

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

FORM 10-Q

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

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2000

OR

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

FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_.

COMMISSION FILE NUMBER: 000-26489

MCM CAPITAL GROUP, INC.  
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

DELAWARE  
(STATE OR OTHER JURISDICTION OF  
INCORPORATION OR ORGANIZATION)

48-1090909  
(IRS EMPLOYER  
IDENTIFICATION NO.)

5775 ROSCOE COURT  
SAN DIEGO, CALIFORNIA  
(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

92123  
(ZIP CODE)

(877) 445 - 4581  
(REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE)

(FORMER NAME, FORMER ADDRESS AND FORMER FISCAL YEAR,  
IF CHANGED SINCE LAST REPORT)

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

Yes  No

There were 7,591,131 shares of common stock outstanding as of October 31,  
2000.

MCM CAPITAL GROUP, INC.  
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PART I. FINANCIAL INFORMATION  
ITEM 1. FINANCIAL STATEMENTS

MCM CAPITAL GROUP, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS

	DECEMBER 31, 1999 (A)	SEPTEMBER 30, 2000
	-----	-----
	(UNAUDITED)	
	(IN THOUSANDS, EXCEPT PER SHARE AMOUNTS)	
<b>ASSETS</b>		
Cash .....	\$ 352	\$ 2,714
Restricted cash .....	2,939	3,389
Investment in receivable portfolios, net (Note 4) .....	57,473	30,545
Retained interest in securitized receivables (Note 5) .....	30,555	34,973
Property and equipment, net (Note 6) .....	7,943	7,940
Other assets .....	2,278	3,011
	-----	-----
	\$101,540	\$ 82,572
	=====	=====
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Accounts payable and accrued liabilities .....	\$ 10,631	\$ 6,189
Servicing liability (Note 5) .....	1,430	--
Notes payable and other borrowings (Notes 5 and 7) .....	47,418	58,417
Capital lease obligations .....	1,262	2,451
Deferred income tax liability .....	7,771	--
	-----	-----
Total liabilities .....	68,512	67,057
Stockholders' equity:		
Common stock, \$0.01 par value, 50,000,000 shares authorized, 7,191,131 shares issued and outstanding at December 31, 1999 and 7,591,131 shares issued and outstanding at September 30, 2000 .....	72	76
Common stock warrants (Note 7) .....	--	1,610
Additional paid in capital .....	19,777	20,448
Accumulated other comprehensive income .....	4,321	3,343
Retained earnings (accumulated deficit) .....	8,858	(9,962)
	-----	-----
Total stockholders' equity .....	33,028	15,515
	-----	-----
Total liabilities and stockholders' equity .....	\$101,540	\$ 82,572
	=====	=====

(A) Derived from the audited consolidated financial statements as of December 31, 1999

See accompanying notes to condensed consolidated financial statements

MCM CAPITAL GROUP, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

	THREE MONTHS ENDED SEPTEMBER 30,		NINE MONTHS ENDED SEPTEMBER 30,	
	1999	2000	1999	2000
	(IN THOUSANDS, EXCEPT PER SHARE AMOUNTS) (UNAUDITED)			
Revenues:				
Income from receivable portfolios .....	\$ 4,401	\$ 4,035	\$ 6,646	\$ 11,672
Income from retained interest .....	2,051	3,133	5,556	8,486
Gain on sales of receivable portfolios .....	--	--	17	--
Servicing fees and related income .....	1,753	2,993	5,727	7,944
Total revenues: .....	8,205	10,161	17,946	28,102
Operating expenses:				
Salaries and employee benefits .....	4,989	6,628	13,181	17,913
Other operating expenses .....	916	1,574	2,571	4,337
General and administrative expenses .....	641	1,217	1,712	3,593
Depreciation and amortization .....	264	563	697	1,567
Provision for portfolio losses .....	--	(1,144)	--	19,500
Restructuring charges (Note 3) .....	--	--	--	1,335
Total operating expenses .....	6,810	8,838	18,161	48,245
Income (Loss) before other income and expense and income taxes .....	1,395	1,323	(215)	(20,143)
Other income and expense:				
Interest expense .....	(572)	(2,164)	(1,213)	(6,040)
Other income (expense) (Note 4) .....	22	46	170	(102)
Total expense .....	(550)	(2,118)	(1,043)	(6,142)
Income (Loss) before income taxes .....	845	(795)	(1,258)	(26,285)
(Provision for) Benefit from Income Tax .....	(338)	166	503	7,464
Net Income (Loss) .....	\$ 507	\$ (629)	\$ (755)	\$(18,821)
Basic and diluted loss per share:				
Net Income (Loss) .....	\$ 0.07	\$ (0.08)	\$ (0.14)	\$ (2.55)
Shares used for computation (in thousands):				
Basic .....	6,849	7,591	5,584	7,383
Diluted .....	6,893	7,591	5,584	7,383

See accompanying notes to condensed consolidated financial statements

MCM CAPITAL GROUP, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

	NINE MONTHS ENDED SEPTEMBER 30,	
	1999	2000
	(IN THOUSANDS) (UNAUDITED)	
Cash flows from operating activities:		
Net loss .....	\$ (755)	\$(18,821)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization .....	697	1,567
Amortization of loan costs and debt discount .....	94	996
Gain on sales of receivable portfolios .....	(17)	--
Loss on sales of property and equipment .....	--	477
Deferred income tax benefit .....	(503)	(7,464)
Income accrued on retained interest .....	(5,556)	(8,486)
Amortization of servicing liability .....	(1,707)	(1,430)
Settlement of amount payable under receivable portfolio purchase contract	--	(2,322)
Writeoff of basis of settled portfolios .....	--	427
Increase in restricted cash .....	(2,455)	(450)
(Increase) decrease in service fee receivable .....	(331)	379
Provision for portfolio losses .....	--	19,500
Decrease (increase) in other assets .....	(112)	(163)
Note payable issued in lieu of interest payment .....	--	613
Increase (decrease) in accounts payable and accrued liabilities .....	(63)	(3,833)
	(10,708)	(19,010)
Cash flows from investing activities:		
Net (accretion) collections applied to principal of receivable portfolios .....	(2,397)	12,522
Purchases of receivable portfolios, net .....	(35,837)	(3,538)
Collections of retained interest and cash reserves .....	--	2,791
Proceeds from sales of receivable portfolios .....	108	17
Cash acquired in acquisition of assets from West Capital Financial Svcs. Corp.	--	9
Proceeds from the sale-leaseback of property and equipment .....	--	607
Proceeds from sale of property and equipment .....	--	400
Purchases of property and equipment .....	(1,609)	(980)
	(39,735)	11,828

MCM CAPITAL GROUP, INC.  
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(CONTINUED)

	NINE MONTHS ENDED SEPTEMBER 30,	
	1999	2000
	-----	
	(IN THOUSANDS)	
	(UNAUDITED)	
Cash flows from financing activities:		
Proceeds from notes payable and other borrowings .....	61,003	67,117
Repayments of notes payable and other borrowings .....	(32,830)	(55,282)
Capitalized loan costs relating to financing arrangements .....	(1,370)	(1,743)
Proceeds from issuance of common stock in Initial Public Offering .....	22,500	--
Payment of capitalized costs relating to public offering of common stock .	(2,781)	--
Net repayment of capital lease obligation .....	(83)	(548)
	-----	-----
Net cash provided by financing activities .....	46,439	9,544
	-----	-----
Net increase (decrease) in cash .....	(4,004)	2,362
Cash at beginning of period .....	4,658	352
	-----	-----
Cash at end of period .....	\$ 654	\$ 2,714
	=====	=====
Supplemental schedule of noncash investing and financing activities:		
Assets acquired under capital leases .....	--	\$ 1,130
Discount applied to Senior Notes for issuance of warrants, net .....	--	1,449
Acquisition of assets and assumption of certain liabilities under purchase agreement with West Capital Financial Services Corp. (Note 2) .....	--	--

See accompanying notes to condensed consolidated financial statements

MCM CAPITAL GROUP, INC.  
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
(UNAUDITED)

NOTE 1 - BASIS OF PRESENTATION

MCM Capital Group, Inc. ("MCM") is a holding company whose principal asset is its investment in Midland Credit Management, Inc. ("Midland Credit") and its subsidiaries (collectively referred to herein as the "Company"). The Company is a financial services company specializing in the recovery, restructuring, resale and securitization of receivable portfolios acquired at deep discounts. The Company's receivable portfolios consist primarily of charged-off domestic credit card receivables purchased from national financial institutions and major retail corporations. Acquisitions of receivable portfolios are financed by operations to the extent available and borrowings from third parties.

The accompanying unaudited condensed consolidated financial statements of the Company have been prepared in accordance with Rule 10-01 of Regulation S-X promulgated by the Securities and Exchange Commission and, therefore, do not include all information and footnotes necessary for a fair presentation of financial position, results of operations and cash flows in conformity with generally accepted accounting principles. In the opinion of the Company, however, the accompanying condensed consolidated financial statements contain all adjustments consisting only of normal recurring adjustments, except for the provision recorded for portfolio losses, necessary to present fairly the Company's financial position as of December 31, 1999 and September 30, 2000, its results of operations for the three-month and nine-month periods ended September 30, 1999 and 2000 and its cash flows for the nine-month periods ended September 30, 1999 and 2000 (see Note 4). This information should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 1999 filed with the Securities and Exchange Commission. Certain statements in these notes to the condensed consolidated financial statements constitute "forward-looking statements" under the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve risks, uncertainties and other factors which may cause the actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements express or implied by such forward-looking statements. See "Part II-Other Information."

NOTE 2 - ACQUISITION OF CERTAIN ASSETS OF WEST CAPITAL FINANCIAL SERVICES CORP.

On May 22, 2000, Midland Acquisition Corporation ("MAC"), a Delaware corporation and a wholly owned subsidiary of MCM, completed the acquisition of certain operating assets of WCFSC, Inc., formerly known as West Capital Financial Services Corp., a California corporation ("West Capital"), and the assumption of certain operating liabilities of West Capital, pursuant to an Asset Purchase Agreement, dated May 11, 2000, between MAC and West Capital (the "Purchase Agreement") (collectively the "West Capital Transaction"). In connection with the transaction, MCM entered into a Guaranty for the benefit of West Capital to guarantee certain obligations of MAC with regard to the transaction. West Capital is a majority owned subsidiary of Sun America, Inc.

The consideration for the acquisition consisted of 375,000 shares of MCM's common stock and the assumption of approximately \$1.75 million of certain liabilities. The 375,000 shares had a value of approximately \$632,812 based on a closing price of \$1.6875 per share on May 22, 2000, as reported by NASDAQ National Market.

The assets acquired include three portfolios of charged-off credit card receivables, all of the fixed assets of West Capital, and certain agreements and licenses used by West Capital in the operation of its business. Various assets that were acquired pursuant to the Purchase Agreement were used as part of West Capital's business of collecting charged-off credit card receivables, including computer hardware and software, telephone equipment, and other related equipment. MAC has continued to use those assets in similar operations. As part of the

transaction, all of the previous employees of West Capital were offered employment by Midland Credit.

In a separate but related transaction, MCM acquired certain charged-off credit card receivables from a trust formed by WCFSC Special Purpose Corporation, a California corporation and wholly owned subsidiary of West Capital ("WCFSC SPC"), pursuant to a Trust Receivables Purchase Agreement, dated May 22, 2000, by and among MCM, West Capital, WCFSC SPC, WCFSC Special Purpose Corporation II, and Norwest Bank Minnesota, National Association, as Trustee for WCFSC Consumer Receivables Recovery Trust 1995-1. The consideration for the acquisition consisted of 25,000 shares of MCM's common stock, 10,000 shares of Redeemable Preferred Stock of WCFSC Special Purpose Corporation II (the "Preferred Stock"), and a WCFSC Consumer Receivables Recovery Trust 1995-1 Note (the "Note"), with a remaining principal balance of approximately \$228,000. The 25,000 shares of MCM common stock had a value of approximately \$42,187 based on a closing price of \$1.6875 per share on May 22, 2000 as reported by NASDAQ National Market. The 10,000 shares of Preferred Stock and the Note were both previously acquired by MCM in a separate transaction with SunAmerica Inc., for a nominal fee.

Following are the assets acquired stated at their allocated cost basis, based upon their relative values for accounting purposes at the time of acquisition together with the liabilities assumed (amounts in thousands):

	WCFSC SPC -----	WEST CAPITAL -----
Cash .....	\$ --	\$ 9
Investment in receivable portfolios, net	42	1,958
Property and equipment, net .....	--	323
Other assets .....	--	87
	-----	-----
Total assets acquired .....	\$ 42	\$2,377
	=====	=====
Accounts payable .....	\$ --	\$ 568
Accrued salaries & wages .....	--	1,066
Other accrued expenses .....	--	110
	-----	-----
Total liabilities assumed .....	\$ --	\$1,744
	=====	=====

In a separate but related transaction, Midland Credit became the successor servicer to a pool of charged-off consumer accounts that are owned by West Capital Receivables Corporation I, a California corporation and wholly-owned, bankruptcy-remote subsidiary of West Capital. Under the terms of the servicing contract, Midland Credit earned a servicing fee for collections of these receivables during the period from May 22, 2000 (date of acquisition) through September 30, 2000 of \$2,853,000 for the collections during that period.

#### NOTE 3 - RESTRUCTURING CHARGES

In conjunction with the West Capital Transaction, certain former officers of West Capital were hired as officers of the Company, replacing certain officers of the Company, which resulted in severance charges of approximately \$839,000 for the nine months ended September 30, 2000.

Effective June 29, 2000, the Company closed its operations center in Hutchinson, KS. In conjunction with this closing, the Company recorded severance charges of approximately \$210,000 for the approximately 93 employees terminated. In addition, the Company recorded a charge of approximately \$286,000 for the nine months ended September 30, 2000 to write-down the Hutchinson, KS building to its fair market value as determined by the sale of the property which closed on July 20, 2000 for \$400,000.

## NOTE 4 - INVESTMENT IN RECEIVABLE PORTFOLIOS

The Company accounts for its investment in receivable portfolios, including those acquired from West Capital as described in Note 2, on the accrual basis of accounting in accordance with the provisions of the AICPA's Practice Bulletin 6, "Amortization of Discounts on Certain Acquired Loans." Static pools are established with accounts having similar attributes, based on specific seller and timing of acquisition. Once a static pool is established, the receivables are permanently assigned to the pool. The discount (i.e., the difference between the cost of each static pool and the related aggregate contractual receivable balance) is not recorded because the Company expects to collect a relatively small percentage of each static pool's contractual receivable balance. As a result, each static pool is initially recorded at cost.

Historically, the Company has accounted for each static pool as a unit for the economic life of the pool (similar to one loan) for recognition of income from receivable portfolios, for collections applied to principal of receivable portfolios and for provision for loss or impairment. Income from receivable portfolios has been accrued based on the effective interest rate determined for each pool applied to each pool's original cost basis, adjusted for unpaid accrued income and principal paydowns. The effective interest rate is the internal rate of return determined based on the timing and amounts of actual cash received and anticipated future cash flow projections for each pool when the anticipated future cash flow projections were determined to be reasonably estimable.

The Company monitors impairment of receivable portfolios based on projected future cash flows of each portfolio compared to each portfolio's carrying amount in those cases where the projected future cash flows are determined to be reasonably estimable. The discount rate in these instances is based on a rate of return, adjusted for specific risk factors, that would be expected by an unrelated investor in a similar stream of cash flows. The receivable portfolios are evaluated for impairment periodically by management based on current market and cash flow assumptions. Provisions for losses are charged to earnings when it is determined that the investment in a receivable portfolio is greater than the present value of expected future cash flows. No provision for losses was recorded in 1999.

During the first quarter of 2000, the Company determined that twenty-two of its receivable portfolios that had been acquired in 1999 were not performing in a manner consistent with the Company's expectations and historical results for the specific type of receivables within those portfolios. This appeared to be the result of non-compliance of the receivable portfolios with covenants and representations contained in the related purchasing contracts. At that time, the Company was unable to determine the fair value of these portfolios, as it was unable to reasonably estimate the amount and timing of anticipated collections. Therefore, the Company ceased accrual of income on these portfolios effective January 1, 2000 and provided an estimated provision for portfolio losses of \$2,059,000 in the first quarter of 2000. In accordance with AICPA Practice Bulletin 6, the Company is accounting for these portfolios under the cost recovery method until such time that it can demonstrate its ability to estimate the amount and timing of anticipated collections.

During the second quarter of 2000, the Company used proprietary statistical models that were acquired through the West Capital Transaction to estimate the recoverable value of its portfolios, and thus reasonably estimate the fair value of each portfolio. As part of that process, the Company isolated the portions of those portfolios containing what the Company considers to be ineligible assets. Other than as discussed in the paragraph that follows, the Company has not recorded an accrual for any potential recoveries, as such amounts are not deemed to be reasonably estimated or probable at this time. Based on the results of the Company's fair value calculations and statistical analysis during the second quarter, an additional impairment charge of \$18,586,000 was recorded against the carrying value of the portfolios of \$34,400,000 during the three months ended June 30, 2000. These portfolios remain on non-accrual as of September 30, 2000, and the full amount of collections from these portfolios has been applied to the receivable portfolio carrying amount since January 1, 2000. However, any collections in excess of the net book value of an individual receivable portfolio are recorded as income and for the three months ended September 30, 2000, approximately \$153,000 of collections in excess of the net book value of certain receivable portfolios were recorded as income.

