upon payment of all amounts specified in clauses (i), (ii) and (iii) (and, in the case of a termination pursuant to 13.1(a) (other than terminations under such Section occurring during the final Rent Period of the Base Term), clause (iv)) above, the Lessee's obligation to pay Basic Rent hereunder for any period commencing after the date of payment of such amounts shall be terminated with respect to such Vehicle and without further action such Vehicle shall cease to be subject to the Lease.

#### SECTION 14. END OF LEASE OPTIONS; DISPOSITION

14.1 Expiration of Lease. By notice to the Lessor not later than fifteen (15) days prior to the expiration of the Base Term in respect of each Vehicle in the Fleet, the Lessee shall have the following two options; *provided, however*, if the Lessee shall not have timely elected the option contained in clause (a) below, it shall be deemed to have elected the Renewal Term as provided in clause (b) below:

(a) The Lessee may arrange for a sale of such Vehicle, effective as of the last day of the Base Term therefor pursuant to Section 14.2(a). If the Lessee has not sold such Vehicle effective as of the last day of the Base Term, the Lessee will be deemed to have elected the Renewal Term for such Vehicle as provided in clause (b) below.

(b) The Lessee may elect, in respect of such Vehicle, a renewal term of twelve months commencing on the expiration date of the Base Term (a "Renewal Term"). During the Renewal Term in respect of such Vehicle, the Lessee shall pay Renewal Rent for such Vehicle to the Lessor for each period during which Renewal Rent is payable and occurring during such Renewal Term and payable on each Rent Payment Date and on the Termination Date of the



Lease (if such date is not a Rent Payment Date) in respect of such Vehicle or, in the case of any Vehicle sold pursuant to Section 13.1(c), on the Renewal Settlement Date therefor. Unless the Lessee shall have elected to terminate this Lease with respect to a Vehicle on a Renewal Sale Date as provided in Section 13.1(c), the Lessee shall arrange a sale of such Vehicle effective as of the last day of the Renewal Term therefor pursuant to Section 14.2(a).

14.2 Lessee Sale of Vehicles. (a) The Lessor hereby appoints the Lessee, and the Lessee hereby agrees to act, as the exclusive Remarketing Agent for the Lessor with respect to all of the Vehicles to be sold pursuant to Section 14.1(a) or (b) and the Lessee shall, as agent for the Lessor, use its good faith efforts to sell each of the Vehicles in the Fleet as of the date required by Section 14.1(a) or (b) for cash. The Lessor hereby authorizes the Lessee, acting on behalf of the Lessor, to transfer to, or to direct the Nominee to transfer to, the purchaser of such Vehicles, "as-is, where-is, with all faults," all right, title and interest of the Lessor and the Nominee to such Vehicles, without recourse or warranty, except for the absence of Lessor's Liens. The Lessee or its designee shall have the right to bid for and purchase any Vehicle as part of a bona fide public sale pursuant to this Section, provided that a public sale need not be conducted if the Lessee reasonably believes that the net Fair Market Sales Value which would be received at a bona fide public sale would be less than the TRAC Amount. The Lessee's appointment as the Remarketing Agent for the Lessor in respect of a Vehicle pursuant to this Section 14.2 shall (x) terminate on and as of the first day following the end of the Lease Term in respect of such Vehicle and (y) be suspended during the continuance of a Specified Default.

(b) With respect to each Vehicle sold pursuant to Section 14.2(a), the Lessee shall pay to the Lessor on the last day of the Base Term or Renewal Term, as the case may be, (the "Remarketing Payment Date"), an amount equal to the sum of (i) the Net Sales Proceeds of such Vehicle (as such Net Sales Proceeds may be decreased as provided in Section 3.3(c)), (ii) any Rent due and payable on such date (including any TRAC Amount payable by the Lessee as determined in accordance with Section 3.3(b)), and (iii) to the extent not theretofore paid, Rent due and payable prior to (but not on) such date.

(c) The Lessee shall not be entitled to any compensation for its services as the Remarketing Agent pursuant to Section 14.2(a).

(d) If the Lessee shall have elected (or be deemed to have elected) the option set forth in Section 14.1(b) in respect of a Vehicle, but shall not have arranged the sale of such Vehicle on or prior to the last day of the Renewal Term in respect of such Vehicle (such last day being herein called the "Remarketing Termination Date"), the Lessee shall, at the Lessee's sole expense, surrender such Vehicle to the Lessor at one or more of the locations designated in Schedule I hereto or any other mutually agreeable site and the Lessor shall either (i) use its best efforts to remarket and sell such Vehicle which has not been sold (the "Unsold Vehicle") or (ii) appoint Lessee as its remarketing agent for such Unsold Vehicle. Notwithstanding the foregoing, if the Lessor has elected the storage option as provided in Section 14.3, the Unsold Vehicles in respect of which such election has been made shall be stored at any of the Lessee's sites in the continental United States where it customarily holds such vehicles.

(e) In addition, the Lessee shall pay to the Lessor on such Remarketing Termination Date an amount equal to the sum of (i) the TRAC Amount of such Unsold Vehicle

as of the Remarketing Termination Date, (ii) any Rent due and payable on such date, and (iii) to the extent not theretofore paid, Rent due and payable prior to (but not on) such date.

(f) In the event that the Lessee shall have surrendered any Unsold Vehicle to the Lessor pursuant to Section 14.2(d), the Lessor shall pay to the Lessee the Net Sales Proceeds on each date on which the Lessor sells any such Unsold Vehicle less any amounts then due and unpaid by the Lessee to the Lessor hereunder.