On August 14, 2000, the Company entered into a settlement agreement (the "Settlement") with an issuer from whom it purchased certain of these ineligible receivables (the "Issuer"). In connection with the Settlement, the Issuer forgave the payment of the original purchase price (\$2,322,000) for certain ineligible receivables that were owned by Midland Credit and were unencumbered. In the second quarter of 2000, the Company recorded a \$1,144,000 provision for uncollectible accounts related to the ineligible receivables. In connection with the Settlement, Midland Credit (i) reversed the \$2,322,000 liability pertaining to the original purchase price, (ii) recorded a recovery of the \$1,144,000 provision for uncollectible accounts previously recorded on such receivables, (iii) applied \$751,000 of collections on these portfolios to income from receivable portfolios and (iv) reversed the \$427,000 remaining balance of the receivable portfolios. As these receivable portfolios have no cost basis, all collections are recorded as income. After September 30, 2000, Midland Credit, as the servicer of Securitization 99-1, received \$651,000 from the Issuer in payment for the return to the Issuer of certain ineligible receivables that were previously purchased from the Issuer. As a result of the amendment to Securitization 99-1 discussed in Note 5 below, this recovery is subject to the lien in Securitization 99-1. In November 2000, \$622,000, net of \$29,000 in attorney fees, was paid to the noteholders in Securitization 99-1 in payment of amounts owing on the non-recourse notes payable. The Company is considering possible remedies that may be available to it from other entities from which ineligible receivables were purchased.

The following summarizes the changes in the balance of the investment in receivable portfolios for the following periods (in thousands):

	Year Ended December 31, 1999 -----	Nine Months Ended September 30, 2000 -----
Balance at beginning of period .....	\$ 2,052	\$ 57,473
Purchase of receivable portfolios .....	51,969	3,538
Receivable portfolios acquired in the West Capital transaction .	--	2,000
Cost of receivable portfolios sold .....	(260)	(17)
Net accretion (collections) applied to principal of receivable portfolios .....	3,712	(12,522)
Writeoff of basis of settled portfolios .....	--	(427)
Provision for portfolio losses .....	--	(19,500)
	-----	-----
Balance at end of period .....	\$ 57,473 =====	\$ 30,545 =====

#### NOTE 5 - SECURITIZATION OF RECEIVABLE PORTFOLIOS

On January 18, 2000, Midland Receivables 99-1 Corporation, a bankruptcy remote, special purpose entity formed by the Company as a subsidiary of Midland Credit, issued non-recourse notes in the amount of \$28,900,000, bearing interest at 9.63% per annum ("Securitization 99-1"). The notes are collateralized by certain charged-off receivables with a carrying amount of approximately \$43,000,000 at the time of transfer and an initial cash reserve account of \$1,445,000 and are insured through a financial guaranty insurance policy. The securitization has been accounted for as a financing transaction and the proceeds were used to reduce the level of outstanding borrowings of the Company's warehouse facility. Income will be recognized over the estimated life of the receivables securitized and the receivables and corresponding debt will remain on the Company's balance sheet. The assets pledged in the securitization transaction, together with their associated cash flows, would not be available to satisfy claims of creditors of the Company. At September 30, 2000, the balance outstanding under these non-recourse notes was \$22,487,000. (See Note 7)

As a condition to closing Securitization 99-1, Midland Credit was required to amend the warehouse facility. At September 30, 2000, Midland Credit was in default of certain terms of Securitization 99-1 and the warehouse facility. However, as of October 1, 2000, the terms of Securitization 99-1 and the warehouse facility were amended and the Company was in compliance with all amended terms. The amendments include that Midland

Credit (i) must maintain \$2 million of liquidity, (ii) must collect certain minimum amounts on the receivable portfolios within the warehouse facility and Securitization 99-1 based on current projections, (iii) must maintain on a consolidated basis a minimum net worth of an amount that decreases on a quarterly basis from \$13,600,000 to \$7,300,000, over the period from September 30, 2000 through September 30, 2001 and remains at \$7,300,000 thereafter, (iv) must be reappointed as servicer by the note insurer on a monthly basis subsequent to December 31, 2000, (v) was granted greater flexibility in the sale of certain accounts and the use of third party collectors and (vi) will receive increased servicing fees, paid on a weekly basis. In addition, the amendments increase the interest rate on notes (i) in Securitization 99-1 to 10% and (ii) the warehouse facility to one week LIBOR plus 117 basis points. The warehouse facility was also converted to a term loan with a final payment date of December 15, 2004. Midland Credit is also required to pay to the noteholders any recoveries after September 22, 2000, net of attorney fees and certain costs, from certain issuers that previously sold the securitized receivables to Midland Credit.

On December 30, 1998, Midland Receivables 98-1 Corporation, a bankruptcy-remote, special-purpose entity formed by the Company, as a subsidiary of Midland Credit, issued non-recourse notes in the principal amount of \$33,000,000, which had a fixed rate of interest at 8.63% (the "1998 Securitization"). These notes were repaid in full on September 11, 2000. The notes were collateralized by credit card receivables securitized by the Company with a carrying amount of approximately \$33,800,000 at the time of transfer. The 1998 Securitization was accounted for as a sale under the provisions of Statement of Financial Accounting Standards No. 125 "Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities" (SFAS No. 125). The Company recorded a retained interest and a servicing liability and recognized a gain of approximately \$9,300,000 in 1998.

In connection with the 1998 Securitization, the Company received a servicing fee equal to 20% of the gross monthly collections of the securitized receivables through repayment of the notes on September 11, 2000 at which time all collections of these receivables are retained by the Company as collections of the retained interest and thereby reduce the balance of the retained interest. During the nine months ended September 30, 1999 and September 30, 2000 the Company recorded servicing fees of \$4,020,000 and \$3,662,000, respectively, for collections during such periods. The benefits of servicing the securitized receivables did not adequately compensate the Company for performing the servicing; therefore, the Company recorded a servicing liability of \$3,607,000 in accordance with SFAS No. 125. During the nine months ended September 30, 1999 and September 30, 2000, the Company recorded amortization of this servicing liability of \$1,707,000 and \$1,430,000, respectively. In conjunction with the repayment of the note payable under the 1998 Securitization, the servicing liability was fully amortized during the third quarter of 2000.

As a result of the 1998 Securitization, the Company recorded a retained interest of \$23,986,000 in securitized receivables. The retained interest was held by a wholly owned, bankruptcy remote, special purpose subsidiary of the Company. The value of the retained interest, and its associated cash flows, would not be available to satisfy claims of creditors of the Company. The retained interest was collateralized by the credit card receivables that were securitized, adjusted for amounts owed to the note holders. The Company recognized accretion of \$5,556,000 and \$8,486,000 on the retained interest during the nine months ended September 30, 1999 and September 30, 2000, respectively, together with certain other changes as shown in the table below resulting in a retained interest balance of \$34,973,000 at September 30, 2000. In addition, the Company reported other comprehensive income in 1998 with respect to the retained interest recorded as a separate component of stockholders' equity with an accumulated balance of \$3,343,000, net of related income taxes, at September 30, 2000.

The following summarizes the changes in the balance of the retained interest in the 1998 Securitization for the nine months ended September 30, 2000 (in thousands):

	Cash Reserves	Amortized Cost	Unrealized Gain	Fair Market Value
	-----	-----	-----	-----
Balance at beginning of period ....	\$ 660	\$ 22,694	\$ 7,201	\$ 30,555
Interest accrued .....	--	8,486	--	8,486
Cash reserves refund .....	(660)	--	--	(660)
Retained interest collections	--	(2,132)	--	(2,132)
Decrease in unrealized gain .	--	--	(1,276)	(1,276)
	-----	-----	-----	-----
Balance at end of period .....	\$ --	\$ 29,048	\$ 5,925	\$ 34,973
	=====	=====	=====	=====

#### NOTE 6 - PROPERTY AND EQUIPMENT

The following is a summary of the components of property and equipment (in thousands) (see Note 3):

	December 31, 1999	September 30, 2000
	-----	-----
Property and equipment, at cost .....	\$10,041	\$10,628
Less accumulated depreciation and amortization	2,098	2,688
	-----	-----
	\$ 7,943	\$ 7,940
	=====	=====

#### NOTE 7 - NOTES PAYABLE AND OTHER BORROWINGS

The Company is obligated under borrowings as follows (in thousands):

	December 31, 1999	September 30, 2000
	-----	-----
Revolving line of credit, 8.50%, unsecured, Due April 15, 2001 .....	\$13,615	\$14,616
Warehouse facility, 0.8% over LIBOR, 7.45% at September 30, 2000 .....	33,779	12,140
Notes payable, Securitization 99-1, 9.63% (Note 5) .....	--	22,487
12% Senior Notes due January 12, 2007 (net of unamortized debt discount of \$1,449,000 for value of common stock warrants)	--	8,551
12% Senior Notes due July 1, 2005 .....	--	613
Various installment obligations, 7.7% .....	24	10
	-----	-----
	\$47,418	\$58,417
	=====	=====

On January 12, 2000, the Company issued \$10,000,000 in principal amount of 12% Series No. 1 Senior Notes (the "Notes") to an institutional investor. The Notes are unsecured obligations of the Company but are guaranteed by Midland Credit, MAC and Triarc Companies, Inc., a shareholder of the Company ("Triarc"). Triarc beneficially owns approximately 9.6% of the outstanding common stock of the Company. In connection with the issuance of the Notes, the Company issued warrants to the institutional investor and Triarc to acquire up to 428,571 and 100,000 shares, respectively, of common stock of the Company at an exercise price of \$0.01 per share. In addition, the Company paid a fee to Triarc in the amount of \$200,000 in consideration of Triarc's guarantee of this indebtedness. The Company engaged an independent valuation firm to determine the allocation of the \$10,000,000 principal amount between the Notes and the warrants. The results of the valuation valued the warrants at approximately \$3.05 per share. This valuation of \$3.05 per share results in the warrants being included

as a component of stockholders' equity in the amount of \$1,611,000 with the same amount recorded as a reduction of the \$10,000,000 note payable. This \$1,611,000 debt discount is being amortized as interest expense over the five-year exercise period of the warrants resulting in a remaining debt discount balance of \$1,449,000 at September 30, 2000. In addition, the Notes require semi-annual interest payments each January 15 and July 15 except that during the first two years the Notes are outstanding the interest may be repaid in kind at the Company's option through issuance of additional 12% Senior Notes due July 1, 2005. For the interest payment that was due in July, 2000, the Company issued a 12% Senior Note in the amount of \$613,333.

The Company entered into the Fourth Amended and Restated Promissory Note effective June 30, 2000 to renew its revolving line of credit. The \$15,000,000 revolving line of credit accrues interest at the Prime Rate and matures on April 15, 2001. Under this revolving credit facility, there was \$1,385,000 and \$384,000 available as of December 31, 1999 and September 30, 2000, respectively. Borrowings under this unsecured revolving line of credit are guaranteed by certain stockholders of the Company, including Triarc. Triarc has purchased a \$15,000,000 certificate of deposit from such lending bank which is subject to set off under certain circumstances if the parties to the bank guaranties and related obligations fail to perform their obligations thereunder.

On March 31, 1999, Midland Credit, through a bankruptcy remote subsidiary, entered into a \$35,000,000 securitized receivables acquisition facility or "warehouse facility" and has a balance outstanding under this facility of \$12,140,000 as of September 30, 2000. The terms of the warehouse facility were originally such that it had a two-year revolving funding period, which was set to expire April 15, 2001. During the first quarter of 2000, Midland Credit determined that twenty-two of its receivable portfolios that were acquired during the previous twelve months were not performing in a manner consistent with its expectations and historical results for the specific types of receivables within those portfolios. As a result of the portfolio performance issues as measured on September 30, 2000, the Company was in default with respect to Securitization 99-1 and the warehouse facility. As discussed in Note 5, as of October 1, 2000, Securitization 99-1 and the warehouse facility were amended such that the Company is currently in compliance with all provisions of these two facilities.

Although the Company is currently in compliance with all provisions of Securitization 99-1 and the warehouse facility, if an event of default occurs and a waiver is not effective at such time, Midland Credit may be removed as servicer of the receivables in Securitization 99-1 and the warehouse facility. The note insurer for Securitization 99-1 and the warehouse facility (or note holders under certain circumstances) can waive the event of default or, if the event of default is not waived, can elect to have Midland Credit removed as the servicer. Should such an event of default occur, Midland Credit believes that it would have sufficient liquidity to fund its operations and working capital needs, provided the event of default is waived or the event of default is not waived and the election is made not to remove Midland Credit as the servicer. If, however, an event of default occurs and the controlling party removes Midland Credit as servicer, this would cause an event of default under the Notes and allow the Notes to be accelerated. If the Notes are thereby accelerated, Midland Credit and MCM may be required to, among other things, (i) reduce the number of employees and overall scope of operations, (ii) sell certain of its receivables portfolios for cash, (iii) reduce any future capital expenditures, (iv) pursue strategic alternatives such as a sale, merger or recapitalization of MCM or Midland Credit or (v) seek protection under reorganization, insolvency or similar laws.

## NOTE 8 - COMPREHENSIVE LOSS

The following is a summary of the comprehensive loss components (in thousands):

	Nine Months Ended September 30,	
	1999	2000
	-----	-----
Net loss .....	\$ (755)	\$(18,821)
Decrease in unrealized gain on "available for sale" investments	(333)	(978)
	-----	-----
Comprehensive loss .....	\$ (1,088)	\$(19,799)
	=====	=====

The unrealized gain pertains to the retained interest from the 1998 Securitization. The retained interest is carried at fair value in accordance with SFAS 115 and any changes in fair value are recorded as a component of other comprehensive income, net of taxes.

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

## INTRODUCTION

This "Management's Discussion and Analysis of Financial Condition and Results of Operations" should be read in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" in the Annual Report on Form 10-K of MCM Capital Group, Inc. ("MCM" or collectively with Midland Credit Management, Inc. ("Midland Credit") and its subsidiaries, the "Company") for the year ended December 31, 1999 as filed with the Securities and Exchange Commission. A general description of the Company's industry and a discussion of recent trends affecting that industry are contained therein. Certain statements under this caption may constitute "forward-looking statements" under the Private Securities Litigation Reform Act of 1995 (the "Reform Act"). Such forward-looking statements involve risks, uncertainties and other factors which may cause the actual results, performance, or achievements of the Company to be materially different from any future results, performance or achievements express or implied by such forward-looking statements. For those statements the Company claims the protection of the safe harbor for forward-looking statements contained in the Reform Act. See "Part II-Other Information."

On May 22, 2000, Midland Acquisition Corporation, a Delaware corporation ("MAC") and a wholly owned subsidiary of MCM, completed the acquisition of certain operating assets of WCFSC, Inc. formerly known as West Capital Financial Services Corp., a California corporation ("West Capital"), and the assumption of certain operating liabilities of West Capital, pursuant to an Asset Purchase Agreement dated May 11, 2000 between MAC and West Capital (the "Purchase Agreement") (collectively the "West Capital Transaction"). In connection with the transaction, MCM entered into a Guaranty for the benefit of West Capital to guarantee certain obligations of MAC with regard to the transaction. The Company's results of operations and liquidity and capital resources as discussed below include the effects of the West Capital Transaction from the date of acquisition.

In a transaction that was separate but related to the West Capital Transaction, Midland Credit became the successor servicer to a pool of charged-off consumer accounts that are owned by West Capital Receivables Corporation I, a California corporation and wholly-owned, bankruptcy-remote subsidiary of West Capital (the "Servicing Transaction"). Midland Credit will receive a servicing fee for collections of these receivables.

In a separate but related transaction, MCM acquired certain charged-off credit card receivables from a trust formed by WCFSC Special Purpose Corporation, a California corporation and wholly owned subsidiary of West Capital ("WCFSC SPC"), pursuant to a Trust Receivables Purchase Agreement, dated May 22, 2000, by and among MCM, West Capital, WCFSC SPC, WCFSC Special Purpose Corporation II, and Norwest Bank Minnesota, National Association, as Trustee for WCFSC Consumer Receivables Recovery Trust 1995-1 (the "Trust Transaction").

## RESULTS OF OPERATIONS

NINE MONTHS ENDED SEPTEMBER 30, 2000 COMPARED WITH NINE MONTHS ENDED SEPTEMBER 30, 1999

Revenues. Total revenues for the nine months ended September 30, 2000 were \$28.1 million compared to total revenues of \$17.9 million for the nine months ended September 30, 1999, an increase of \$10.2 million or 57%. The increase in revenues was the result of an increase in income from receivable portfolios of \$5.1 million; an increase in income on retained interest of \$2.9 million; and an increase in servicing fees and related income of \$2.2 million.

Income from receivable portfolios increased \$5.1 million or 76%, from \$6.6 million in the nine months ended September 30, 1999 to \$11.7 million for the nine months ended September 30, 2000. Approximately 55%, or \$2.8 million, of this increase is attributable to the receivable portfolios purchased in the West Capital Transaction and the Trust Transaction. The remaining increase in income from receivable portfolios is due to a \$30.4 million, or

181% increase, in the average outstanding balance of our investment in receivable portfolios during the period, from an average outstanding balance of \$16.8 million during the nine months ended September 30, 1999 to an average of \$47.2 million during the nine months ended September 30, 2000. However, as further discussed below, we discontinued the accrual of income on certain of the Company's receivable portfolios effective January 1, 2000. The increase in the average outstanding balance of our investment in receivable portfolios is the result of (i) the purchase of \$52.0 million and \$3.2 million of receivable portfolios during the year ended December 31, 1999 and the nine months ended September 30, 2000, respectively and (ii) the December 30, 1998 securitization of receivable portfolios with a carrying amount of \$33.8 million which significantly reduced the receivable balance in early 1999. The December 30, 1998 securitization was accounted for as a sale in accordance with Statement of Financial Accounting Standards No. 125 and, thus, the receivables were sold and no longer accrue income to the benefit of MCM other than servicing fees and income from the retained interest.

In connection with the 1998 Securitization and the related servicing agreement, the Company recorded a retained interest in the securitized receivables and a servicing liability. For the nine months ended September 30, 2000, we recognized income from retained interest in securitized receivables in the amount of \$8.5 million, servicing income in the amount of \$3.7 million and amortization of the servicing liability in the amount of \$1.4 million which compares to income from retained interest in securitized receivables in the amount of \$5.6 million, servicing income in the amount of \$4.0 million and amortization of the servicing liability in the amount of \$1.7 million in the nine months ended September 30, 1999. The amortization of the servicing liability is included in servicing fees and related income over the expected term of the securitization in the condensed consolidated statements of operations. The notes payable under the 1998 Securitization were repaid in full in September, 2000 and as a result, the remaining balance of the servicing liability was amortized during the three months ended September 30, 2000. The Company will no longer record servicing fee income with respect to these portfolios since all future collections represent retained interest collections and will pay down the balance of the retained interest.