(g) Upon the payment of the amounts specified in Sections 14.2(b) or (e) in respect of a Vehicle, the obligation of the Lessee to pay Rent with respect to the Vehicle for which such amount is paid shall terminate.

(h) When an Unsold Vehicle is surrendered by the Lessee to the Lessor upon the Lessor's election of its option pursuant to Section 14.2(d):

(i) The Lessee shall deliver to the Lessor the documents furnished by the Manufacturer of such Vehicle and such other documents in the Lessee's or any Affiliate's possession relating to the maintenance and operation of such Vehicle and the certificate of title of such Vehicle;

(ii) Such Vehicle shall satisfy all the requirements of Section 14.3; and

(iii) Subject to the requirements of the last sentence of Section 14.3, the risk of loss with respect to such Vehicle shall pass to the Lessor.

14.3 Condition of a Vehicle at End of Lease; Storage. Upon any expiration or termination for any reason of this Lease with respect to any Vehicle, such Vehicle, if the Lessee has not arranged the sale of such Vehicle as of the end of the Lease Term therefor pursuant to Section 14.2(a), shall be free and clear of all Liens except for Lessor's Liens, and the Lessee shall have (a) caused such Vehicle to be in compliance with the provisions of Section 7, (b) made all alterations and modifications to such Vehicle required by then existing applicable law of the state where such Vehicle is titled and registered for vehicles of the Vehicle's Model Year, make and model for the use and operation of such Vehicle, (c) caused such Vehicle to bear a valid inspection certificate if required by the laws of such state, and (d) furnished an Officer's Certificate to the Lessor certifying that it has complied with the provisions of this Section 14.3. In addition, upon any expiration or termination for any reason of this Lease with respect to any Vehicle, if requested by the Lessor, until such Vehicle is sold by the Lessor to the Lessee or a third party in accordance with the terms of this Lease, but not for more than 120 days after surrender of such Vehicle to the Lessor by the Lessee, the Lessee shall, at its own cost and expense, maintain the Vehicle in the condition required by Section 7, store the Vehicle at the site of surrender and keep the Vehicle insured during such storage in accordance with Section 8.

14.4 Holding Over. In addition to amounts payable by the Lessee to the Lessor pursuant to Section 14.2, if, on the Remarketing Termination Date in respect of a Vehicle, such Vehicle shall not have been delivered to the Lessor pursuant to Section 14.2(d), the Lessee shall continue to pay Rent at a daily rate during such holding over equal to 125% of the higher of Per Diem Rent and fair market rental value (as determined by mutual agreement of the Lessee and the Lessor or, failing such agreement, by an appraiser, at the Lessee's expense, selected by the

Lessor and reasonably acceptable to the Lessee). Such rent shall be payable on the last Business Day of each month. In the event any Unsold Vehicles shall have been delivered to the Lessor pursuant to Section 14.2(d) and provided that no Default or Event of Default then exists, this Lease shall terminate with respect to such Vehicles other than the Lessee's obligations under the last sentence of Section 14.3.

#### SECTION 15. CERTAIN COVENANTS

15.1 Further Assurances. In each case at the Lessee's cost and expense, the Lessor and the Lessee each agree to take all such further action, and to execute and deliver all such further documents or instruments, as the other party may reasonably request in order to carry out the intent of this Lease and to consummate the transactions contemplated hereby, including the titling and registration of Vehicles hereunder, noting the security interest of the Lessor in the Vehicles on the certificates of title issued pursuant hereto and taking all such other actions (including, without limitation, filing such documents and instruments) as are necessary or reasonably requested by the Lessor to maintain the Lessor's perfected first priority security interest in the Vehicles.

15.2 Filing Financing and Continuation Statements. To the fullest extent permitted by applicable law, and in each case at the Lessee's expense, the Lessor and the Lessee agree that the Lessor may file financing and continuation statements, and may record and re-record and file and refile all documents, which are necessary to effectuate or continue the interest of the Lessor hereunder and the Lien of the assignment granted pursuant to Section 17 without the signature of the Lessee.

#### SECTION 16. PAYMENT DUTY ABSOLUTE

This Lease is a net lease and notwithstanding any other provision of this Lease (but subject to Section 3.3(c)) the Lessee's obligation to pay Rent is absolute, unconditional and without right of deduction, offset or abatement for any reason, and shall continue in full force and effect and shall not be affected by any circumstance including, without limitation, (a) any set-off, counterclaim, recoupment, defense or other right that the Lessee may have against the Lessor, in its individual capacity or as trustee under the Trust Agreement, the Owner Participant or any other Person for any reason whatsoever (whether in connection with the transactions contemplated hereby or any other transactions), including, without limitation, any breach by the Lessor or the Owner Participant of their respective warranties, agreements or covenants contained in any of the Operative Documents, (b) any defect in the title, registration, condition, design, operation, or fitness for use of, or any damage to or loss or destruction of, the Vehicles, or any interruption or cessation in or prohibition of the use or possession thereof by the Lessee for any reason whatsoever, (c) any insolvency, bankruptcy, reorganization or similar case or proceedings by or against the Lessee or (d) any other circumstance, happening, or event whatsoever, whether or not unforeseen or similar to any of the foregoing. If, for any reason whatsoever, this Lease shall be terminated in whole or in part by operation of law or otherwise, except as specifically provided herein, the Lessee nonetheless agrees to pay an amount equal to each payment of Rent at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part and if the Lessee fails to make any such payment of such amount, such failure shall be treated (after