Under terms of the Servicing Transaction, Midland Credit receives a servicing fee for collections of these receivables and during the period from May 22, 2000 (the date of the West Capital Transaction) through September 30, 2000, the Company recorded \$2.9 million in servicing fees for the collections during that period.

Total Operating Expenses. Total operating expenses were \$48.2 million for the nine months ended September 30, 2000 compared to \$18.2 million for the nine months ended September 30, 1999, an increase of \$30.1 million or 166%. Total operating expenses as a percentage of revenues were 172% for the nine months ended September 30, 2000, compared to 101% for the nine months ended September 30, 1999. The increase in total operating expenses and increase in operating expenses as a percentage of revenues is a result of provision for portfolio losses of \$2.1 million recorded in the first quarter of 2000 and \$18.6 million recorded in the second quarter of 2000, offset by the recovery of \$1.1 million of the provision in the third quarter, along with our significant growth, including the acquisition of assets in the West Capital Transaction and the hiring of additional employees related thereto. We also recorded restructuring charges of approximately \$1.3 million during the second quarter of 2000 as further discussed below. Salaries and employee benefits increased \$4.7 million, or 36%, to \$17.9 million in the nine months ended September 30, 2000 from \$13.2 million in the corresponding 1999 period. Approximately \$3.5 million of the increase in salaries and employee benefits related to the addition of employees as a result of the West Capital Transaction partially offset by a decrease of approximately \$0.8 million attributable to the closure of the Hutchinson facility in June 2000. The growth of the Phoenix facility accounted for the remaining increase in salaries and employee benefits and included the addition of executive and management personnel during the second half of 1999 when a majority of our owned receivable portfolios were purchased. In addition, an increase in personnel was necessary to install and implement a new Davox call management system and a related computer network in the Phoenix facility. Further, during the nine months ended September 30, 2000, collections per collector averaged approximately \$130,238, a 67% increase over the average collections per collector of approximately \$77,840 during the nine months ended September 30, 1999. This resulted in higher compensation for collection personnel employed in the 2000 period.

Other operating expenses, general and administrative expenses and depreciation and amortization expenses

increased \$4.5 million or 91% from \$5.0 million to \$9.5 million for the nine months ended September 30, 1999 and 2000, respectively. Approximately \$1.6 million of this increase is a result of expenses associated with the operations acquired in the West Capital Transaction partially offset by a decrease of approximately \$0.5 million attributable to the closure of the Hutchinson facility with the remaining increase of approximately \$3.4 million due primarily to the expansion of our Phoenix location, the growth in the receivable portfolios managed by us and the resulting increase in expenses relating to the collection of such receivable portfolios.

During the first quarter of 2000, we determined that twenty-two of our receivable portfolios that had been acquired during 1999 were not performing in a manner consistent with our expectations and historical results for the specific type of receivables within those portfolios. This appeared to be the result of non-compliance of the receivable portfolios with covenants and representations contained in the related purchasing contracts. At that time, we were unable to determine the fair value of these portfolios as we were unable to reasonably estimate the amount and timing of anticipated collections. Therefore, we ceased accrual of income on these portfolios effective January 1, 2000 and provided an estimated provision for portfolio losses of \$2.1 million in the first quarter of 2000. In accordance with AICPA Practice Bulletin 6, we are accounting for these portfolios under the cost recovery method until such time that we can demonstrate our ability to estimate the amount and timing of anticipated collections.

During the second quarter of 2000, proprietary statistical models that were acquired through the West Capital Transaction enabled us to estimate the recoverable value, and thus reasonably estimate the fair value, of each portfolio. As part of that process, we isolated the portions of those portfolios containing what we consider to be ineligible assets. Other than the \$1.1 million recovery of uncollectible accounts recorded in the third quarter, the Company has not recorded an accrual for any potential recoveries, as such amounts are not deemed to be reasonably estimated or probable at this time. Based on the results of the Company's fair value calculations and statistical analysis during the second quarter, an additional impairment charge of \$18.6 million was recorded against the carrying value of the portfolios of \$34.4 million for the three months ended June 30, 2000. These portfolios remain on non-accrual as of September 30, 2000, and the full amount of collections from these portfolios has been applied to the receivable portfolio carrying amount since January 1, 2000. However, any collections in excess of the net book value of an individual receivable portfolio will be recorded as income and for the three months ended September 30, 2000, approximately \$0.8 million of collections in excess of the net book value of certain receivable portfolios was recorded as income.

In addition, during the second quarter of 2000, we recorded restructuring charges of approximately \$1.3 million. This related to the closure of our Hutchinson, KS location (\$0.5 million) and severance charges for certain officers of the Company who were replaced by former West Capital officers (\$0.8 million).

Other income and expenses. Total other expenses for the nine months ended September 30, 2000 were \$6.1 million compared to \$1.0 million for the nine months ended September 30, 1999. Interest expense for the nine months ended September 30, 2000 was \$6.0 million compared to \$1.2 million for the nine months ended September 30, 1999, an increase of \$4.8 million. This increase is attributable to higher average outstanding borrowings during the nine months ended September 30, 2000 as compared to the same period in 1999. The increase in higher outstanding borrowings reflects the \$28.9 million 1999-1 Securitization in January, 2000, the issuance of \$10.0 million of 12% Senior Notes in January, 2000 and the \$2.1 million increase in capital lease obligations to \$2.5 million at September 30, 2000 from \$0.4 million at September 30, 1999. See "Liquidity and Capital Resources" below for further discussion of our borrowings.

Income Tax Benefit. For the nine months ended September 30, 2000 and 1999, we recorded income tax benefits of \$7.5 million and \$0.5 million, respectively, reflecting an effective rate of 28% and 40%. The lower effective rate in 2000 is as a result of the Company recording a valuation reserve for its deferred tax benefits because of the Company's uncertainty of the recovery of the tax benefits that have been recorded.

Net Loss. The resulting net loss for the nine months ended September 30, 2000 was \$18.8 million compared to net loss of \$0.8 million for the nine months ended September 30, 1999.

THREE MONTHS ENDED SEPTEMBER 30, 2000 COMPARED WITH THREE MONTHS ENDED SEPTEMBER 30, 1999

Revenues. Total revenues for the three months ended September 30, 2000 were \$10.2 million compared to total revenues of \$8.2 million for the three months ended September 30, 1999, an increase of 24% or \$2.0 million. The increase in revenues results from an increase in income on retained interest of \$1.1 million and an increase in servicing fees and related income of \$1.2 million offset by a decrease in income from receivable portfolios of \$0.3 million.

Income from receivable portfolios decreased from \$4.4 million in the three months ended September 30, 1999 to \$4.1 million in the quarter ended September 30, 2000. The \$4.4 million in the 1999 period is comprised only of income accrued on receivable portfolios, while in the 2000 period approximately \$2.2 million represents the accrual of income on receivable portfolios and the remaining \$1.9 million represents income from certain receivables, which were accounted for on the cost recovery method and became fully amortized during the second and third quarters. The \$2.2 million of income accrued on the receivable portfolios in the three months ended September 30, 2000 is comprised of approximately \$0.7 million from the portfolios acquired in the West Capital Transaction with the balance of \$1.5 million accrued on portfolios otherwise purchased by the Company that continue to accrue income. This \$1.5 million of income in the 2000 period was accrued on portfolios with an average net book value of \$21.7 million during that period, while in the 1999 period the Company accrued \$4.4 million of income on portfolios with an average net book value of \$32.2 million. As discussed above, the Company recorded provisions for portfolio losses of \$19.5 million during the first nine months of 2000 on certain receivable portfolios other than those purchased in the West Capital Transaction and the Trust Transaction, ceased the accrual of income on certain of these portfolios and reduced the rate of income recognition on those portfolios that did continue to accrue income. These factors together represent the underlying cause of the decrease in the accrual of income from receivable portfolios.

In connection with the 1998 Securitization and the related servicing agreement, the Company recorded a retained interest in the securitized receivables and a servicing liability. For the three months ended September 30, 2000, we recognized income from retained interest in securitized receivables in the amount of \$3.1 million, servicing fees from the 1998 Securitization in the amount of \$0.8 million and amortization of servicing liability in the amount of \$0.3 million compared to income from retained interest in securitized receivables in the amount of \$2.1 million, servicing fees in the amount of \$1.3 million and amortization of servicing liability in the amount of \$0.5 million in the three months ended September 30, 1999. The amortization of the servicing liability is included in servicing fees and related income over the expected term of the 1998 Securitization in the condensed consolidated statements of operations. The note payable underlying the 1998 Securitization was repaid in full on September 11, 2000. All collections associated with these receivables are now deemed to be collections of the retained interest and will be retained by the Company. As such, the Company will no longer record servicing fees with respect to these receivables and the servicing liability was fully amortized during the quarter ended September 30, 2000.

Under terms of the Servicing Transaction, Midland Credit receives a servicing fee for collections of receivables owned by West Capital Receivables Corporation I and during the three months ended September 30, 2000, the Company recorded \$1.8 million in servicing fees for the collections during that period.

Total Operating Expenses. Total operating expenses were \$8.8 million for the three months ended September 30, 2000 compared to \$6.8 million for the three months ended September 30, 1999, an increase of \$2.0 million or 30%. Total operating expenses as a percentage of revenues were 87% for the three months ended September 30, 2000, compared to 83% for the three months ended September 30, 1999. The increase in total operating expenses and increase in operating expenses as a percentage of revenues is a result of our significant growth including the acquisition of assets in the West Capital Transaction and the hiring of additional employees related thereto, offset by the \$1.1 million recovery related to the settled receivables. Salaries and employee benefits increased \$1.6 million, or 33%, to \$6.6 million in the three months ended September 30, 2000 from \$5.0 million in the 1999 period. Approximately \$2.5 million of the increase in salaries and employee benefits is a result of the

addition of employees as a result of the West Capital Transaction. Offsetting this increase was a \$0.8 million decrease in salaries and employee benefits attributable to the closure of the Hutchinson facility in June 2000 and a \$0.1 million decrease attributable to lesser salaries and employee benefits at the Phoenix location as a result of the termination of certain executive officers in conjunction with the West Capital Transaction and fewer collectors employed in Phoenix. During the three months ended September 30, 2000 we employed an average of 191 collectors at our Phoenix location versus 299 in Phoenix during the third quarter of 1999. Collections per collector, however, increased 49% to an average of approximately \$42,615 in the three months ended September 30, 2000 from \$28,630 in the three months ended September 30, 1999, resulting in higher compensation for collection personnel employed in the 2000 period.

Other operating expenses, general and administrative expenses and depreciation and amortization expenses increased \$1.5 million or 84% from \$1.8 million to \$3.3 million for the three months ended September 30, 1999 and 2000, respectively. Approximately \$0.6 million of this increase is a result of the expenses associated with the operation of the assets acquired in the West Capital Transaction partially offset by a decrease of \$0.5 million attributable to the closure of the Hutchinson facility. The remaining increase of approximately \$1.4 million was due primarily to the expansion of our Phoenix location, the growth in the receivable portfolios managed by us and the resulting increase in expenses relating to the collection of such receivable portfolios. During the third quarter, we recorded a \$1.1 million recovery related to the Settlement.

Other income and expenses. Total other expenses for the three months ended September 30, 2000 were \$2.1 million compared to total other expenses of \$0.6 million for the three months ended September 30, 1999. Interest expense increased from \$0.6 million for the three months ended September 30, 1999 to \$2.2 million for the three months ended September 30, 2000. The increase reflects higher average outstanding borrowings during the three months ended September 30, 2000 as compared to the same period in 1999.

Income Tax Benefit. For the three months ended September 30, 2000 we recorded an income tax benefit of \$0.2 million while during the 1999 period we recorded an income tax provision of \$0.3 million reflecting an effective rate of 21% in the third quarter of 2000 and 40% in the same period in 1999. The lower effective rate in 2000 is as a result of the Company recording a valuation reserve for its deferred tax benefits

Net Income. Net loss for the three months ended September 30, 2000 was \$0.6 million compared to net income of \$0.5 million for the three months ended September 30, 1999.

#### LIQUIDITY AND CAPITAL RESOURCES

Historically, we have engaged in the business of acquiring and servicing charged-off loan portfolios originated by national financial institutions and major retail corporations. We made the final payment of the debt outstanding under Securitization 98-1 on September 11, 2000 and thus, all collections associated with those receivables now represent collections of the retained interest.

At September 30, 2000 we had cash of \$2.7 million compared to \$0.4 million at December 31, 1999. We use our \$15.0 million unsecured, revolving line of credit for working capital needs and draw and repay the revolving line of credit on a regular basis. Our borrowing availability under this credit line was \$0.4 million at September 30, 2000 (\$1.3 million at October 31, 2000). In addition, effective October 31, 2000, the Company executed an agreement with certain affiliates of the Company as further discussed below for a \$2.0 million stand-by line of credit secured by substantially all of the assets of the Company and its subsidiaries to be used, if necessary, for working capital purposes.

We had total recoveries on managed receivable portfolios of \$49.9 million for the nine months ended September 30, 2000, a 105% increase over the \$24.3 million collected in the same period in the prior year.

On January 18, 2000, Midland Receivables 99-1 Corporation, a bankruptcy remote special purpose entity formed by us as a subsidiary of Midland Credit, issued non-recourse notes in the amount of \$28.9 million, bearing

interest at 9.63% per annum ("Securitization 99-1"). The notes are collateralized by certain charged-off receivables securitized by us with a carrying amount of approximately \$43.0 million at the time of transfer and an initial cash reserve account of \$1.4 million and are insured through a financial guaranty insurance policy. The securitization has been accounted for as a financing transaction and the proceeds were used to reduce the level of outstanding borrowings of our warehouse facility. Income from these receivable portfolios will be recognized over the estimated life of the securitized receivables and the receivables and corresponding debt will remain on our balance sheet as long as Midland Credit is the servicer. The assets pledged in the securitization transaction, together with their associated cash flows, would not be available to satisfy claims of our creditors. At September 30, 2000, the balance outstanding under these nonrecourse notes was \$22.5 million.

In addition, as a condition to closing Securitization 99-1, Midland Credit was required to amend the warehouse facility. At September 30, 2000, Midland Credit was in default of certain terms of Securitization 99-1 and the warehouse facility. However, as of October 1, 2000, the terms of Securitization 99-1 and the warehouse facility were amended and the Company was in compliance with all amended terms. The amendments include that Midland Credit (i) must maintain \$2.0 million of liquidity, (ii) must collect certain minimum amounts on the receivable portfolios within the warehouse facility and Securitization 99-1 based on current projections, (iii) must maintain on a consolidated basis a minimum net worth of an amount that decreases on a quarterly basis from \$13.6 million to \$7.3 million, over the period from September 30, 2000 through and subsequent to September 30, 2001, (iv) must be reappointed as servicer by the note insurer on a monthly basis subsequent to December 31, 2000, (v) was granted greater flexibility in the sale of certain accounts and the use of third party collectors and (vi) will receive increased servicing fees, paid on a weekly basis. In addition, the amendments increase the interest rate on the notes (i) in Securitization 99-1 to 10% and (ii) in the warehouse facility to one week LIBOR plus 117 basis points. The warehouse facility was also converted to a term loan with a final payment date of December 15, 2004. Midland Credit is also required to pay to the noteholders recoveries after September 22, 2000, net of attorney fees and certain costs, from certain issuers that previously sold the securitized receivables to Midland Credit. Midland Credit has been reappointed as servicer for the fourth quarter of 2000 under Securitization 99-1 and the warehouse facility.

Although Midland Credit is currently in compliance with all provisions of Securitization 99-1 and the warehouse facility, if an event of default occurs and a waiver is not effective at such time, Midland Credit may be removed as servicer of the receivables in Securitization 99-1 and the warehouse facility. The note insurer for Securitization 99-1 and the warehouse facility (or note holders under certain circumstances) can waive the event of default or, if the event of default is not waived, can elect to have Midland Credit removed as the servicer. Should such an event of default occur, Midland Credit believes that it would have sufficient liquidity to fund its operations and working capital needs, provided the event of default is waived or the event of default is not waived and the election is made not to remove Midland Credit as the servicer. If, however, an event of default occurs and the controlling party removes Midland Credit as servicer, such removal would cause an event of default under the Notes more fully described below and allow the Notes to be accelerated. If the Notes are thereby accelerated, Midland Credit and MCM may be required to, among other things, (i) reduce the number of employees and overall scope of operations, (ii) sell certain of its receivables portfolios for cash, (iii) reduce any future capital expenditures, (iv) pursue strategic alternatives such as a sale, merger or recapitalization of MCM or Midland Credit or (v) seek protection under reorganization, insolvency or similar laws.

On January 12, 2000, we issued \$10.0 million in principal amount of 12% Series No. 1 Senior Notes (the "Notes") to an institutional investor. We used the net proceeds of the Notes for general operating expenses. The Notes are unsecured obligations of MCM but are guaranteed by Midland Credit and Triarc Companies, Inc., a shareholder of MCM ("Triarc"). Triarc beneficially owns approximately 9.6% of the outstanding common stock of MCM. In connection with the issuance of the Notes, MCM issued warrants to the institutional investor and Triarc to acquire up to 428,571 and 100,000 shares, respectively, of common stock of the Company at an exercise price of \$0.01 per share. In addition, we paid Triarc a fee of \$0.2 million in consideration of Triarc's guarantee of this indebtedness. We engaged an independent valuation firm to determine the allocation of the \$10.0 million principal amount between the Notes and the warrants. The results of the valuation were such that the value of the warrants was approximately \$3.05 per share. This valuation of \$3.05 per share results in the warrants being

included as a component of stockholders' equity in the amount of \$1.6 million with the same amount recorded as a reduction of the \$10.0 million note payable. This \$1.6 million debt discount is being amortized as interest expense over the five-year exercise period of the warrants and has a remaining balance of \$1.4 million at September 30, 2000.

Except for the receivable portfolios that we acquired as part of the West Capital Transaction and the Trust Transaction discussed above, as of October 31, 2000 we have not purchased any receivables since February 2000.

We entered into the Fourth Amended and Restated Promissory Note effective June 30, 2000 to renew our revolving line of credit. The \$15.0 million revolving line of credit carries interest at the Prime Rate and matures on April 15, 2001. Under this revolving credit facility, there was \$1.4 million and \$0.4 million available as of December 31, 1999 and September 30, 2000, respectively. Borrowings under this unsecured revolving line of credit are guaranteed by certain stockholders of MCM, including Triarc. Triarc purchased a \$15.0 million certificate of deposit from such lending bank, which is subject to set off under certain circumstances if the parties to the bank guaranties and to related agreements fail to perform their obligations thereunder. We anticipate that we will renew this line of credit on terms that are at least as favorable as those that currently exist.

Capital expenditures for fixed assets and capital leases were \$2.1 million during the nine months ended September 30, 2000 reflecting the installation of a Davox call management system and other network hardware and software to support this system. Capital expenditures were funded primarily from bank borrowings, capital leases and recoveries on receivable portfolios.

On May 22, 2000 through a new wholly owned subsidiary, we acquired certain operating assets of WCFSC, Inc., formerly known as West Capital Financial Services Corp., an acquirer and servicer of distressed consumer receivables, in exchange for 375,000 shares of MCM's common stock and the assumption of certain operating liabilities of West Capital. MCM guaranteed certain obligations of the new subsidiary under the agreement. In a separate but related transaction, MCM acquired certain distressed consumer receivables from a trust formed by a bankruptcy remote special purpose subsidiary of West Capital in exchange for 25,000 shares of MCM's common stock and certain other non-cash consideration. The shares of MCM common stock exchanged were valued at the May 22, 2000 market price of \$1.6875.

Effective October 31, 2000, the Company executed an agreement with certain affiliates of the Company for a \$2.0 million stand-by line of credit secured by substantially all of the assets of the Company and its subsidiaries to use, if necessary, for working capital purposes. The funding period under the line of credit expires on December 31, 2000. The line of credit accrues interest at 12% per annum on any amount drawn on the line of credit and repayment would be due in 12 equal monthly payments of principal with any unpaid principal due no later than December 31, 2001. In addition, the lenders received warrants to acquire up to 50,000 shares of common stock of the Company at \$0.01 per share upon execution of the agreement and may receive warrants to acquire an additional 50,000 shares of common stock of the Company at \$0.01 per share if the Company borrows any amount under the agreement.

#### CONTINGENCIES

We were involved in litigation involving our sale of certain receivables to third parties in 1997. This litigation was settled and all amounts due were paid during the nine months ended September 30, 2000. The costs and expenses relating to the lawsuit and this settlement were expensed in the fourth quarter of 1999.

On or about July 26, 2000, Midland Credit and MAC were served with a complaint in which each was informed that it was named as a defendant in a lawsuit filed by Household Bank (SB), N.A., Household Receivables Acquisition Company, and Household Card Services, Inc. (collectively, "Plaintiffs"). West Capital is also named as a defendant in the lawsuit. The complaint alleges that West Capital breached a certain forward-flow agreement for the purchase of receivables from the Plaintiffs. The Company does not believe that the complaint sets forth a factual basis for either MAC or Midland Credit to be liable for any alleged breach by West

Capital of the forward-flow agreement with the Plaintiffs. The Company intends to vigorously defend the lawsuit.

We do not believe that contingencies for ordinary routine claims, litigation and administrative proceedings and investigations incidental to our business will have a material adverse effect on our consolidated financial position or results of operations.

On May 24, 2000, the Company was notified by the NASDAQ National Market that its stock had failed to maintain a minimum market value of public float of \$5,000,000 over the preceding thirty trading days. The Company was unable to demonstrate compliance with this requirement for at least ten consecutive trading days by August 22, 2000 and the common stock was delisted at the opening of business on August 24, 2000. The Company was unable to comply with the initial listing standards for the NASDAQ Small-Cap Market and thus is now included on the OTC Electronic Bulletin Board.

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

We accrue income on our retained interest and certain of our receivable portfolios based on the effective interest rate, i.e., internal rate of return, applied to the original cost basis, adjusted for accrued income and principal payments. Effective interest rates are determined based on assumptions regarding the timing and amounts of portfolio collections. Such assumptions may be affected by changes in market interest rates. Accordingly, changes in market interest rates may affect our earnings. Changes in short-term interest rates also affect our earnings as a result of our borrowings under the revolving credit facility and the warehouse facility.

We believe that our market risk information has not changed materially from December 31, 1999.

## PART II - OTHER INFORMATION

This report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 (the "Reform Act"). The words "believe," "expect," "anticipate," "estimate," "project," or the negation thereof or similar expressions constitute forward-looking statements within the meaning of the Reform Act. These statements may include, but are not limited to, projections of revenues, income, or loss, estimates of capital expenditures, plans for future operations, products or services, and financing needs or plans, as well as assumptions relating to these matters. These statements include, among others, statements found under "Management's Discussion and Analysis of Financial Condition and Results of Operations." For all forward-looking statements, the Company claims the protection of the safe-harbor for forward-looking statements contained in the Reform Act.

The Company's actual results could differ materially from those contained in the forward-looking statements due to a number of factors, some of which are beyond the Company's control. Factors that could affect the Company's results and cause them to differ from those contained in the forward-looking statements include:

- - our ability to maintain existing and secure additional financing;
- - our ability to maintain sufficient liquidity to operate our business including our ability to meet the liquidity covenant of our securitization and warehouse transactions and to obtain new capital to enable the Company to purchase receivables;
- - our continued servicing of the receivables in our securitization transactions and warehouse facility;
- - our ability to recover sufficient amounts on or with respect to receivables to fund operations (including from sellers of non-conforming receivable portfolios);
- - our ability to hire and retain qualified personnel to recover our receivables efficiently;
- - changes in, or failure to comply with, government regulations;
- - our ability to successfully integrate the assets acquired from WCFSC, Inc. f/k/a West Capital Financial Services Corp.;
- - the costs, uncertainties and other effects of legal and administrative proceedings; and
- - risk factors and cautionary statements made in our Annual Report on Form 10-K for the period ended December 31, 1999.

Forward-looking statements speak only as of the date the statement was made. They are inherently subject to risks and uncertainties, some of which we cannot predict or quantify. Future events and actual results could differ materially from the forward-looking statements. We will not undertake and specifically decline any obligation to publicly release the result of any revisions to any forward-looking statements to reflect events or circumstances after the date of such statements or to reflect the occurrence of anticipated or unanticipated events, whether as a result of new information, future events, or for any other reason.

In addition, it is our policy generally not to make any specific projections as to future earnings and we do not endorse projections regarding future performance that may be made by third parties.

## ITEM 1 - LEGAL PROCEEDINGS

The Fair Debt Collection Practices Act and comparable state statutes may result in class action lawsuits which can be material to our business due to the remedies available under these statutes, including punitive damages. We have not been subject to a class action lawsuit to date.

On or about July 26, 2000, Midland Credit and MAC were served with a complaint in which each was informed that it was named as a defendant in a lawsuit filed by Household Bank (SB), N.A., Household Receivables Acquisition Company, and Household Card Services, Inc. (collectively, "Plaintiffs"). West Capital is also named as a defendant in the lawsuit. The complaint alleges that West Capital breached a certain forward-flow agreement for the purchase of receivables from the Plaintiffs. The Company does not believe that the complaint sets forth a factual basis for either MAC or Midland Credit to be liable for any alleged breach by West Capital of the forward-flow agreement with the Plaintiffs. The Company intends to vigorously defend the lawsuit.

There are a number of lawsuits or claims pending or threatened against Midland Credit. In general, these lawsuits or claims have arisen in the ordinary course of our business and involve claims for actual damages arising from the alleged misconduct of our employees or our alleged improper reporting of credit information. Although litigation is inherently uncertain, based on past experience, the information currently available to us and the possible availability of insurance and/or indemnification from the originating institutions in some cases, we do not believe that the pending or threatened litigation or claims will have a material adverse effect on our operations or financial condition.

## ITEM 3 - DEFAULTS UPON SENIOR SECURITIES

The Company was unable to collect, as measured both on June 30, 2000 and September 30, 2000, certain minimum amounts from the receivable portfolios within Securitization 99-1. As such, a default had occurred under the indentures of the warehouse facility and Securitization 99-1. As a result of the amendments to Securitization 99-1 and the warehouse facility that were effective as of October 1, 2000, the Company is no longer in default.

## ITEM 6 - EXHIBITS AND REPORTS ON FORM 8-K

## (a) Exhibits

- 10.1 -- Second Amendment to Indenture and Servicing Agreement relating to the warehouse facility
- 10.2 -- Third Amendment to Indenture and Servicing Agreement relating to the warehouse facility
- 10.3 -- Indenture and Servicing Agreement relating to Midland Receivables-Backed Notes, Series 1999-1
- 10.4 -- Insurance and Reimbursement Agreement relating to Midland Receivables-Backed Notes, Series 1999-1
- 10.5 -- First Amendment to Indenture and Servicing Agreement relating to Midland Receivables-Backed Notes, Series 1999-1
- 27.1 -- Financial Data Schedule for the nine month period ended September 30, 2000 submitted to the Securities and Exchange Commission in electronic format.

## (b) Reports on Form 8-K.

No reports were filed on Form 8-K during the three months ended September 30, 2000.

MCM CAPITAL GROUP, INC.  
SIGNATURES

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

MCM CAPITAL GROUP, INC.

By: /s/ Lynette T. Biskis

-----  
LYNETTE T. BISKIS  
VICE-PRESIDENT,  
ASSISTANT CHIEF FINANCIAL OFFICER  
(CHIEF ACCOUNTING OFFICER)

Date: November 10, 2000

## EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION
- - -	-----
10.1	-- Second Amendment to Indenture and Servicing Agreement relating to the warehouse facility
10.2	-- Third Amendment to Indenture and Servicing Agreement relating to the warehouse facility
10.3	-- Indenture and Servicing Agreement relating to Midland Receivables-Backed Notes, Series 1999-1
10.4	-- Insurance and Reimbursement Agreement relating to Midland Receivables-Backed Notes, Series 1999-1
10.5	-- First Amendment to Indenture and Servicing Agreement relating to Midland Receivables-Backed Notes, Series 1999-1
27.1	-- Financial Data Schedule for the nine month period ended September 30, 2000 submitted to the Securities and Exchange Commission in electronic format.

## SECOND AMENDMENT TO INDENTURE AND SERVICING AGREEMENT

(FLOATING RATE MIDLAND RECEIVABLES-BACKED  
VARIABLE FUNDING NOTES, SERIES 1999-A)

This SECOND AMENDMENT TO INDENTURE AND SERVICING AGREEMENT, dated as of January 31, 2000 (this "Amendment"), is executed by and among Midland Funding 98-A Corporation, as issuer (the "Issuer"), Norwest Bank Minnesota, National Association, as trustee (in such capacity, the "Trustee"), and as backup Servicer (in such capacity, the "Backup Servicer"), Midland Credit Management, Inc., as servicer (the "Servicer"), Asset Guaranty Insurance Company, as note insurer (the "Note Insurer"), Banco Santander Central Hispano, S.A., New York Branch and Warehouse Line, L.L.C. (the "Noteholders").

## RECITALS

A. The Issuer, the Trustee, the Backup Servicer, the Servicer and the Note Insurer are parties to an Indenture and Servicing Agreement dated as of March 31, 1999 (as amended, supplemented or otherwise modified, the "Indenture and Servicing Agreement") relating to the Floating Rate Midland Receivables-Backed Variable Funding Notes, Series 1999-A; and

B. Pursuant to that certain Funding Agreement dated as of January 14, 2000 among the Issuer, the Servicer, the Trustee, the Backup Servicer, the Note Insurer and the Noteholders, each party agreed to certain amendments to the Indenture and Servicing Agreement and also agreed to execute an amendment to the Indenture and Servicing Agreement containing the provisions set forth herein; and

C. The Noteholders are the only holders of the Notes issued by the Issuer pursuant to the Indenture and Servicing Agreement on the date hereof; and

D. Section 12.01 of the Indenture and Servicing Agreement permits amendment of the Indenture and Servicing Agreement on the terms and subject to the conditions provided therein.

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

SECTION 1. AMENDMENTS. Subject to the terms and conditions set forth herein, the Indenture and Servicing Agreement is hereby amended as follows:

(a) Section 1.01 is amended by replacing the percentages set forth in the tables found in the definition of "Acquisition Price" with the following:

NUMBER OF PRIOR AGENCY PLACEMENTS	MAJOR CARD PERCENTAGE	OTHER CARD PERCENTAGE
Zero	10.00	8.00%
One	8.20%	6.60%
Two	3.60%	2.90%
Three or more	2.00%	1.60%

AVERAGE AGE SINCE CHARGE-OFF	MAJOR CARD PERCENTAGE	OTHER CARD PERCENTAGE
0 Months	10.00%	8.00%
1-3 Months	9.10%	7.30%
4-6 Months	8.20%	6.60%
7-9 Months	6.70%	5.40%
10-12 Months	5.30%	4.20%
13-15 Months	4.60%	3.70%
16-18 Months	4.10%	3.30%
19-21 Months	4.00%	3.20%
22-24 Months	3.80%	3.10%
25-30 Months	3.50%	2.80%
31-36 Months	2.80%	2.30%
37-42 Months	2.30%	1.80%
43-48 Months	1.50%	1.20%
49 or more Months	0.00%	0.00%

(b) Section 1.01 is amended by adding the following language to the definition of Funding Amount in Clause A of such definition, immediately preceding the word ", minus (B)":

or for Pools purchased under a forward flow contract, prior to any Pool purchased under such forward flow contract demonstrating Satisfactory Performance, eighty-five and a half percent (85.5%) for Major Cards and eighty-one percent (81%) for Other Cards (and upon any Pool purchased under such forward flow contract demonstrating Satisfactory Performance, an amount equal to one ninth (1/9) of all Fundings with respect to all Pools purchased under such forward flow contract prior to such Satisfactory Performance.

(c) Section 1.01 is amended by adding the following definition:

"Liquidity" shall mean unrestricted cash and/or availability under one or more committed working capital facilities the provider of each of which has (i) a short-term rating of at least A-1 from S&P or P-1 from Moody's and (ii) a long-term rating of at least A from S&P or A2 from Moody's, the terms and conditions of each of which (including without limitation the conditions precedent to funding) are in all material respects no less favorable to the Servicer than the terms and conditions which are customary in the market for committed commercial lending facilities, or such other provider, terms and conditions reasonably acceptable to the Controlling Party, and the remaining term of each of which is at least 6

months; provided that, prior to the earlier of April 15, 2000 or the day upon which the Servicer receives written notice that such Promissory Note will not be renewed with respect to the Third Amended and Restated Promissory Note payable to Bank of America, N.A., availability under such Promissory Note shall be included notwithstanding the stated maturity of April 15, 2000.

(d) Section 1.01 is amended by replacing the period (".") at the end of the definition of Required Reserve Amount and adding the following language thereto to read as follows:

; provided that, if the Servicer or Issuer fail to comply with Section 3.10(b), Section 8.07(p), Section 9.01(n) and the delivery of the monthly compliance report pursuant to Section 3.06(a), then so long as such failure continues and if the Issuer submits a Request for Funding during the continuation of such failure, then upon the related Funding, the Required Reserve Amount shall be increased by the amount of such Funding.

(e) Section 1.01 is amended by adding the following definition:

"Satisfactory Performance" shall mean, for a Pool purchased, cumulative collections shall exceed 20% of the respective Purchase Price by the end of the sixth full month since purchase.

(f) Section 3.10 is amended by adding "(a)" to the existing paragraph and by adding a new subsection (b) thereafter to read as follows:

(b) In addition to, and not by way of limitation of, any other rights of the Note Insurer hereunder, each of the Issuer and the Servicer shall permit the Note Insurer, upon reasonable notice and during normal business hours, to visit and inspect the properties of the Issuer or Servicer, to examine its books of account, records, reports, and other papers, to make copies and extracts therefrom and to discuss its affairs, finances and accounts with its officers, employees, and independent public accountants, all at such reasonable times and as often as may be reasonably requested.

(g) Section 3.06(a) is amended by adding the following sentence thereto:

The Servicer shall include as part of each Monthly Servicing Report a monthly compliance report calculated as of the end of each Collection Period substantially in the form attached hereto as Exhibit 3.06(a).

(h) Section 6.11 is amended by adding a new subsection (j) thereto to read as follows:

(j) If the Servicer or Issuer fail to comply with Section 3.10(b), Section 8.07(p), Section 9.01(n) and the delivery of the monthly compliance report pursuant to Section 3.06(a), then so long as such failure continues, the Noteholders shall not be required to make such a Funding during such time unless (i) such Funding is required pursuant to this Agreement and (ii) the Issuer concurrent with such Funding, deposits an amount in the Reserve Account so that after such Funding the balance in the Reserve Account shall equal the then adjusted Required Reserve Amount.

(i) Section 7.07 is amended by adding a new subsection (s) thereto to read as follows:

(s) The Issuer shall provide the Trustee within ten (10) Business Days subsequent to each Funding Date a CD-ROM or computer tape listing of all Receivables which became subject to this Agreement on such Funding Date.

(j) Section 8.07 is amended by adding a new subsection (p) thereto to read as follows:

(p) The Servicer shall not purchase more than \$3,000,000 of additional receivables under or in connection with a Consumer Account during each period that the Servicer has less than \$10,000,000 in Liquidity.