continuing unremedied for any applicable grace period under Section 10) as if it were an “Event of Default” under Section 10 and the Lessor shall be deemed to have those remedies provided for by Section 11. This Lease shall be non-cancelable by the Lessee, and the Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease, or to any diminution or reduction of Rent payable by the Lessee hereunder except in accordance with the express terms hereof. Nothing contained in this Section 16 shall prevent the Lessee from bringing a separate action for damages suffered by the Lessee as a result of the breach by any Person of any obligation owed by it to the Lessee or for equitable relief to obtain compliance with such obligation. If any amounts under the Lease are prepaid by Lessee more than seven (7) Business Days prior to the due date therefor, the Lessor may notify the Lessee that it will hold such amounts as security for such payment obligation until due and payable or may return such amounts to the Lessee.

#### SECTION 17. ASSIGNMENT

The Lessee hereby assigns, transfers and conveys to the Lessor, as security for its obligations under this Lease and the other Operative Documents, all its right, title and interest in and to the Vehicles described in each Lease Supplement, together with all accessions, attachments, replacements, substitutions, modifications and additions thereto and all proceeds thereof.

#### SECTION 18. MISCELLANEOUS

18.1 Notices. All notices and other communications required under the terms and provisions hereof shall be given and shall become effective in accordance with the provisions of Section 8 of the Participation Agreement. The Lessee shall furnish the Owner Participant with a copy of all reports, notices, requests, demands, certificates and other instruments furnished hereunder.

18.2 Survival. The provisions of Section 6 of the Participation Agreement are incorporated herein by reference.

18.3 Confidentiality. Each party hereto hereby reaffirms and incorporates herein by reference the terms and conditions of its respective duties and obligations under Section 11 of the Participation Agreement.

18.4 Amendments. Neither this Lease, nor any term or provision hereof, can be amended, waived, modified, supplemented, discharged or terminated, except, subject to Section 13(j) of the Participation Agreement, by an instrument in writing which is signed by the Lessor and the Lessee.

18.5 Severability. If any provision of this Lease, or the application thereof to any Person or circumstance, shall, for any reason or to any extent, be invalid or unenforceable, such invalidity or unenforceability shall not in any manner affect or render invalid or unenforceable the remainder of this Lease, and the validity and enforceability of that provision with respect to other persons or circumstances or in other jurisdictions shall not be affected but, rather, shall be enforced to the extent permitted by applicable law.

18.6 Successors and Assigns. Subject to the provisions of Sections 9 and 13(c) of the Participation Agreement, the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

18.7 Counterparts. This Lease and any amendment, modification, waiver or supplement hereto may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall (subject to Section 18.11) be an original for all purposes, but all such counterparts shall together constitute but one and the same instrument.

18.8 Construction. The section and paragraph headings in this Lease and the table of contents hereof are for convenience of reference only and shall neither be deemed to be a part of this Lease nor modify, define, expand or limit any of the terms or provisions hereof. All references herein to numbered or lettered sections, schedules or exhibits, unless otherwise indicated, are to sections, schedules and exhibits to this Lease. Words and definitions in the singular shall be read and construed as though in the plural and vice versa, and words in the masculine, neuter or feminine gender shall be read and construed as though in either of the other genders where the context so requires.

18.9 Governing Law. This Lease shall be construed and enforced in accordance with and governed by the law of the State of New York.

18.10 The Lessor Not Acting in Individual Capacity. This Lease is entered into by Wilmington Trust Company not individually but as the Owner Trustee under the Trust Agreement, in exercise of the power and authority conferred upon and invested in the Owner Trustee by the Trust Agreement, and it is expressly understood and agreed that nothing in this Lease shall be construed as creating any liability (other than for willful misconduct or gross negligence) of Wilmington Trust Company, to pay any sum or to perform any covenant, either express or implied, in this Lease (all such liability, if any, being expressly waived by the Lessee) and that the Lessee, on behalf of itself and its successors and assigns, agrees in the case of any liability of Wilmington Trust Company hereunder (except for such liability attributable to willful misconduct or gross negligence) that it will look solely to the assets of the Lessor's Estate; *provided, however*, that Wilmington Trust Company in its individual capacity, shall in any event be liable with respect to this Lease insofar as the breach thereof relates to the Lessor's Liens or other defects of title resulting from claims against or acts or breaches by the Owner Trustee in its individual capacity or involving its gross negligence or willful misconduct; and *provided further* that the foregoing exculpations of the Owner Trustee shall not be deemed to be exculpations of any other Person.

18.11 Chattel Paper. To the extent, if any, that this Lease constitutes chattel paper (as such term is defined in the U.C.C.), no security interest in this Lease may be created or perfected through the transfer of possession of any counterpart hereof other than the original counterpart which shall be the counterpart containing the receipt therefor executed by the Lessor on the signature page hereof.

18.12 Forum Selection and Consent to Jurisdiction. ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER OPERATIVE DOCUMENT, OR ANY COURSE OF

CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE PARTIES HERETO SHALL BE BROUGHT AND MAINTAINED EXCLUSIVELY IN THE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK; *PROVIDED, HOWEVER*, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY VEHICLE OR OTHER PROPERTY MAY BE BROUGHT, AT THE LESSOR'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH VEHICLE OR OTHER PROPERTY MAY BE FOUND. THE LESSEE HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH SUCH LITIGATION. THE LESSEE FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF NEW YORK. THE LESSEE HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT THE LESSEE HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE LESSEE HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER OPERATIVE DOCUMENTS.

18.13 Waiver of Jury Trial. THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY OTHER OPERATIVE DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THE LESSEE ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER OPERATIVE DOCUMENT TO WHICH IT IS A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LESSOR'S ENTERING INTO THIS AGREEMENT AND EACH SUCH OTHER OPERATIVE DOCUMENT.

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Lease to be duly executed and delivered as of the day and year first above written.

BRAC TRUST NO. 2005-[ ], by Wilmington Trust Company, not in its individual capacity but solely in its capacity as the trustee under the Trust Agreement, as Lessor

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

BUDGET RENT A CAR SYSTEM, INC., as Lessee

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

WILMINGTON TRUST COMPANY, in its individual capacity only to the extent set forth in Section 18.10 hereof and otherwise not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ])

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

Receipt of the original executed counterpart of the foregoing Lease Agreement is hereby acknowledged this \_\_\_ day of May, 2005.

BRAC Trust No. 2005-[ ], by  
Wilmington Trust Company,  
not in its individual capacity but solely  
as the trustee under the Trust Agreement

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

Lease Agreement

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RETURN LOCATIONS

Any of the following sites:

Closing Date Rent Factors

Pricing Assumptions

TRAC AMOUNTS

TRAC Percentage  
Renewal TRAC Percentage

Closing Date Renewal Termination Values

TRAC CERTIFICATE

This Certification is required in accordance with Section 7701(h) of the Internal Revenue Code of 1986 (the "Code").

I. The Lessor and the Lessee intend that the Lease be a "qualified motor vehicle operating agreement" as defined in the Code, therefore it is agreed:

(a) The Lessor shall be the owner of each Vehicle for all purposes, including, without limitation, state and federal income, sales and other applicable tax purposes.

(b) The Lessee's certification shall apply to all Vehicles available for delivery to the Lessee on or after the date hereof.

II. The Lessee hereby certifies, under penalty of perjury, that it intends that more than fifty percent (50%) of the use of each Vehicle leased from the Lessor is to be in a trade or business of the Lessee. The Lessee has been advised that it will not be treated as the owner of such vehicles for federal income tax or other tax purposes.

III. Without representation as to the correctness of such certification and without any duty of inquiry of any nature, the Lessor has no knowledge that the Lessee's certifications herein stated are false.

Executed as of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
BRAC TRUST NO. 2005-[ ], by Wilmington Trust Company, not in its individual capacity but solely as trustee under the Trust Agreement

\_\_\_\_\_  
BUDGET RENT A CAR SYSTEM, INC.

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

NOTE: THIS LEASE SUPPLEMENT HAS BEEN EXECUTED IN SEVERAL COUNTERPARTS. ONLY THE ORIGINAL COUNTERPART OF THIS LEASE SUPPLEMENT CONTAINING THE RECEIPT THEREFOR EXECUTED BY WILMINGTON TRUST COMPANY, AS OWNER TRUSTEE, ON THE SIGNATURE PAGE THEREOF, EVIDENCES THE MONETARY OBLIGATIONS OF THE LESSEE HEREUNDER AND TO THE EXTENT, IF ANY, THAT THIS LEASE SUPPLEMENT CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE JURISDICTION), NO SECURITY INTEREST IN THIS LEASE SUPPLEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN SAID ORIGINAL EXECUTED COUNTERPART.

LEASE SUPPLEMENT NO. [ ]

LEASE SUPPLEMENT No. [ ], dated [ ], 2005, between BRAC TRUST NO. 2005-[ ], as Lessor (the "Lessor"), and BUDGET RENT A CAR SYSTEM, INC. (the "Lessee").

Reference is made to the Lease Agreement (BRAC Trust No. 2005-[ ]) dated as of May \_\_\_\_, 2005 (the "Lease"), between the Lessor and the Lessee. Capitalized terms used herein without definition have the respective meanings specified therefor in the Lease.

NOW, THEREFORE, the Lessor and the Lessee hereby agree as follows:

1. The Lessor hereby delivers and leases to the Lessee under the Lease, and the Lessee hereby unconditionally accepts and leases from the Lessor under the Lease, the Eligible Vehicles identified in Schedule A hereto (the "Vehicles").

2. Schedule A hereto contains for each Vehicle (i) the Specific Identification; (ii) the Purchase Price; (iii) the Per Diem Rent Factor (if applicable) pertaining to each of the Base Term and the Renewal Term; (iv) the Quarterly Rent Factor pertaining to each of the Base Term and the Renewal Term; and (v) the Scheduled Expiration Date.

3. Schedule B hereto contains a schedule of percentages to be used in calculating Termination Value pertaining to each of the Base Term and the Renewal Term.

4. Schedule C hereto contains a schedule of rent allocations as contemplated by Section 3.2 of the Lease.

5. Annex A hereto is a TRAC Certificate executed and delivered by the Lessee with respect to the Vehicles. All the terms of Annex A are hereby incorporated and made a part hereof.

6. The Lessor and the Lessee hereby confirm that the Funding Date with respect to the Vehicles is the date of this Lease Supplement.

7. All of the terms and provisions of the Lease are hereby incorporated by reference in this Lease Supplement to the same extent as if fully set forth herein.



IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease Supplement No. [ ] to be duly executed as of the day and year first above written.

BRAC TRUST NO. 2005-[ ], by Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated in Section 18.10 of the Lease and otherwise not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ]) dated as of May [ ], 2005, as Lessor

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

BUDGET RENT A CAR SYSTEM, INC., as Lessee

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

Receipt of the original executed counterpart of the foregoing Lease Supplement (BRAC Trust No. 2005-[ ]) No. \_\_\_\_ is hereby acknowledged this \_\_\_\_ day of [ ], 2005.

BRAC Trust No. 2005-[ ], by Wilmington Trust  
not in its individual capacity but solely  
as trustee under the Trust Agreement

By \_\_\_\_\_

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease Supplement No. \_\_\_\_ to be duly executed as of the day and year first above written.

BRAC TRUST NO. 2005-[ ], by Wilmington Trust Company, acting in its individual capacity only to the extent expressly stated in Section 18.10 of the Lease and otherwise not in its individual capacity but solely as trustee under the Trust Agreement (BRAC Trust No. 2005-[ ]) dated as of May [ ], 2005, as Lessor

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

BUDGET RENT A CAR SYSTEM, INC., as Lessee

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

INFORMATION RELATING TO VEHICLES

<u>Make/Model of Vehicle</u>	<u>V.I.N. Number</u>	<u>Unit Number</u>	<u>Chassis PO Number</u>	<u>Box Length</u>	<u>Purchase Price</u>	<u>Vehicle Type</u>	<u>Per Diem Rent Factor</u>	<u>Quarterly Rent Factor</u>	<u>Scheduled Expiration Date</u>
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TERMINATION VALUE PERCENTAGES

RENT ALLOCATIONS

ANNEX A  
to the  
Lease Supplement

Lease Agreement

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GUARANTY  
(BRAC Trust No. 2005-[ ])

Dated as of May \_\_\_\_, 2005

by

CENDANT CORPORATION,  
as Guarantor

in favor of

THE BENEFICIARIES NAMED HEREIN

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TABLE OF CONTENTS

Page

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ARTICLE I

DEFINITIONS

ARTICLE II

GUARANTY PROVISIONS

SECTION 2.1.	Guaranty	2
SECTION 2.2.	Acceleration of Guaranty	2
SECTION 2.3.	Guaranty Absolute, etc.	3
SECTION 2.4.	Reinstatement, etc.	4
SECTION 2.5.	Waiver, etc.	4
SECTION 2.6.	Waiver of Subrogation	4
SECTION 2.7.	Successors, Transferees and Assigns, etc.	5
SECTION 2.8.	Release of Guarantor	5
SECTION 2.9.	Merger, Consolidation, Sale	5

ARTICLE III

MISCELLANEOUS PROVISIONS

SECTION 3.1.	Participation Agreement	6
SECTION 3.2.	Binding on Successors, Transferees and Assigns; Assignment	6
SECTION 3.3.	Amendments, etc.	6
SECTION 3.4.	Addresses for Notices to the Guarantor	7
SECTION 3.5.	No Waiver; Remedies	7
SECTION 3.6.	Section Captions	7
SECTION 3.7.	Setoff	7
SECTION 3.8.	Severability	7
SECTION 3.9.	Governing Law, Entire Agreement, etc.	7
SECTION 3.10.	Forum Selection and Consent to Jurisdiction	8
SECTION 3.11.	Waiver of Jury Trial	8

Guaranty

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GUARANTY  
(BRAC Trust No. 2005-[ ])

THIS GUARANTY (BRAC Trust No. 2005-[ ]) (this "Guaranty"), dated as of May \_\_\_, 2005, is made by CENDANT CORPORATION, a Delaware corporation (the "Guarantor"), in favor of each of the Beneficiaries (as defined below).

W I T N E S S E T H:

WHEREAS, the Guarantor, Budget Rent A Car System, Inc. (the "Lessee"), BRAC Trust No. 2005-[ ], as Owner Trust (the "Owner Trust"), [OWNER PARTICIPANT] (the "Owner Participant") and Wilmington Trust Company, not in its individual capacity except as expressly set forth therein but otherwise solely as Owner Trustee, have entered into a Participation Agreement (BRAC Trust No. 2005-[ ]), dated as of May \_\_\_, 2005 (the "Participation Agreement"), providing for the purchase and sale of certain Vehicles; and

WHEREAS, the Lessee, the Owner Trust and Budget Truck Trust I (the "Nominee"; the Nominee, the Nominee Trustee, the Owner Participant, the Owner Trustee and the Owner Trust are sometimes referred to herein as the "Beneficiaries" or, individually, as a "Beneficiary") have entered into the Nominee Agreement, dated as of May \_\_\_, 2005 (the "Nominee Agreement"); and

WHEREAS, the Owner Trust and the Lessee propose to enter into the Lease as contemplated by the Participation Agreement; and

WHEREAS, it is a condition precedent to the transactions contemplated by the Participation Agreement that the Guarantor guarantee, among other things, the obligations of the Lessee under the Operative Documents, including the Nominee Agreement, in favor of the Beneficiaries; and

WHEREAS, the Guarantor has duly authorized the execution, delivery and performance of this Guaranty; and

WHEREAS, it is in the best interests of the Guarantor to execute this Guaranty inasmuch as the Guarantor will derive direct and indirect benefits from the transactions contemplated by the Participation Agreement and the other Operative Documents;

NOW THEREFORE, for good and valuable consideration the receipt of which is hereby acknowledged, and in order to induce each of the Beneficiaries to enter into and to perform its obligations under the Participation Agreement and to enter into and perform its obligations under the other Operative Documents to which it is a party, the Guarantor agrees, for the benefit of each Beneficiary, as follows:

ARTICLE I

DEFINITIONS

Unless otherwise defined herein or the context otherwise requires, terms used in this Guaranty, including its preamble and recitals, have the meanings provided in Appendix A to the Participation Agreement.