(k) Section 9.01 is amended by replacing the period (".") at the end of subsection (m) with ";or" and adding a new subsection (n) and (o) thereto to read as follows:

(n) the Servicer shall have at any time during the periods set forth below, Liquidity in at least the amounts set forth below:

Period (all dates inclusive)	Required Liquidity
-----	-----
Closing Date - March 31, 2000	\$5,000,000
April 1- April 30, 2000	\$4,250,000
May 1- May 31, 2000	\$3,500,000
June 1- June 30, 2000	\$3,000,000
July 1- July 31, 2000	\$2,500,000
August 1- August 31, 2000	\$1,750,000
September 1- September 30, 2000	\$1,250,000
October 1 - November 29, 2000	\$1,000,000
November 30 - December 30, 2000	\$2,000,000
December 31, 2000 - January 30, 2001	\$3,250,000
January 31 - February 27, 2001	\$4,250,000
February 28, 2001 and thereafter	\$5,000,000

; or

(o) the existence and continuation of a "Servicer Default" or an "Event of Default" (which has not been waived) as defined in and pursuant to any securitization transaction to which the Servicer and Note Insurer are parties.

(l) Section 9.02(a) is amended by deleting the first sentence in its entirety and replacing it with the following:

The rights and obligations of the Servicer shall terminate upon the earlier of (i) the occurrence and continuation of a Servicer Default or (ii) the last day of each calendar quarter, unless the Servicer is appointed by the Controlling Party for successive quarterly periods. If a Servicer Default shall occur and be continuing, so long as such Servicer Default has not been cured or waived pursuant to Section 9.05, or if the Controlling Party does not appoint the Servicer to a successive quarterly term at least ten (10) Business Days prior to the end of a calendar quarter, the Trustee shall, upon the direction of the Controlling Party, by notice then given in writing to the Servicer and the Note Insurer terminate all (but not less than all) of the rights and obligations of the Servicer, as Servicer under this Agreement and the other Transaction Documents, and in and to the Receivables and proceeds thereof.

(m) Section 9.08 is amended by replacing the period (".") at the end of subsection (k) with ";or" and adding a adding a new subsection (l) thereto to read as follows:

(l) the Issuer does not deposit in the Reserve Account the required amount indicated in the proviso of the definition of Required Reserve Amount within two Business Days of the date of the related Funding.

SECTION 2. EFFECTIVENESS. This amendment provided for by this Amendment shall become effective as of the date hereof upon the occurrence of each of the following events:

- (a) the Trustee, the Seller, the Servicer and the Note Insurer shall have received counterparts of this Amendment, duly executed by the parties hereto; and
- (b) the Trustee shall have furnished the Rating Agency and the Placement Agent with written notification of the substance of this Amendment.

SECTION 3. REPRESENTATIONS. Each party hereto hereby represents and warrants that this Amendment has been duly executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms except as the enforceability hereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights and remedies in general.

SECTION 4. REFERENCE. On and after the effective date of this Amendment, each reference in the Indenture and Servicing Agreement to "this Agreement", "hereunder", "herein" or words of like import referring to the Indenture and Servicing Agreement, and each reference in the other Transaction Documents to the "Indenture and Servicing Agreement", "thereunder", "thereof", or words of like import referring to the Indenture and Servicing Agreement shall mean and be a reference to the Indenture and Servicing Agreement as amended by this Amendment.

SECTION 5. COUNTERPARTS; EFFECTIVENESS; FULL FORCE AND EFFECT. This Amendment may be executed by one or more of the parties to this Amendment on any number of separate counterparts (including by facsimile transmission), and all of said counterparts taken together all shall be deemed to constitute one and the same instrument. A copy of this Amendment signed by all the parties shall be lodged with the Trustee. Except as expressly set forth herein, the

terms, provisions and conditions of the Indenture and Servicing Agreement and the other Transaction Documents shall remain in full force and effect and in all other respects are hereby ratified and confirmed.

SECTION 6. HEADINGS. Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

SECTION 7. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES UNDER THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

SECTION 8. DEFINED TERMS. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Indenture and Servicing Agreement.

(BALANCE OF PAGE INTENTIONALLY LEFT BLANK)

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

MIDLAND FUNDING 98-A CORPORATION, as Issuer

By: \_\_\_\_\_  
R. Brooks Sherman, Treasurer

MIDLAND CREDIT MANAGEMENT, INC., as Servicer

By: \_\_\_\_\_  
R. Brooks Sherman, Executive Vice  
President

NORWEST BANK MINNESOTA, National  
ASSOCIATION, not in its individual  
capacity, but solely as Trustee and as  
Backup Servicer

By: \_\_\_\_\_  
Casey Kelly, Corporate Trust Officer

ASSET GUARANTY INSURANCE COMPANY

By: \_\_\_\_\_  
Scott Mangan, Vice President

BANCO SANTANDER CENTRAL HISPANO, S.A., NEW  
YORK BRANCH

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

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

WAREHOUSE LINE, L.L.C.

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

EXHIBIT 3.06(a)

MONTHLY COMPLIANCE REPORT  
MIDLAND CREDIT MANAGEMENT, INC.  
FOR

FLOATING RATE MIDLAND RECEIVABLES-BACKED NOTES, SERIES 1999-A

Pursuant to the Indenture and Servicing Agreement, dated as of March 31, 1999 (the "Indenture and Servicing Agreement"), Midland Credit Management, Inc., as "Servicer" submits the following information for the Collection Period set out herein as it relates to the Floating Rate Midland Receivables-Backed Notes, Series 1999-A.

Capitalized terms used in this certificate have the meanings set forth in the Indenture and Servicing Agreement.

Collection Period covered by this Report:

\_\_\_\_\_, \_\_\_\_ through \_\_\_\_\_, \_\_\_\_

Determination Date of this Report:

\_\_\_\_\_, \_\_\_\_

Payment Date for this Report:

\_\_\_\_\_, \_\_\_\_

A. LIQUIDITY

Cash \$ \_\_\_\_\_

Availability under the Third Amended and Restated Promissory Note payable to Bank of America N.A. (the "B of A Note") \$ \_\_\_\_\_

Total amount available under the B of A Note \$ \_\_\_\_\_

Maturity Date \_\_\_\_\_  
Other Liquidity \_\_\_\_\_

Source:  
1) \_\_\_\_\_ \$ \_\_\_\_\_

Total amount available under such source \$ \_\_\_\_\_

Commitment Expiration Date \_\_\_\_\_

2) _____		\$ _____
Total amount available under such source	\$ _____	
Commitment Expiration Date	_____	
3) _____		\$ _____
Total amount available under such source	\$ _____	
Commitment Expiration Date	_____	
4) _____		\$ _____
Total amount available under such source	\$ _____	
Commitment Expiration Date	_____	
Total Liquidity		\$ _____

B. POOL INFORMATION

1. Acquisition Date - Section 2.04(1)(i)

Pool #	Date of Acquisition (2.04(1)(i))
--------	-------------------------------------

2. Originator Concentration - Section 2.04(1)(iv)

Name of Originator	Charged-Off Balance of Receivables acquired from such Originator divided by the Charged-Off Balance of all Receivables (expressed as a percentage)
-----	

3. Average Age Since Charge-Off - Section 2.04(1)(v)

The Average Age since Charge-Off for all Receivables is \_\_\_\_\_ months.

4. State Concentration - Section 2.04(1)(vi)

Obligor Location by mailing address	Charged-Off Balance	Charged-Off Balance of Location divided by aggregate Charged-Off Balance of all Receivables
-----		

5. Average Charged-Off Balance - Section 2.04(1)(vii)

The Average Charged-Off Balance of all Receivables (per account) is \$ \_\_\_\_\_.

6. Charged-Off Balance Concentration Limit - Section 2.04(1)(viii)

The percentage of accounts with a Charged-Off Balance in excess of \$7,500.00 is \_\_\_\_\_ %.

7. Originating Institution Concentration Limits - Section 2.04(1)(ix)

Rating Agency Rating of the Originating Institution(s)	Charged-Off Balance of accounts related to Major Cards divided by the aggregate Charged-Off Balance of the Receivables (expressed as a percentage)	Charged-Off Balance of accounts related to Other Cards divided by the aggregate Charged-Off Balance of the Receivables (expressed as a percentage)
--	--	--

- 
- A- or Better
- BBB+
- BBB
- BBB-
- BB+
- BB and lower (including unrated)

8. Previous Agency Placement Concentration Limits - Section 2.04(1)(x)

Previous Agency Placement	Charged-Off Balance	Percentage of Charged-Off Balance to the aggregate Charged-Off Balance of the Receivables
---------------------------	---------------------	---

- 
- Zero
- One
- Two
- Three

9. Private Label Retail Receivables Concentration Limit - Section 2.04(1)(xi)

The aggregate Charged-Off Balances of all private label retail Receivables is % of the aggregate Charged-Off Balance of all Receivables.

C. MONTHLY COLLECTIONS

Pool #	Collections for the Collection Period	Servicing Fee Percentage
--------	---------------------------------------	--------------------------

THIRD AMENDMENT TO  
INDENTURE AND SERVICING AGREEMENT  
(FLOATING RATE MIDLAND RECEIVABLES-BACKED  
VARIABLE FUNDING NOTES, SERIES 1999-A)

This THIRD AMENDMENT TO INDENTURE AND SERVICING AGREEMENT, dated as of September 22, 2000 (this "Amendment"), is executed by and among Midland Funding 98-A Corporation, as issuer (the "Issuer"), Wells Fargo Bank Minnesota, National Association, fka Norwest Bank Minnesota, National Association, as trustee (in such capacity, the "Trustee"), and as backup Servicer (in such capacity, the "Backup Servicer"), Midland Credit Management, Inc., as servicer (the "Servicer"), Asset Guaranty Insurance Company, as note insurer (the "Note Insurer"), Banco Santander Central Hispano, S.A., New York Branch and Warehouse Line, L.L.C. (the "Noteholders").

RECITALS

A. The Issuer, the Trustee, the Backup Servicer, the Servicer and the Note Insurer are parties to an Indenture and Servicing Agreement dated as of March 31, 1999 (as amended, supplemented or otherwise modified, the "Indenture and Servicing Agreement") relating to the Floating Rate Midland Receivables-Backed Variable Funding Notes, Series 1999-A; and

B. The Issuer, the Servicer, the Trustee, the Backup Servicer, the Note Insurer and the Noteholders agree that certain amendments to the Indenture and Servicing Agreement are necessary and in the best interests of each party; and

C. The Noteholders are the only holders of the Notes issued by the Issuer pursuant to the Indenture and Servicing Agreement on the date hereof; and

D. Section 12.01 of the Indenture and Servicing Agreement permits amendment of the Indenture and Servicing Agreement on the terms and subject to the conditions provided therein.

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

SECTION 1. AMENDMENTS. Subject to the terms and conditions set forth herein, the Indenture and Servicing Agreement is hereby amended as follows:

(a) Section 1.01 is amended by adding the following definition:

"Additional Premium Rate" means the Premium Rate as defined in the Premium Letter applicable at such times that Notes, without the benefit of the Policy, are rated by the Rating Agency below BBB-.

(b) Section 1.01 is amended by adding the following definition:

"Bankrupt Sale Net Proceeds" means the portion of Net Proceeds arising from the sale of Bankrupt Sale Receivables pursuant to Section 3.13(a).

(c) Section 1.01 is amended by adding the following definition:

"Bankrupt Sale Receivable" means any Receivable the Obligor of which is subject to (i) a petition filed by or against the Obligor, (ii) a decree or order for relief entered by a court or agency or supervisory authority having jurisdiction in respect of the Obligor, or (iii) the appointment of a trustee in bankruptcy, conservator or receiver for the Obligor, in any bankruptcy, insolvency, readjustment of debt or similar proceeding.

(d) Section 1.01 is amended by adding the following definition:

"Base Premium Rate" means the Premium Rate as defined in the Premium Letter applicable at such times that the Notes, without the benefit of the Policy, are rated by the Rating Agency is rated at BBB- or higher.

(e) Section 1.01 is amended by replacing the current definition of "Final Payment Date" with the following definition:

"Final Payment Date" means the earlier of (i) December 15, 2004, or (ii) the Payment Date which follows the Payment Date on which all proceeds of the sale of the Trust Estate pursuant to Section 9.24(c) were distributed.

(f) Section 1.01 is amended by replacing the current definition of "Funding Period" with the following definition:

"Funding Period" means the period of time which begins on the Closing Date and which terminates on September 11, 2000.

(g) Section 1.01 is amended by replacing the current definition of "Liquidity" with the following definition:

"Liquidity" shall mean unrestricted cash and/or availability under one or more committed working capital facilities the provider of each of which (A) has (i) a short-term rating of at least A-1 from S&P or P-1 from Moody's and (ii) a long term rating of at least A from S&P or A2 from Moody's, or (B) is CTW Funding, LLC ("CTW") or such other provider reasonably acceptable to the Controlling Party, the terms and conditions of each of which (including without limitation the conditions precedent to funding) are in all material respects no less favorable to the Servicer than the terms and conditions which are customary in the market for committed commercial lending facilities, or such other terms and

conditions reasonably acceptable to the Controlling Party, and the remaining term of each of which is at least 6 months or such lesser period of time acceptable to the Controlling Party; provided that, with respect to the revolving facility provided by CTW pursuant to the Credit and Security Agreement, dated September 22, 2000, as it may be amended, the undrawn commitment thereunder will be counted as Liquidity through its term.

(h) Section 1.01 is amended by replacing the definition of "Net Proceeds" it with the following definition:

"Net Proceeds" means, with respect to a Receivable, all monies representing collected available funds, net of checks returned for insufficient funds, received or otherwise recovered by the Servicer or Permitted Third Parties on or with respect to a Receivable or from or for the account of the related Obligor on such Receivable including, without limitation in connection with a sale thereof pursuant to Section 3.13. Third-Party Fees and Third-Party Costs incurred by Permitted Third Parties and paid in connection with collecting or enforcing a Receivable will be deducted from collections on any Receivable by either the applicable Permitted Third-Party or by the Servicer on their behalf and will not constitute Net Proceeds. Notwithstanding the foregoing, proceeds from the sale of accounts pursuant to Section 3.13(b) and Net Seller Recoveries shall not be Net Proceeds for purposes of computing the Servicing Fee or the cumulative amount of Net Proceeds for purposes of Section 9.01(p) and Exhibit 9.01(p).

(i) Section 1.01 is amended by adding the following definition of "Note Insurer Additional Premium":

"Note Insurer Additional Premium" means the premium payable to the Note Insurer in respect of the Policy, in an amount equal to the greater of (x) the product of (i) 1/12 of a per annum rate equal to the Additional Premium Rate and (ii) the average daily Note Balance during the preceding Collection Period, and (y) the fixed minimum amount set forth for all premium payments in the Premium Letter when the Notes, without the benefit of the Policy, are rated by the Rating Agency below BBB-.

(j) Section 1.01 is amended by adding the following definition of "Note Insurer Base Premium":

"Note Insurer Base Premium" means the premium payable to the Note Insurer in respect of the Policy, in an amount equal to the greater of (x) the product of (i) 1/12 of a per annum rate equal to the Base Premium Rate and (ii) the average daily Note Balance during the preceding Collection Period, and (y) the fixed minimum amount set forth for all premium payments in the Premium Letter

when the Notes, without the benefit of the Policy, are rated by the Rating Agency BBB- or higher.

(k) Section 1.01 is amended by adding the following definition of "Permitted Third Party":

"Permitted Third Party" means (i) any member of the National Attorney Network, (ii) any member of American Alliance of Creditor Attorneys; and (iii) any other Person that the Controlling Party has agreed in writing to be a Permitted Third Party.

(l) Article 1.01 is amended by adding the following definition of "Net Seller Recoveries":

"Net Seller Recoveries" means any and all monies, property, rights or interests, including, without limitation, any accounts or receivables directly or indirectly received by the Issuer on or after September 22, 2000 from BankOne Corporation, First USA Bank, N.A., MBNA America Bank, N.A., or Chase Manhattan Bank USA, N.A., or any affiliate of any of the foregoing (collectively, the "Receivable Sellers") resulting from claims that the Issuer or Midland may have or had against any of the Receivable Sellers or that the Note Insurer or the Issuer may have or had as a third-party beneficiary against any of the Receivable Sellers arising from or relating to the previous purchase of Receivables by Midland from the Receivable Sellers that are or were part of the Trust Estate, net of (i) third party expenses which in the aggregate do not exceed \$75,000 without the consent of the Note Insurer, and (ii) attorney fees and attorney costs incurred by Midland or the Issuer, in connection with the receipt of such monies, property, rights or interests.

(m) Section 1.01 is amended by replacing the current definition of "Note Rate" with the following definition:

"Note Rate" means for any day (i) the sum of (A) 117 basis points (1.17%) plus (B) the Index Rate (rounded upwards, if necessary, to the nearest 1/100 of 1%) (ii) divided by 365.

(n) Section 1.01 is amended by adding the following definition of "Re-Write Note":

"Re-Write Note " has the meaning set forth in Section 3.15.

(o) Section 1.01 is amended by replacing the current definition of "Scheduled Termination Date" with the following definition:

"Scheduled Termination Date" means September 15, 2005.

(p) Section 1.01 is amended by replacing the current definition of "Servicing Fee" with the following definition:

"Servicing Fee" means the fee payable to the Servicer, calculated pursuant to Section 3.05, for services rendered during the related time period, which shall be equal to (i) 35% of all Net Proceeds received during the related time period for services rendered during such time period that are not (A) Bankrupt Sale Net Proceeds or (B) Net Proceeds arising from a sale of Receivables pursuant to Section 3.13(b), and (ii) 25% of all Bankrupt Sale Net Proceeds, received during the related time period. The term "Servicing Fee" shall also mean the additional amounts payable to a Successor Servicer for servicing pursuant to Section 9.03, but only to the extent such amounts do not exceed the amount calculated in accordance with the preceding sentence; all amounts in excess thereof are herein called the "Additional Servicing Fee."

(q) Section 1.01 is amended by adding the following definition of "Third-Party Costs":

"Third-Party Costs" means all out-of-pocket costs and expenses incurred by a Permitted Third Party in connection with collection actions or proceedings related to the enforcement or collection of any Receivable.

(r) Article 2.01 is hereby amended by adding the following subsection (e) thereto which shall read as follows:

(e) Midland and the Issuer acknowledge and agree that any Net Seller Recovery (i) is included as part of the "Contributed Assets," as defined in the Contribution Agreement, (ii) is, and shall be, property of the Issuer free of any right, claim or interest of Midland, and (iii) is, and shall be, part of the Trust Estate. Issuer shall immediately advise in writing the Trustee and the Controlling Party of the receipt of the Issuer of any Net Seller Recovery and the Issuer shall (i) within one (1) Business Day of receipt deposit all money received in respect thereof to the Collection Account and (ii) shall execute, deliver and file any and all financing statements, and deliver such documents and records to the Trustee as the Controlling Party may reasonably request to perfect or continue perfection of the Trustee's Security Interest in such Net Seller Recovery. Any Receivables received as part of any Net Seller Recovery shall become a Receivable subject to this Indenture and shall be serviced by the Servicer pursuant hereto.

(s) Section 2.04(i) is amended by deleting the provision in its entirety and replacing it with the following provision:

(i) UCC Status. No Receivable is secured by "real property" or "fixtures" or, except for Re-Write Notes, evidenced by an "instrument" under, and as defined in, the UCC.

(t) Section 3.03(d) is amended by deleting the provision in its entirety and replacing it with the following provision:

(d) No Instruments. Except for Re-Write Notes, or in connection with the Servicer's enforcement or collection of the Receivables, the Servicer shall take no action to cause any Receivables to be evidenced by any instruments (as defined in the UCC) and if any Receivable is so evidenced, except for Re-Write Notes, such Receivable shall be assigned to the Servicer as provided in Section 3.04.

(u) Section 3.05 is amended by:

(i) deleting the first sentence in its entirety and replacing it with the following sentence:

As compensation for the performance of its obligations hereunder, the Servicer shall be entitled to receive the Servicing Fee as provided in Section 4.02 and Section 4.04.

and

(ii) deleting the first parenthetical in the second (2nd) sentence in its entirety and replacing it with the following parenthetical:

(other than Third-Party Fees, Third-Party Costs and those specified in the following proviso)

(v) Section 3.10 is amended by deleting the current provision in its entirety and replacing it with the following provision:

Section 3.10 Access to Certain Documentation and Information.

(a) The Servicer shall provide the Note Insurer, the Trustee and the Noteholders with access to the documentation relating to the Receivables as provided in Section 2.06(b). In each case, access to documentation relating to the Receivables shall be afforded without charge but only upon reasonable request and during normal business hours at the offices of the Servicer. Nothing in this Section shall impair the obligation of the Servicer to observe any applicable law prohibiting disclosure of information regarding the Obligor, which obligation shall be evidenced by an Opinion of Counsel to such effect, and the failure of the Servicer to provide access as provided in this Section as a result of such obligation shall not constitute a breach of this Section.

(b) In addition to, and not by way of limitation of, any other rights of the Note Insurer hereunder, each of the Issuer and the Servicer

shall permit the Note Insurer, upon reasonable notice and during normal business hours, to visit and inspect the properties of the Issuer or Servicer, to examine its books of account, records, reports, and other papers, to make copies and extracts therefrom and to discuss its affairs, finances and accounts with its officers, employees, and independent public accountants, all at such reasonable times and as often as may be reasonably requested.

(w) Article III is amended by adding the following Section 3.13 entitled "Sale of Receivables":

(a) The Servicer, as agent of the Trustee and the Issuer, may, without the consent of any Person, sell Bankrupt Sale Receivables in arm's length transactions with third parties who are not Affiliates of the Issuer or the Servicer in a manner consistent with the procedures set forth in Exhibit 3.13(a). The Net Proceeds of all sales of Bankrupt Sale Receivables must be in immediately available funds.

(b) The Servicer, as agent of the Trustee and the Issues, may sell any Receivable in arm's length transactions with third parties who are not Affiliates of the Issuer or the Servicer upon receipt of the prior written consent from the Controlling Party. The Servicer shall deliver to the Controlling Party no later than five (5) Business Days preceding the date of such proposed sale, an Officer's Certificate in the form of Exhibit 3.13(b). The Controlling Party shall within five (5) Business Days of receipt of the foregoing notice advise the Servicer and the Trustee of its consent or withholding consent to the proposed sale. The Net Proceeds of all sales of such Receivables must be in immediately available funds.

Exhibits 3.13(a) and Exhibit 3.13(b) to this Amendment are hereby deemed attached to the Indenture.

(x) Article III is amended by adding the following Section 3.15 entitled "Re-Write Program":

Section 3.15. Re-Write Program. In furtherance of the collection of the Receivables, the Servicer may accept, on behalf of the Issuer and subject to the Trustee's security interest, a promissory note in replacement of any Receivable (a "Re-Write Note"). The Re-Write Note shall be in compliance with all applicable laws and, upon execution by the Obligor, the Servicer shall, within ten (10) days of such execution, deliver each Re-Write Note to the Trustee. The Trustee shall hold the Re-Write Note for the sole purpose of perfecting the Trustee's security interest in the Re-Write Note. If the Servicer ever needs possession of the Re-Write Note for amendment, enforcement, or return to the Obligor upon final payment, it shall provide the Trustee with written request for the applicable Re-Write Note. Upon receipt of such a request, the Trustee shall promptly provide the Servicer with the requested Re-

Write Note. Unless the Re-Write Note is paid in full or a lesser amount is accepted by the Servicer in its reasonable judgment in full satisfaction of the amounts owing thereunder, the Servicer shall promptly return the Re-Write Note to the Trustee when the Servicer no longer has immediate need for the possession thereof.

(y) Section 4.02 is amended by adding the following as a new sentence at the end thereof:

For Net Proceeds received on and after August 1, 2000, if the amount on deposit in the Collection Account is sufficient to pay the Trustee Fee (reasonably estimated by the Servicer) payable on the next two (2) occurring Payment Dates, then beginning on September 22, 2000 and on each Friday thereafter, the Servicer shall submit to the Trustee and Note Insurer a notice of calculation of (i) the Servicing Fee for the period beginning with the immediately-preceding Friday through the immediately-preceding Thursday, plus (ii) accrued and unpaid Servicing Fee for any time beginning on or after August 1, 2000, and upon receipt of such notice, the Trustee shall send to the Servicer via wire transfer the owing Servicing Fee as computed on such notice.

(z) Section 4.03(a) is amended by deleting the word "and" which immediately proceeds "(ii)", deleting the period at the end of such subsection and adding the following provision at the end of the subsection:

; and (iii) the Servicer shall remit on each Determination Date the positive amount, if any, by which (A) the payments to the Servicer of the Servicing Fee for the immediately preceding Collection Period pursuant to Section 4.02 exceeded (B) the amount of the Servicing Fee that should be paid to the Servicer for such Collection Period.

(aa) Section 4.04(a) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(a) On each Determination Date, the Servicer shall calculate (i) the amount of funds on deposit in each of the Accounts and the amount of Available Funds, and (ii) as applicable, the Trustee Fee, the Backup Servicing Fee, the Servicing Fee calculated with reference to the related Collection Period, the amounts paid to the Servicer on a weekly basis as payment of the Servicing Fee during the related Collection Period, a reconciliation of the Collections from the applicable Collection Period which were used to pay the Servicing Fee for the previous Collection Period pursuant to Section 4.02, the Additional Servicing Fee, the Interest Distributable Amount, the Required Reserve Amount, the Reserve Fund Reimbursement Amount, the aggregate Principal Distributable Amount, the unpaid Note Balance before and after giving effect to any Principal Distributable Amount, the

Prepayment Amount, the Release Payment, the Facility Fee, and the amount payable by the Note Insurer pursuant to the Policy, which amounts shall be set forth in the Monthly Servicer Report for the related Payment Date. The Servicer shall send the Monthly Servicer Report to the Trustee and the Note Insurer by 11:00 a.m. New York, New York time on each such Determination Date.

(bb) Section 4.04(b)(ii) is amended by deleting the provision in its entirety and replacing it with the following provision:

(ii) to the Servicer, from the Available Funds in the Collection Account, (A) the amount, if any, by which (i) the Servicing Fee calculated for the related Collection Period exceeds, (ii) the aggregate amount previously retained by the Servicer on a weekly basis for payment of the Servicing Fee for the related Collection Period pursuant to Section 4.02, plus (B) all accrued and unpaid Servicing Fees, if any, for prior Collection Periods (plus an amount equal to any Transition Fees then owing to the Successor Servicer, if any);

(cc) Section 4.04(b)(v) is amended by deleting the provision in its entirety and replacing it with the following provision:

(v) for so long as no Insurer Default shall have occurred and be continuing, to the Note Insurer, (A) from Available Funds transferred from the Collection Account to the Note Payment Account the sum of (x) the Note Insurer Base Premium for such Payment Date, plus (y) all accrued but unpaid Note Insurer Base Premiums, if any, for prior Payment Dates plus (z) the aggregate amount of all other Note Insurer Obligations payable to the Note Insurer and outstanding on such Payment Date, except for any Note Insurer Additional Premiums, provided that (B) if Available Funds transferred from the Collection Account to the Note Payment Account are insufficient to pay the amounts due the outstanding Note Insurer Obligations then payable, the Trustee will withdraw from the Reserve Account an amount equal to the lesser of the amount then on deposit in the Reserve Account and the amount of such shortfall, and remit such lesser amount to the Note Insurer in reduction of such shortfall;

(dd) Section 4.04(b)(xii) is amended by deleting the provision in its entirety and replacing it with the following provision:

(xii) remaining amounts in the following order of priority: (A) any of the Trustee's reasonable, out-of-pocket expenses to which the Trustee is entitled to payment (to the extent expressly set forth in this Agreement) which have exceeded \$200,000.00 in the aggregate during the term of this Agreement; then (B) any amounts which would have been paid to the Note Insurer under subsection (b)(v) but for the occurrence and continuation of an Insurer Default; then (C) to the Note Insurer any unpaid Note Insurer Additional Premium; and then (D) to the Issuer.

(ee) Section 8.06(c) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(c) The Backup Servicer shall assume its duties as Successor Servicer in accordance with Sections 9.02 and 9.03 except upon the determination that the Backup Servicer is legally unable to perform the duties of the Servicer under this Agreement as provided in Section 9.03; and neither the Backup Servicer nor the Trustee shall be held liable for any costs, claims, damages or liabilities incurred by any Person arising as a result of the Backup Servicer's failure to perform its duties as Successor Servicer to the extent such performance is prevented by applicable law or court order.

(ff) Section 8.07 is amended by adding a new subsection (p) to read as follows:

(p) Outside Parties. Servicer will not engage outside parties for the collection of Receivables on any basis except Permitted Third Parties.

(gg) Section 8.07(p) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(p) The Servicer shall not purchase any Receivables under or in connection with a Consumer Account if after giving effect to the purchase of such Receivables and the funding of such purchase the Servicer would have less than \$2,000,000 of Liquidity.

(hh) Section 9.01(n) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(n) the Servicer fails to have at any time at least \$2,000,000 of Liquidity; or

(ii) Section 8.07(b) is deleted and Section 9.01 is amended by adding the following as a new Section 9.01(o):

(o) for the period of time during which Midland acts as Servicer, Midland's consolidated Stockholder's Equity as required to be shown on its consolidated financial statements is less than the amount set forth on Exhibit 9.01(o) attached hereto for the applicable period; or

Exhibit 9.01(o) attached to this Amendment is hereby deemed attached to the Indenture.

(jj) Section 9.01 is amended by adding the following as a new Section 9.01(p):

(p) commencing with the January 2001 Collection Period, and at the end of each Collection Period thereafter, both (i) the

cumulative amount of Net Proceeds in respect of all Receivables for such Collection Period and the two preceding Collection Periods is less than the amount specified in Exhibit 9.01(p) for such period of three Collection Periods and (ii) the cumulative amount of New Proceeds in respect of all Receivables for such Collection Period and all preceding Collection Periods from and after the January 2001 Collection Period is less than the amount specified in Exhibit 9.01(p) for such Collection Periods (the lesser of any such deficiency in (i) and (ii) is a "Cumulative Collections Deficiency"); provided, however, that a Cumulative Collections Deficiency shall not be a Servicer Default if the Issuer deposits an amount equal to the Cumulative Collections Deficiency to the Reserve Account within ten (10) calendar days of the end of the Collection Period during which the Cumulative Collections Deficiency occurred.

Exhibit 9.01(p) attached to this Amendment is hereby deemed attached to the Indenture.

(kk) Section 9.02(a) is amended by deleting the current first two (2) sentences thereof and replacing them with the following provision:

The rights and obligations of the Servicer shall terminate upon the earlier of (i) the occurrence and continuation of a Servicer Default or (ii) the last day of each Collection Period, unless the Servicer had been appointed by the Controlling Party on or prior to the first day of such Collection Period for the next occurring Collection Period. If a Servicer Default shall occur and be continuing, so long as such Servicer Default has not been cured or waived pursuant to Section 9.05, the Trustee shall, upon the direction of the Controlling Party, by notice then given in writing to the Servicer and the Note Insurer terminate immediately, all (but not less than all) of the rights and obligations of the Servicer, as Servicer under this Agreement and the other Transaction Documents, and in and to the Receivables and proceeds thereof. If the Controlling Party does not appoint the Servicer to a successive Collection Period by the first day of the immediately preceding Collection Period, at the end of the Collection Period through which the Servicer has previously been appointed, all (but not less than all) of the rights and obligations of the Servicer, as Servicer under this Agreement and the other Transaction Documents, and in and to the Receivables and proceeds thereof shall be deemed to have automatically terminated, except for accrued and unpaid Servicer Fees. Notwithstanding such termination any Permitted Third Party shall be allowed to continue to service any Receivable serviced by them at the time of such Termination, and collect and receive the related Third-Party Costs and Third-Party Fees.

(ll) Exhibit A to the Indenture and Servicing Agreement is amended by deleting the current Exhibit A in its entirety and replacing it with Exhibit A attached hereto. The Servicer shall also provide a weekly report to the Trustee and the Note Insurer on the date the weekly Servicer Fee is due setting forth (i) the collections for the prior week and for the then current Collection Period; (ii) the Liquidity of the Servicer and (iii) the computation of the Servicing Fee for such week.

(mm) On the Payment Date occurring on November 15, 2000, and prior to making any distributions pursuant to Section 4.04(b), the Trustee shall pay from Available Funds to Mayer Brown & Platt \$5,000.00 in payment of services rendered in representing the Noteholders in connection with this Amendment.

SECTION 2. CROSS-ASSIGNMENT. Article XII is amended by adding the following as a new Section 12.12.

Section 12.12 Cross Assignment. Notwithstanding any provision in this Indenture and Servicing Agreement, the Issuer shall not receive any distributions pursuant to Section 4.04(b)(xii)(C), Section 4.05(b) and Section 4.05(d) (collectively, the "99-A Distributions") during any period of time that any amount remains payable to the Noteholders, the Trustee, the Servicer, the Back-up Servicer or the Note Insurer and any such amounts shall be deposited to or remain on deposit in the Reserve Account, as applicable. Upon payment in full of all amounts to the Noteholders, the Trustee, the Servicer, the Back-up Servicer, and the Note Insurer, the Trustee shall pay (i) all amounts otherwise payable to the Issuer to the "Trustee" for deposit under the "Indenture and Servicing Agreement" and the other "Transaction Documents" to the "Reserve Account" as such terms are defined in and pursuant to that certain Indenture and Servicing Agreement dated as of January 14, 2000, among Midland Receivables 99-1 Corporation, as "Issuer" ("Receivables 99-1"); Wells Fargo Bank Minnesota N.A., fka Norwest Bank Minnesota, National Association, as Trustee and Back-Up Servicer; Midland Credit Management, Inc., as Servicer; and Asset Guaranty Insurance Company, as Note Insurer (the "99-1 Indenture") provided that if at such time all amounts payable under the 99-1 Indenture and the "Transaction Documents" related thereto, as defined in the 99-1 Indenture have been paid to the "Noteholders," the "Trustee," the "Servicer," the "Back-up Servicer" and the "Note Insurer" as each are defined in and pursuant to the 99-1 Indenture, then amounts payable to the Issuer shall be so paid to the Issuer pursuant to this Indenture and Servicing Agreement. Any amounts received by the Trustee from the "Trustee" under the 99-1 Indenture shall be deposited by the Trustee into the Reserve Account, shall for all purposes become part of the Reserve Account, and shall be held, invested, and disbursed by the Trustee pursuant to this Indenture and Servicing Agreement. The Issuer is willing to agree to the terms of this Section 12.12 in consideration of (i) the Amendments made pursuant to the terms of Amendment No. 3 hereto, dated as of September 22, 2000; and (ii) the similar cross-assignment by Receivables 99-1 in that certain Amendment to Indenture and Servicing Agreement regarding the 99-1 Indenture of even date it herewith, and further agrees that the "Trustee" under the 99-1 Indenture and the "Note Insurer" thereunder are

entitled to enforce the Issuer's rights to have the Trustee make the cross-assignment of funds to the "Trustee" of the 99-1 Indenture required pursuant to this Section 12.12. The Issuer shall execute any documents and take any action requested by the Note Insurer to evidence or give effect to the foregoing cross-assignment.

SECTION 3. EFFECTIVENESS. This amendment provided for by this Amendment shall become effective as of the date hereof upon the occurrence of each of the following events:

- (a) the Trustee, the Seller, the Servicer, the Note Insurer and the Noteholders shall have received counterparts of this Amendment, duly executed by the parties hereto;
- (b) the Issuer shall have executed and filed a UCC-1 Financing Statement in the States of Delaware and California, to perfect the security interest granted to the Note Insurer pursuant to Section 2 of this Amendment;
- (c) the Trustee shall have furnished the Rating Agency and the Placement Agent with written notification of the substance of this Amendment; and
- (d) the Servicer shall have closed and has available the revolving credit facility provided by CTW Funding, LLC referenced in Section (d) above.