ARTICLE II

GUARANTY PROVISIONS

SECTION 2.1. Guaranty. The Guarantor hereby absolutely, unconditionally and irrevocably:

(a) guarantees, as a primary obligor and not merely as a surety, the full and punctual payment when due of all Rent, and all other monetary obligations of the Lessee now or hereafter existing under the Lease or any other Operative Document (including all such amounts which would become due but for the operation of the automatic stay under Section 362(a) of the United States Bankruptcy Code, 11 U.S.C. §362(a), and the operation of Sections 502(b) and 506(b) of the United States Bankruptcy Code, 11 U.S.C. §502(b) and 506(b));

(b) guarantees the full and prompt performance and observance by the Lessee of each and all other covenants and agreements not described in clause (a) above required to be performed or observed by the Lessee under the terms of the Operative Documents; and

(c) indemnifies and holds harmless each Beneficiary for any and all costs and expenses (including reasonable attorney's fees and expenses) incurred or expended by such Beneficiary in enforcing any rights or privileges of such Beneficiary under this Guaranty.

This Guaranty constitutes a guaranty of payment and performance when due and not of collection, and the Guarantor specifically agrees that it shall not be necessary or required that any Beneficiary exercise any right, assert any claim or demand or enforce any remedy whatsoever against the Lessee (or any other Person) before or as a condition to the obligations of the Guarantor hereunder.

SECTION 2.2. Acceleration of Guaranty. The Guarantor agrees that, in the event of the dissolution or insolvency of the Lessee or the Guarantor, or the inability or failure of the Lessee or the Guarantor to pay material debts as they become due, or an assignment by the Lessee or the Guarantor for the benefit of creditors, or the commencement of any case or proceeding in respect of the Lessee or the Guarantor under any bankruptcy, insolvency or similar laws, and if such event shall occur at a time when any of the Rent or other monetary obligations of the Lessee may not then be due and payable, the Guarantor will pay to the Beneficiaries forthwith the full amount which would be payable by the Lessee if the Beneficiaries had been permitted to exercise and had exercised, with respect to each Vehicle then subject to the Lease, the remedy set

forth in Sections 11(a)(v)(A), (B) and (C)(l) of the Lease. Upon the payment of such amount, each such Vehicle shall be transferred to the Person lawfully entitled thereto.

SECTION 2.3. Guaranty Absolute, etc.. This Guaranty shall in all respects be a continuing, absolute, unconditional and irrevocable guaranty of payment and performance, and shall remain in full force and effect until all obligations of the Lessee under the Operative Documents have been paid or performed, as the case may be, in full, all obligations of the Guarantor hereunder shall have been paid or performed, as the case may be, in full and all obligations of a Beneficiary to fund the Purchase Price of Vehicles shall have terminated. The Guarantor guarantees that all Rent and other monetary obligations of the Lessee will be paid, and all other obligations of the Lessee will be performed, strictly in accordance with the terms of the Lease and each other Operative Document under which they arise, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of any Beneficiary with respect thereto, provided, that neither the Guarantor nor the Lessee shall be required to perform an obligation in violation of any such law, regulation or order. The liability of the Guarantor under this Guaranty shall be absolute, unconditional and irrevocable irrespective of:

(a) any lack of validity, legality or enforceability of the Lease or any other Operative Document;

(b) the failure of any Beneficiary:

(i) to assert any claim or demand or to enforce any right or remedy against the Lessee or any other Person (including any other guarantor), or to mitigate any damages, under the provisions of the Lease, any other Operative Document or otherwise, or

(ii) to perfect any Lien or to exercise any right or remedy against any other guarantor of, or collateral securing, any obligations of the Lessee under the Lease or any other Operative Document;

(c) any change in the time, manner or place of payment or performance of, or in any other term of, all or any of the obligations of the Lessee under the Lease or any other Operative Document, or any other extension, compromise or renewal of any obligation of the Lessee under the Lease or any other Operative Document;

(d) any amendment, indulgence, reduction, limitation, impairment or termination of any obligation of the Lessee under the Lease or any other Operative Document for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to (and the Guarantor hereby waives any right to or claim of) any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality, nongenuineness, irregularity, compromise, waiver, settlement, release, discharge, unenforceability of, or any other event or occurrence affecting, any obligation of the Lessee under the Lease or any other Operative Document, provided, nothing herein shall prevent assertion of any claim by separate suit or compulsory counterclaim;

(e) any amendment to, rescission, waiver, or other modification of, or any consent to departure from, any of the terms of the Lease or any other Operative Document;

(f) any addition, exchange, release, surrender or nonperfection of any collateral, or any amendment to or waiver or release or addition of, or consent to departure from, any other guaranty, held by any Beneficiary securing any of the obligations of the Lessee under the Lease or any other Operative Document;

(g) the exercise by any Beneficiary of any right or remedy under an Operative Document; or

(h) any other condition or circumstance that might otherwise constitute a legal or equitable discharge, release, counterclaim, offset or defense of a surety or guarantee, or that might otherwise limit recourse against the Guarantor.