After this Amendment becomes effective, all amendments herein will be effective for and after the October 2000 Collection Period.

SECTION 4. REPRESENTATIONS. Each party hereto hereby represents and warrants that this Amendment has been duly executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms except as the enforceability hereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights and remedies in general.

SECTION 5. REFERENCE. On and after the effective date of this Amendment, each reference in the Indenture and Servicing Agreement to "this Agreement", "hereunder", "herein" or words of like import referring to the Indenture and Servicing Agreement, and each reference in the other Transaction Documents to the "Indenture and Servicing Agreement", "thereunder", "thereof", or words of like import referring to the Indenture and Servicing Agreement shall mean and be a reference to the Indenture and Servicing Agreement as amended by this Amendment.

SECTION 6. COUNTERPARTS; EFFECTIVENESS; FULL FORCE AND EFFECT. This Amendment may be executed by one or more of the parties to this Amendment on any number of separate counterparts (including by facsimile transmission), and all of said counterparts taken together all shall be deemed to constitute one and the same instrument. A copy of this Amendment signed by all the parties shall be lodged with the Trustee. Except as expressly set forth herein, the terms, provisions and conditions of the Indenture and Servicing Agreement and the other Transaction Documents shall remain in full force and effect and in all other respects are hereby ratified and confirmed.

## SECTION 7. REPRESENTATIONS, ENFORCEABILITY AND NO WAIVER.

(a) Each Issuer and the Servicer hereby reaffirm all covenants, representations and warranties made by it in Indenture and Servicing Agreement, and (ii) agree that all such covenants, representations and warranties shall be deemed to have been re-made as of the date of this Amendment.

(b) Each Issuer and the Servicer hereby represent and warrant that this Amendment constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

(c) The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of any of the parties hereto under the Indenture and Servicing Agreement or any other Transaction Document or any other document, instrument or agreement executed in connection therewith.

SECTION 8. MISCELLANEOUS. The Amendment is not evidence of any position by the Note Insurer, affirmative or negative, as to whether any action by the Noteholders, or any other party, is required in addition to the execution of the Amendment by the Note Insurer. No representation is made by the Note Insurer as to the necessity or the satisfaction of any additional action or condition under the Indenture and Servicing Agreement with respect to this Amendment. This Amendment does not modify the obligations of the Note Insurer under the Policy as defined in the Indenture and Servicing Agreement. Except as specifically provided in this Agreement, the terms and conditions of the Indenture and Servicing Agreement shall remain in full force and effect. Except as specifically provided in this Amendment, none of the Trustee's, Note Insurer's or the Noteholders' rights, interests or remedies pursuant to the Indenture and Servicing Agreement shall be reduced or limited in any way by this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original, and each of which shall constitute one in the same Agreement. Time is of the essence of this Agreement.

SECTION 9. HEADINGS. Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

SECTION 10. GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES UNDER THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

SECTION 11. DEFINED TERMS. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Indenture and Servicing Agreement.

SECTION 12. NO OTHER AGREEMENTS. All of the parties to this Agreement hereby acknowledge and agree that there no other Agreements by or among any of them with respect to the amendments to the Indenture and Servicing Agreement other than as set forth in (i) the First Amendment To Indenture and Servicing Agreement dated as of June 17, 1999; (ii) the Second Amendment To Indenture and Servicing Agreement dated as of January 31, 2000; and (iii) this Amendment.

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

MIDLAND FUNDING 98-A CORPORATION, as Issuer

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

Name: Carl C. Gregory III  
Title: President

MIDLAND CREDIT MANAGEMENT, INC., as Servicer

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

Name: Carl C. Gregory III  
Title: President

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION, fka NORWEST BANK MINNESOTA, National ASSOCIATION, not in its individual capacity, but solely as Trustee and as Backup Servicer

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

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

ASSET GUARANTY INSURANCE COMPANY

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

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

BANCO SANTANDER CENTRAL HISPANO, S.A., NEW YORK BRANCH

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

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

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

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

WAREHOUSE LINE, L.L.C.

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

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

EXHIBIT A

MONTHLY SERVICER REPORT

[ATTACHED]

MONTHLY SERVICER REPORT OF  
MIDLAND CREDIT MANAGEMENT, INC.  
FOR  
MIDLAND RECEIVABLES-BACKED VARIABLE FUNDING NOTES  
SERIES 1999-A

Pursuant to the Indenture and Servicing Agreement, dated as of March 31, 1999 (the "Indenture and Servicing Agreement"), among Midland Funding 98-A Corp., as Issuer (the "Issuer"), Midland Credit Management, Inc., as servicer (the "Servicer"), Norwest Bank Minnesota, N.A., as trustee (in such capacity, the "Trustee") and as Backup Servicer, and Asset Guaranty Insurance Company, as Note Insurer (the "Note Insurer"), the Servicer submits the following information for the relevant Dates set forth below with respect to the Floating Rate Midland Receivables-Backed Variable Funding Notes, Series 1999-A. Capitalized terms used in this certificate have the meanings set forth in the Indenture and Servicing Agreement.

Collection Period covered by this Report:

\_\_\_\_\_ through \_\_\_\_\_

Determination Date of this Report:

\_\_\_\_\_

Payment Date for this Report:

\_\_\_\_\_

A. AVAILABLE FUNDS:

Amount of funds on deposit and the Available Fund for this Collection Period:

Collections for the Month:	\$	-----
Refunds From Issuers	\$	-----
Bankrupt Sale Proceeds	\$	-----
Non-Bankrupt Sale Proceeds	\$	-----
less Permitted Third Party Fees and Costs	\$	-----
Earnings on Collection Account during the period	\$	-----
Note Payment Account:	\$	-----
Earnings on Note Payment Account during the period	\$	-----
Reserve Account at end of Reporting Month:	\$	-----
Earnings on Reserve Account during the period	\$	-----
Deposit by Servicer of excess Servicing Fee paid during prior Collection Period	\$	-----
Total Available Funds plus Reserve Account	\$	-----

B. TRUSTEE FEE:

(i) the total Trustee Fee accrued with respect to the current Payment Date - computed on average daily note balance	\$	-----
(ii) the total accrued and past due Trustee Fee with respect to prior Payment Dates	\$	-----
(iii) the total amount of Trustee Fees from (i) and (ii) to be paid on the next Payment Date	\$	-----

(iv)	Trustee's out-of-pocket expenses	\$	-----
(v)	the total amount of accrued and unpaid Trustee Fees and expenses to be carried forward	\$	-----
(vi)	Remaining Available Funds plus Reserve Account	\$	-----

## C. SERVICING FEE:

(i)	the total Servicing Fee accrued with respect to the current Payment Date (excluding Servicing Fee on Bankrupt Sale Proceeds)	\$	-----
(ii)	Servicing fee on Bankrupt Sale Proceeds accrued with respect to the current Payment	\$	-----
(iii)	less Weekly Servicing Fee previously retained	\$	-----
(iv)	the total accrued and past due Servicing Fee(s) owed from prior Payment Dates	\$	-----
(v)	less Acquisition Payment due for the period (See H(i))	\$	----- **
(vi)	Refunds to Debtors Paid by Servicer	\$	-----
(vii)	the total amount of Servicer Fee(s) from (i) and (ii) to be paid on the next Payment Date	\$	-----
(viii)	the total amount of all Servicer Fee(s) to be carried forward to a subsequent Payment Date	\$	-----
(ix)	Remaining Available Funds plus Reserve Account	\$	-----
	In the event of a Servicer Default during the reporting period, Calculate amount of Transition Fees owed	\$	-----

## D. BACKUP SERVICER FEE:

(i)	the total Backup Servicer Fee accrued with respect to the current Payment Date computed on avg. daily note balance	\$	-----
(ii)	the total amount of accrued and past due Backup Servicer Fee(s) with respect to prior Payment Dates	\$	-----
(iii)	the total amount of all Backup Servicer Fee(s) from (i) and (ii) to be paid on the next Payment Date	\$	-----
(iv)	the total amount of accrued and unpaid Backup Servicer Fee(s) to be carried forward to the next Payment Date	\$	-----
(v)	Remaining Available Funds plus Reserve Account	\$	-----

## E. INTEREST DISTRIBUTABLE AMOUNT:

(i)	Interest Distributable Amount for Note No. One for the current Payment Date	\$	-----
(ii)	Interest Distributable Amount for Note No. Two for the current Payment Date	\$	-----
(iii)	the total Interest Distributable Amount for the current Payment Date	\$	-----
(iv)	the total Interest Carryover Shortfall with respect to Prior Payment Date	\$	-----
(v)	the total Interest Distributable Amount and Interest Carryover Shortfall from (i) and (ii) to be paid on the next Payment Date	\$	-----
(vi)	the total amount required from the Reserve Account to pay (iii) due to deficiencies in Available funds	\$	-----
(vii)	the total amount required from the Note Insurer to pay (iii) due to deficiencies in the Reserve Account and Available Funds	\$	-----
(viii)	the total amount of accrued and unpaid Interest Distributable Amount(s) and Interest Carryover Shortfall to be carried forward to the next Payment Date	\$	-----
(ix)	Remaining Available Funds plus Reserve Account		-----

## F. NOTE INSURER PAYMENTS(1):

(i)	the total Note Insurer Premium accrued with respect to the current Payment Date, computed on average daily note balance	\$	-----
(ii)	the total amount of accrued and past due Note Insurer Premiums due for prior Payment Date(s)	\$	-----
(iii)	the total Note Insurer Obligations payable on the current Payment Date (if any)	\$	-----
(iv)	the total amount of all Note Insurer Premiums and Note Insurer Obligations from (i) and (ii) to be paid on the next Payment Date	\$	-----
(v)	the total amount of accrued and unpaid Note Insurer Premium(s) and Note Insurer Obligations to be carried forward to the next Payment Date	\$	-----
(vi)	Remaining Available Funds plus Reserve Account	\$	-----

G. ADDITIONAL SERVICING FEE(2):

- (i) the total Additional Servicing Fee accrued with respect to the current Payment Date \$ -----
- (ii) the total accrued and past due Additional Servicing Fees for prior Payment Dates \$ -----
- (iii) the total amount of Additional Servicing Fee and accrued Additional Servicing Fees to be paid on the the next Payment Date \$ -----
- (iv) the total amount required from the Reserve Account to pay (iii) due to deficiencies in Available Funds \$ -----
- (v) the total accrued and unpaid Additional Servicing Fees to be carried forward to subsequent Payment Dates \$ -----
- (vi) Remaining Available Funds plus Reserve Account \$ -----

(2) To be calculated only in the event of a Servicer default.

H. FACILITY FEE

- (i) Note Number One Facility Fee accrued with respect to the current Payment Date \$ -----
- (ii) Note Number Two Facility Fee accrued with respect to the current Payment Date \$ -----
- (iii) the total accrued and past due Facility Fees for prior Payment Dates \$ -----
- (iv) the total amount of Facility Fees and accrued Facility Fees to be paid on the the next Payment Date \$ -----
- (v) the total amount required from the Reserve Account to pay (iii) due to deficiencies in Available Funds \$ -----
- (vi) the total accrued and unpaid Additional Servicing Fees to be carried forward to subsequent Payment Dates \$ -----
- (vii) Remaining Available Funds plus Reserve Account \$ -----

I. ACQUISITION PAYMENT:

Are there any Removed Receivables for the reporting period?

Yes ----- No -----

(if "NO" proceed to section "J") (if "YES" complete attached Schedule I)

- (i) the total Acquisition Payment due for the current Payment Date  
See Line C(iii) \$\_\_\_\_\_\*\* \*\* Netted with Service Fee at line C(iii)

J. NOTE BALANCE PAYMENTS:

(i)	Remaining Available Funds plus Reserve Account	\$	-----
(ii)	less Reserve Account balance end of Current Period	\$	-----
(iii)	amount available for note balance payments	\$	-----
(iv)	Note Balance at End of Month:	\$	-----
(v)	Note Balance payment for the current Payment Date:	\$	-----

	Total	Banco Santander	WLA
	-----	-----	-----
Note Balance at Beginning of Month			
Advances During the Month			
Principal Payments During the Month			
Balance at End of Month	-----	-----	-----
Prorata Principal Payment from current Servicer Report			
Note Balance after Prorata Principal Payment	=====	=====	=====

K. NOTE BALANCE AFTER PRORATA PRINCIPAL PAYMENT \$

L. RESERVE ACCOUNT:

(i)	Ending balance of Reserve Account from Servicer Report of previous month	\$	-----
(ii)	plus additional deposits made to Reserve Account in current month	\$	-----
(iii)	Deposit by Issuer of Cumulative Collections Deficiency	\$	-----
(iv)	Earnings on Reserve Account for current month	\$	-----
(v)	the total Reserve Fund Reimbursement Amount due for the current Payment Date - Payable to Issuer	\$	-----
(vi)	Ending Balance of the Reserve Account after payment to Issuer	\$	-----

K. CUMULATIVE COLLECTIONS & LIQUIDITY

(i)	Cumulative Net Collections for current and prior two Collection Periods (beginning Nov00)	\$	-----
(ii)	Required three month Cumulative Collections	\$	-----
(iii)	Cumulative Collections Deficiency (additional deposit to reserve account)	\$	-----



Date \_\_\_\_\_

BY: \_\_\_\_\_  
Executive Vice President

WIRING INSTRUCTIONS FOR ISSUER: Wells Fargo Bank, ABA Routing Number 121000248  
For Credit To: Midland Credit Management, Inc.  
Account No.: 4758372635

WIRING INSTRUCTIONS FOR SERVICER: Wells Fargo Bank, ABA Routing Number 121000248  
For Credit To: Midland Credit Management, Inc.  
Account No.: 4758372635

## SCHEDULE I

See Servicer's Remittance Date Certificate pursuant to Section 3.04 identifying all Removed Receivables including name, MCM #, address, acquisition price, acquisition date, charge-off balance, Net-Proceeds collected of all accounts removed during the reporting period.

## Additional Information:

Average daily balance for the month	
Monthly rate, trustee fee	0.00291667%
Note insurer monthly premium rate	0.33333333%
Backup Servicer Fee	0.01250000%
Facility Fee Rate	0.01041667%

## EXHIBIT 3.13(a)

## BANKRUPT ACCOUNT SALE PROCEDURES

1. Receivable must be Bankrupt Sale Receivables.
2. Price must be 7.5% of the face amount or greater.
3. Seller only to represent and warrant the following:

1. The Seller is duly organized, existing and in good standing as a corporation under the laws of the State of Delaware; the Seller's execution, delivery and performance of the Agreement are within the Seller's corporate powers and have been duly authorized by all necessary action; this Agreement is the legal, valid and binding obligation of the Seller enforceable against the Seller in accordance with its terms except that enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting enforcement of creditors' rights generally and by general equity principles; and the Agreement is not in conflict with the terms of the Seller's charter or bylaws, or of any material indenture, agreement or undertaking to which the Seller is bound.

2. The Seller has marketable title to the Receivables free and clear of any liens or encumbrances (i) by or through it, or (ii) based on actions or failure to act of Seller.

3. Except for the filing of the UCC Financing Statement and any approval that has been obtained or notice that has been given, no approval or other action by, or notice to or filing with, any [Debtor], any governmental authority or any other entity is required to be obtained by the Seller in conjunction with the transaction contemplated by the Agreement.

4. Performance of the Agreement by the Seller will not violate any order of any court or governmental body having competent jurisdiction or any law or regulation that applies to the Seller.

5. No action, suit or proceeding against the Seller before any court, administrative agency or arbitrator, individually or collectively would reasonably be expected to materially and adversely affect the Buyer. Upon reasonable request, the Seller will review any action, suit or proceeding against the Seller with the Buyer to confirm the accuracy of this representation.

6. The Seller is knowledgeable, sophisticated and experienced in making, and is qualified to make, decisions like the decision involved in the sale of the Accounts, the Seller has made its own review of the Accounts and the Seller understands the terms and conditions of the sale of the Accounts.

7. The Seller has not employed any investment banker, broker or finder in connection with the transaction contemplated by the Agreement who might be entitled to a fee or commission upon consummation of such transaction.

8. The location of the Seller's chief place of business and chief executive office is \_\_\_\_\_.

9. Each Account is an account or a general intangible, as such term is defined in Article 9 of the UCC; [and no Account is evidenced by an instrument, as such term is defined in Section 9-106 of the UCC].

## EXHIBIT 3.13(b)

## NOTICE OF PROPOSED SALE OF NON-BANKRUPT ACCOUNTS

This NOTICE OF PROPOSED SALE is given by MIDLAND CREDIT MANAGEMENT, INC., as servicer (the "Servicer"), pursuant to Section 3.13(b) of that certain Indenture and Servicing Agreement, dated as of March 31, 1999, as amended, supplemented or otherwise modified (the "Indenture"), among Servicer, MIDLAND FUNDING 98-A CORPORATION, as Issuer, WELLS FARGO BANK OF MINNESOTA, NATIONAL ASSOCIATION, FKA NORWEST BANK MINNESOTA, A NATIONAL ASSOCIATION, as Trustee and Back-up Servicer, and ASSET GUARANTY INSURANCE COMPANY, as Note Insurer. All capitalized terms that are not defined herein shall have the meaning assigned to such terms in the Indenture.

1. The Servicer proposes to sell Receivables (the "Sale Receivables") pursuant to Section 3.13(b) of the Indenture.

2. The pool identification number of the Sale Receivables and the date of MCM's purchase for each of the Sale Receivables is as set forth on Exhibit A attached hereto.

3. Attached as Exhibit B to this Notice of Proposed Sale is a true and complete copy of the offering information distributed to the prospective purchaser of the Sale Receivables.