SECTION 2.4. Reinstatement, etc. The Guarantor agrees that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the obligations of the Lessee under the Lease or any other Operative Document is rescinded or must otherwise be restored by any Beneficiary, upon the insolvency, bankruptcy or reorganization of the Lessee or otherwise, all as though such payment had not been made.

SECTION 2.5. Waiver, etc. The Guarantor hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the obligations of the Lessee under the Lease, this Guaranty, and any other Operative Document and any requirement that the Owner Trust or any other Beneficiary protect, secure, perfect or insure any Lien, or any property subject thereto, or exhaust any right or take any action against the Lessee or any other Person (including any other guarantor) or entity or any collateral securing the obligations of the Lessee under the Lease and each other Operative Document.

SECTION 2.6. Waiver of Subrogation. The Guarantor hereby irrevocably waives any claim or other rights which it may now or hereafter acquire against the Lessee that arise from the existence, payment, performance or enforcement of the Guarantor's obligations under this Guaranty or any other Operative Document, including any right of subrogation, reimbursement, exoneration, or indemnification, any right to participate in any claim or remedy of the Beneficiaries against the Lessee or any collateral which the Owner Trust now has or hereafter acquires, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including the right to take or receive from the Lessee, directly or indirectly, in cash or other property or by setoff or in any manner, payment or security on account of such claim or other rights. If any amount shall be paid to the Guarantor in violation of the preceding sentence, such amount shall be deemed to have been paid to the Guarantor for the benefit of, and held in trust for, the Beneficiaries, and shall forthwith be paid to the Beneficiaries to be credited and applied upon the obligations of the Lessee to the Beneficiaries under the Lease and the other Operative Documents, whether matured or unmatured. The Guarantor acknowledges that it will receive direct and indirect benefits from the transactions contemplated by the Lease and the other

Operative Documents and that the waiver set forth in this Section is knowingly made in contemplation of such benefits.

SECTION 2.7. Successors, Transferees and Assigns, etc.. This Guaranty shall:

- (a) be binding upon the Guarantor, and its successors, transferees and assigns; and
- (b) inure to the benefit of and be enforceable by the Beneficiaries.

Without limiting the generality of the foregoing clause (b), any Beneficiary may assign or otherwise transfer (in whole or in part) any interest held by it to any other Person or entity, and such other Person or entity shall thereupon become vested with all rights and benefits in respect thereof granted to such Beneficiary under any Operative Document (including this Guaranty) or otherwise, subject, however, to any contrary provisions in such assignment or transfer, and to the provisions of Section 9.1 of the Participation Agreement and Article IX of the Trust Agreement.

SECTION 2.8. Release of Guarantor. The Guarantor shall be released from its obligations hereunder, and this Guaranty shall terminate and be of no further force and effect, if there has been a merger or consolidation of, or a sale of all or substantially all of the assets of, the Lessee pursuant to and in accordance with Section 5.4 of the Participation Agreement (a "Merger Event") under circumstances in which the condition set forth in clause (ii)(A) of Section 5.4 of the Participation Agreement shall have been met. The Beneficiaries shall execute such agreements, documents or instruments evidencing the foregoing release as shall be reasonably requested by the Guarantor and at its expense.

SECTION 2.9. Merger, Consolidation, Sale. The Guarantor shall not permit or effect any consolidation of Guarantor with, or merger or liquidation (as part of a business reorganization or restructuring) of the Guarantor into, any other corporation or other entity (whether or not affiliated with Guarantor), any other business combination or association involving the Guarantor, or successive consolidations, mergers, liquidations (as a part of a business reorganization or restructuring) or other business combinations or associations to which Guarantor or its successor or successors shall be a party or parties, or any sale or conveyance of the property of the Guarantor as an entirety or substantially as an entirety to any other corporation or entity (whether or not affiliated with the Guarantor) authorized to acquire and operate the same unless the following conditions are satisfied: upon any such consolidation, merger, liquidation, business combination or association, sale or conveyance (a "Merger Event"), (i) unless the Guarantor prior to such Merger Event is the Surviving Entity (as hereinafter defined), the due and punctual performance of all of the obligations of the Guarantor under the Operative Documents to which it is a party shall be assumed in writing by the corporation or other entity formed by such consolidation, or into which the Guarantor shall have been merged or liquidated, or which shall have resulted from such business combination or association, or which shall have acquired such property (the "Surviving Entity"); (ii) the Surviving Entity shall be a Qualified Merger Entity or shall have all of its obligations under the Operative Documents guaranteed by a Qualified Merger Entity pursuant to a guaranty substantially similar to the Guaranty or letter of credit or other form of collateral in acceptable form to the Lessor; (iii) after giving effect to the transaction, no Event of Default or Specified Default shall exist; (iv) unless

the Guarantor prior to such Merger Event is the Surviving Entity, the Guarantor will, if requested by the Owner Participant, deliver to the Owner Participant an opinion or opinions of White & Case LLP and, with respect to general corporate matters, internal counsel to the Surviving Entity, or any other counsel reasonably acceptable to the Owner Participant, (which opinion or opinions shall be delivered prior to or simultaneously with the consummation of the transaction) stating that the Surviving Entity is duly organized under the laws of the state or other jurisdiction of its organization, that each such assumption agreement and/or collateral agreement is duly authorized, executed and delivered and is enforceable in accordance with its terms, that no violation of law applicable to or binding on the Surviving Entity will result from the Surviving Entity's being party to such assumption agreement and/or collateral agreements and the Operative Documents (to the extent provided in such assumption agreement), and that the Guaranty is enforceable in accordance with its terms (subject, in each case, to customary exceptions and qualifications), and if the Surviving Entity is not a United States entity, such opinions of counsel in the country in which the Surviving Entity is domiciled as are customarily required with respect to foreign guarantors; (v) all filings and notices shall have been made so as to perfect the interests of the Lessor and Owner Participant in any security delivered pursuant to clause (ii) above, together with satisfactory legal opinions regarding the creation and perfection of such security and (vi) unless the Guarantor prior to such Merger Event is the Surviving Entity, Owner Participant shall have received such other certificates of the Surviving Entity and/or the new Guarantor with respect to incumbency, due organization, due authorization, representations and warranties and absence of defaults. The Guarantor shall provide not less than 20 days' prior written notice of any transaction of the kind described in this Section 2.9 to the Lessor and the Owner Participant which notice shall include information with respect to any Qualified Merger Entity which is proposed to be the Guarantor hereunder.

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

SECTION 3.1. Participation Agreement. This Guaranty is an Operative Document executed pursuant to the Participation Agreement and shall (unless otherwise expressly indicated herein) be construed, administered and applied in accordance with the terms and provisions thereof.

SECTION 3.2. Binding on Successors, Transferees and Assigns; Assignment. In addition to, and not in limitation of, Section 2.7, this Guaranty shall be binding upon the Guarantor and its successors, transferees and assigns and shall inure to the benefit of and be enforceable by each Beneficiary and its respective successors, transferees and assigns (to the full extent provided pursuant to Section 2.7); provided, however, that the Guarantor may not delegate or assign any of its obligations hereunder without the prior written consent of the Owner Participant.

SECTION 3.3. Amendments, etc.. No amendment to or waiver of any provision of this Guaranty, nor consent to any departure by the Guarantor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Owner Trust, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 3.4. Addresses for Notices to the Guarantor. Unless otherwise expressly specified or permitted by the terms hereof, all notices, requests, demands, authorizations, directions, consents, waivers or documents provided or permitted by this Guaranty to be made, given, furnished or filed to the Guarantor shall be in writing, by overnight courier, or by confirmed telecopy to the address or facsimile number set forth opposite the Guarantor's name on Schedule IV to the Participation Agreement. All such notices shall be deemed given and such requirement satisfied when such notice is received. The Guarantor may change the address to which notices to the Guarantor will be sent by giving notice of such change to the Owner Trust.

SECTION 3.5. No Waiver; Remedies. In addition to, and not in limitation of, Section 2.3 and Section 2.5, no failure on the part of any Beneficiary 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. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

SECTION 3.6. Section Captions. Section captions used in this Guaranty are for convenience of reference only, and shall not affect the construction of this Guaranty.

SECTION 3.7. Setoff. In addition to and not in limitation of all other rights and remedies (including other rights of offset or banker's lien) that any Beneficiary may have under applicable law, each Beneficiary shall, upon the occurrence and during the continuance of any Event of Default, have the right to appropriate and apply to the payment of any monetary obligations of the Lessee under the Lease or any other Operative Document owing to it (whether or not then due), in such order of application as such Beneficiary may elect, any and all balances, credits, deposits (general or special, time or demand, provisional or final), accounts or moneys of the Guarantor then or thereafter with such Beneficiary. Each Beneficiary agrees promptly to notify the Guarantor after any such setoff and application made by such Beneficiary; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights of each Beneficiary under this Section are in addition to other rights and remedies (including other rights of setoff under applicable law or otherwise) which such Beneficiary may have.

SECTION 3.8. Severability. Wherever possible each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

SECTION 3.9. Governing Law, Entire Agreement, etc. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK. THIS GUARANTY AND THE OTHER OPERATIVE DOCUMENTS CONSTITUTE THE ENTIRE UNDERSTANDING AMONG THE GUARANTOR AND THE BENEFICIARIES WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDE ANY PRIOR AGREEMENTS, WRITTEN OR ORAL, WITH RESPECT THERETO.

**SECTION 3.10. Forum Selection and Consent to Jurisdiction. ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS GUARANTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE BENEFICIARIES OR THE GUARANTOR SHALL BE BROUGHT AND MAINTAINED EXCLUSIVELY IN THE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK; PROVIDED, HOWEVER, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY PROPERTY MAY BE BROUGHT, AT THE OWNER TRUST'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH PROPERTY MAY BE FOUND. THE GUARANTOR HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH SUCH LITIGATION. THE GUARANTOR WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON GUARANTOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE GUARANTOR AT THE ADDRESS STATED IN THE PARTICIPATION AGREEMENT AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. THE GUARANTOR HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY HAVE OR HEREAFTER MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE GUARANTOR HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTY AND THE OTHER OPERATIVE DOCUMENTS.**

**SECTION 3.11. Waiver of Jury Trial. THE GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS GUARANTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF THE BENEFICIARIES OR THE GUARANTOR. THE GUARANTOR ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE BENEFICIARIES ENTERING INTO THE OPERATIVE DOCUMENTS TO WHICH THEY ARE PARTIES.**



IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

CENDANT CORPORATION

By: \_\_\_\_\_  
Name: Ronald L. Nelson  
Title: President and Chief Financial Officer

(9)

Guaranty

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