4. The sale price for the Sale Receivables is \$\_\_\_\_\_.

5. The proposed date for the sale is \_\_\_\_\_.

6. The original purchase price paid by Midland Credit Management, Inc. for the Sale Receivables was \$\_\_\_\_\_.

7. The terms and conditions of the sale are as set forth on Exhibit C attached hereto.

8. The only representations to be made by the Issuer in connection with the sale is as set forth on Exhibit D attached hereto.

Executed this \_\_\_\_ day of \_\_\_\_\_.

MIDLAND CREDIT MANAGEMENT, INC.

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

## EXHIBIT 9.01(0)

## NET WORTH TABLE

From and After	Amount
September 31, 2000	\$ 13,600,000
December 31, 2000	12,900,000
March 31, 2001	11,700,000
June 31, 2001	10,000,000
September 31, 2001	7,300,000

## EXHIBIT 9.01(p)

## CUMULATIVE NET COLLECTIONS

Collection Period	Amount	3-Month Cumulative Collections	Total Collections
January 2001	\$ 635,724	-	\$ 635,724
February 2001	\$ 627,289	-	\$ 1,263,013
March 2001	\$ 621,039	\$ 1,884,052	\$ 1,884,052
April 2001	\$ 615,299	\$ 1,863,627	\$ 2,499,351
May 2001	\$ 611,038	\$ 1,847,376	\$ 3,110,389
June 2001	\$ 603,177	\$ 1,829,514	\$ 3,713,566
July 2001	\$ 598,510	\$ 1,812,725	\$ 4,312,076
August 2001	\$ 591,755	\$ 1,793,442	\$ 4,903,831
September 2001	\$ 584,725	\$ 1,774,990	\$ 5,488,556
October 2001	\$ 578,563	\$ 1,755,043	\$ 6,067,119
November 2001	\$ 572,186	\$ 1,735,474	\$ 6,639,305
December 2001	\$ 565,615	\$ 1,716,364	\$ 7,204,920
January 2002	\$ 558,833	\$ 1,696,634	\$ 7,763,753
February 2002	\$ 551,798	\$ 1,676,246	\$ 8,315,551
March 2002	\$ 545,467	\$ 1,656,098	\$ 8,861,018
April 2002	\$ 536,882	\$ 1,634,147	\$ 9,397,900
May 2002	\$ 526,165	\$ 1,608,514	\$ 9,924,065
June 2002	\$ 515,833	\$ 1,578,880	\$ 10,439,898
July 2002	\$ 509,031	\$ 1,551,029	\$ 10,948,929
August 2002	\$ 509,031	\$ 1,533,895	\$ 11,457,960
September 2002	\$ 504,722	\$ 1,522,784	\$ 11,962,682
October 2002	\$ 321,980	\$ 1,335,733	\$ 12,284,662
November 2002	\$ 305,587	\$ 1,132,289	\$ 12,590,249
December 2002	\$ 289,125	\$ 916,692	\$ 12,879,374
January 2003	\$ 272,596	\$ 867,308	\$ 13,151,970
February 2003	\$ 256,007	\$ 817,728	\$ 13,407,977
March 2003	\$ 239,360	\$ 767,963	\$ 13,647,337
April 2003	\$ 222,659	\$ 718,026	\$ 13,869,996
May 2003	\$ 205,908	\$ 667,927	\$ 14,075,904
June 2003	\$ 189,109	\$ 617,676	\$ 14,265,013
July 2003	\$ 172,266	\$ 567,283	\$ 14,437,279
August 2003	\$ 155,381	\$ 516,756	\$ 14,592,660
September 2003	\$ 138,455	\$ 466,102	\$ 14,731,115
October 2003	\$ 121,492	\$ 415,328	\$ 14,852,607
November 2003	\$ 104,493	\$ 364,440	\$ 14,957,100
December 2003	\$ 87,461	\$ 313,446	\$ 15,044,561
January 2004	\$ 70,396	\$ 262,350	\$ 15,114,957
February 2004	\$ 53,301	\$ 211,158	\$ 15,168,258
March 2004	\$ 36,177	\$ 159,874	\$ 15,204,435

April 2004	\$ 19,025	\$ 108,503	\$ 15,223,460
May 2004	\$ 10,858	\$ 66,060	\$ 15,234,318
June 2004	\$ 5,099	\$ 34,982	\$ 15,239,417

## EXHIBIT 9.01(p) (CONTINUED)

## CUMULATIVE NET COLLECTIONS

Collection Period	Amount	3-Month Cumulative Collections	Total Collections
July 2004	\$ 882	\$ 16,839	\$ 15,240,299
August 2004	\$ 22	\$ 6,003	\$ 15,240,321

INDENTURE AND SERVICING AGREEMENT  
MIDLAND RECEIVABLES 99-1 CORPORATION  
as Issuer

and

NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION,

as Trustee and Backup Servicer

and

MIDLAND CREDIT MANAGEMENT, INC.,

as Servicer

and

ASSET GUARANTY INSURANCE COMPANY  
as Note Insurer

Dated as of December 14, 1999

MIDLAND RECEIVABLES-BACKED NOTES, SERIES 1999-1

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This Indenture and Servicing Agreement, dated as of December 14, 1999 (the "Agreement") is executed by and among Midland Receivables 99-1 Corporation, as issuer (the "Issuer"), Norwest Bank Minnesota, National Association, as trustee (in such capacity, the "Trustee"), and as backup servicer (in such capacity, the "Backup Servicer"), Midland Credit Management, Inc., as servicer (the "Servicer") and Asset Guaranty Insurance Company, as note insurer (the "Note Insurer").

In consideration of the mutual agreements herein contained, each party agrees as follows for the benefit of the other parties and the Noteholders to the extent provided herein:

ARTICLE I  
DEFINITIONS

SECTION 1.01 DEFINITIONS.

Except as otherwise provided in this Agreement, whenever used herein, the following words and phrases, unless the context otherwise requires, shall have the following meanings:

"Accounts" means the Collection Account, the Reserve Account and the Note Payment Account.

"Accredited Investor" shall have the meaning assigned to such term in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act.

"Acquisition Payment" means, with respect to any Removed Receivable acquired by the Issuer or the Servicer under this Agreement and as of the Remittance Date on which the "Acquisition Payment" must be made, the excess, if any, of (i) the product of the Original Note Balance and a fraction, the numerator of which is the Charged-Off Balance of such Receivable and the denominator of which is the Charged-Off Balance of all the Receivables over (ii) the product of the aggregate amount of all Net Proceeds collected, received or otherwise recovered on and after the Closing Date with respect to such Removed Receivable, and a factor equal to the difference between 100% and the Servicing Fee Percentage, in each case determined as of such Remittance Date.

"Additional Premium Rate" has the meaning assigned to such term in the Premium Letter.

"Adverse Claim" means a lien, security interest, charge, encumbrance or other right or claim of any Person.

"Affiliate" means, with respect to any specified Person, any other Person controlling or controlled by or under common control with such specified Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the term "controlling" and "controlled" have meanings correlative to the foregoing.

"Agreement" means this Indenture and Servicing Agreement, relating to Midland Receivables-Backed Notes, Series 1999-1 dated as of December 14, 1999 among Midland Receivables 99-1 Corporation, as Issuer, Norwest Bank Minnesota, National Association, as Trustee and Backup Servicer, Midland Credit Management, Inc., as Servicer, and Asset Guaranty Insurance Company, as Note Insurer, as the same may be amended or supplemented from time to time.

"Applicants" shall have the meaning specified in Section 6.06.

"Asset Sale Agreement" means each agreement entered into between Midland Credit Management, Inc., and each Originating Institution in connection with the purchase of the Receivables therein from such Originating Institution.

"Available Funds" means, with respect to any Payment Date and the immediately preceding Determination Date, the sum of (i) the Net Proceeds with respect to each Receivable and received in the Collection Account during the Collection Period then most recently concluded, plus (ii) all available funds on deposit in the Collection Account (other than Net Proceeds of Receivables) as of the opening of business of the Trustee on such Determination Date.

"Backup Servicer" means Norwest Bank Minnesota, National Association and any successor in interest.

"Backup Servicing Fee" means the fee payable to the Backup Servicer on each Payment Date for services rendered pursuant to this Agreement, which shall be equal to the greater of (a) \$1,000 per month, or (b) an amount per month equal to one-twelfth of 18.5 basis points (0.185%) per annum times the Note Balance as of the immediately preceding Payment Date (after giving effect to payments in reduction of the Note Balance made on such immediately preceding Payment Date, if any); provided, however, that with respect to the initial Payment Date, the Backup Servicing Fee shall be pro-rated based upon a fraction, the numerator of which is the number of days from and including the Closing Date through January 31, 2000, and the denominator of which is 30.

"Base Premium Rate" has the meaning assigned to such term in the Premium Letter.

"Benefit Plan" means with respect to any Person any employee benefit plan as defined in Section 3(3) of ERISA in respect of which the Person or any ERISA Affiliate of such Person is, or at any time during the immediately preceding six years was, an "employer" as defined in Section 3(5) of ERISA.

"Business Day" means any day other than a Saturday, a Sunday, or a day on which banking institutions in the State of Kansas, the State of Minnesota or the State of New York are required or authorized by law, regulation, executive order or governmental decree to be closed.

"Bylaws" means the bylaws of Issuer.

"Certificate of Incorporation" means the Certificate of Incorporation of the Issuer.

"Charged-Off Balance" means, with respect to each Receivable, the original charged-off balance as required to be set forth in the related Schedule of Receivables.

"Closing Date" means January 14, 2000.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collection Account" means the segregated account or accounts, each of which shall be an Eligible Account, established and maintained pursuant to Section 4.01 and entitled "Norwest Bank Minnesota, National Association, as Trustee for Midland Receivables-Backed Notes, Series 1999-1 Collection Account."

"Collection Period" means, with respect to any Remittance Date, Determination Date or Payment Date, the period beginning on the first day of the calendar month immediately preceding the month in which such Remittance Date, Determination Date or Payment Date occurs and ending on the last day of such calendar month; provided, however, that the initial Collection Period begins on the Closing Date and ends on January 31, 2000.

"Consumer Account" means any consumer bank or retail credit card account.

"Controlling Party" means, at any time during which an Insurer Default shall be in effect, the Noteholders with Voting Interests of at least 51% of all outstanding Voting Interests and, at all other times, the Note Insurer.

"Corporate Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of execution of this Agreement is located at Sixth Street and Marquette Avenue, MAC N9311-161, Minneapolis, Minnesota 55479, Attention: Corporate Trust Services/Asset-Backed Administration.

"Customary Procedures" means the customary practices, policies, standards and procedures of the Servicer relating to the acquisition and collection of comparable defaulted consumer receivables that it services for itself or others, in each case as in effect on the Closing Date (which include backup servicing files, disaster recovery plans and enforcement of rights under Asset Sale Agreements), as the same may be modified by the Servicer from time to time thereafter with, in each case of a material change thereto, prompt notice to the Note Insurer.

"Cut-Off Date" means January 1, 2000.

"Determination Date" means, with respect to any Payment Date, the second Business Day immediately preceding such Payment Date.

"Eligible Account" means (A) a segregated account or accounts maintained with an institution the deposits of which are insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the FDIC, the unsecured and uncollateralized debt obligations of which shall be rated "AA" or better by the Required Rating Agencies then providing a long term debt rating for such institution and in the highest available short term rating category by the Required Rating Agencies then providing a short term debt rating for such institution, and that is (i) a federal savings and loan association duly organized, validly existing and in good standing under the federal banking laws, (ii) a banking or savings and loan association duly organized, validly existing and in good standing under the applicable laws of any state, (iii) a national banking association duly organized, validly existing and in good standing under the federal banking laws, or (iv) a principal subsidiary of a bank holding company, or (B) a segregated trust account (which shall be a "special deposit account") maintained in the trust department of a

federal or state chartered depository institution or trust company, having capital and surplus of not less than \$50,000,000, acting in its fiduciary capacity. Any Eligible Accounts maintained with the Trustee shall conform to the preceding clause (B). Any Account maintained at an institution other than the Trustee must be subject to an agreement with such institution among Servicer, Issuer and Trustee which must be satisfactory to Note Insurer in form and substance.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means with respect to any Person (a) any corporation which is a member of the same controlled group of corporations (within the meaning of Section 414(b) of the Code) as such Person; (b) a trade or business (whether or not incorporated) under common control (within the meaning of Section 414(c) of the Code) with such Person, or (c) a member of the same affiliated service group (within the meaning of Section 414(m) of the Code) as such Person, any corporation described in clause (a) above or any trade or business described in clause (b) above.

"Event of Default" shall have the meaning specified in Section 9.08.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"FDIC" means the Federal Deposit Insurance Corporation, and its successors.

"Final Payment Date" shall mean the earlier of December 15, 2004, or (ii) the Payment Date which follows the Payment Date on which all proceeds of a sale of the Trust Estate pursuant to Section 9.24 were distributed.

"FNMA" means the Federal National Mortgage Association, and its successors.

"GAAP" means generally accepted accounting principles that are (i) consistent with the principles promulgated or adopted by the Financial Accounting Standards Board and its predecessors, as in effect from time to time, and (ii) consistently applied with past financial statements of the Servicer and its subsidiaries; provided that a certified public accountant would, insofar as the use of such accounting principles is pertinent, be in a position to deliver an unqualified opinion (other than a qualification regarding changes in generally accepted accounting principles) as to financial statements in which such principles have been properly applied.

"Insolvency Event" means, with respect to a specified Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises in respect of such Person or any substantial part of its property in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or the filing of a petition against such Person in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, which case remains unstayed and undismissed within 30 days of such filing, or the appointing of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the ordering of the winding-up or liquidation of such Person's business; or (b) the commencement by such Person of a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or the consent by such Person to the entry of an order for relief in an involuntary case under any such law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the making by such Person

of any general assignment for the benefit of creditors, or the failure by such Person generally to pay its debts as such debts become due or the admission by such Person of its inability to pay its debts generally as they become due.

"Insolvency Proceeding" means any proceeding of the sort described in the definition of Insolvency Event.

"Insurance Agreement" means the Insurance and Reimbursement Agreement between the Servicer, the Issuer and Asset Guaranty Insurance Company, dated as of December 14, 1999.

"Insurer Default" means the occurrence of any of the following:

(i) the Note Insurer shall fail to pay when, as and in the amounts required, any amount payable under the Policy and such failure continues unremedied for two Business Days; (ii) the Superintendent of Insurance of the State of New York (or any Person succeeding to the duties of such Superintendent) (for the purpose of this paragraph (b), the "Superintendent") shall apply for an order (A) pursuant to Section 7402 of the New York Insurance Law (or any successor provisions thereto), directing him to rehabilitate the Note Insurer, (B) pursuant to Section 7404 of the New York Insurance Law (or any successor provision thereto), directing him to liquidate the business of the Note Insurer or (C) pursuant to Section 7416 of the New York Insurance Law (or any successor provision thereto), dissolving the corporate existence of the Note Insurer and such application shall not be dismissed or withdrawn during a period 60 consecutive days or a court of competent jurisdiction enters an order granting the relief sought; (iii) the Superintendent shall determine that the Note Insurer is insolvent within the meaning of Section 1309 of the New York Insurance Law; (iv) the Note Insurer shall commence a voluntary case or other proceeding seeking rehabilitation, liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors; or (v) an involuntary case or other proceeding shall be commenced against the Note Insurer seeking rehabilitation, liquidation, reorganization or other relief with respect to it or its debts under a bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property and such case or proceeding is not dismissed or otherwise terminated within a period of 60 consecutive days or a court of competent jurisdiction enters an order granting the relief sought in such case or proceeding.

"Interest Carryover Shortfall" means, with respect to any Payment Date, the excess, if any, of (i) the Interest Distributable Amount for such Payment Date and all prior Payment Dates, over (ii) the amount of interest, if any, actually paid to Noteholders on such Payment Date and all prior Payment Dates.

"Interest Distributable Amount" means, with respect to any Payment Date, the product of (A) one-twelfth of the Note Rate and (B) the Note Balance as of the last day of the immediately preceding Collection Period or, in the case of the initial Payment Date, the Original Note

Balance; provided, however, that with respect to the initial Payment Date, the amount calculated in accordance with the preceding clause shall be multiplied by a fraction, the numerator of which is the number of days from and including the Closing Date through but excluding February 15, 2000 and the denominator of which is 30.

"Interest Distribution Period" means, with respect to the initial Payment Date, the period of time commencing on and including the Closing Date and ending on and not including such initial Payment Date, and with respect to any subsequent Payment Date, the period of time commencing on and including the preceding Payment Date and ending on but not including such subsequent Payment Date.

"Investment Company Act" means the Investment Company Act of 1940, as amended.

"Issuer" means Midland Receivables 99-1 Corporation, in its capacity as issuer of the Notes pursuant to this Agreement, and each successor thereto (in the same capacity) pursuant to Section 7.04.

"Lien" means any security interest, lien, charge, pledge, equity or encumbrance of any kind.

"Liquidity" means unrestricted cash and/or availability under one or more committed working capital facilities the provider of each of which has (i) a short-term rating of at least A-1 from S&P or P-1 from Moody's and (ii) a long-term rating of at least A from S&P or A2 from Moody's, the terms and conditions of each of which (including without limitation the conditions precedent to funding) are in all material respects no less favorable to the Servicer than the terms and conditions which are customary in the market for committed commercial lending facilities, or such other provider, terms and conditions reasonably acceptable to the Controlling Party, and the remaining term of each of which is at least 6 months; provided that, prior to the earlier of April 15, 2000 or the day upon which the Servicer receives written notice that such Promissory Note will not be renewed with respect to the Third Amended and Restated Promissory Note payable to Bank of America, N.A., availability under such Promissory Note shall be included notwithstanding the stated maturity of April 15, 2000.

"Midland" means Midland Credit Management, Inc., in its capacity as seller under the SPC Receivables Contribution Agreement.

"Monthly Servicer Report" means an Officer's Certificate of the Servicer completed and executed pursuant to Section 3.06, substantially in the form attached hereto as Exhibit A.

"Nationally Recognized Statistical Rating Agency" means Duff & Phelps Credit Rating Co., Fitch IBCA, Inc., Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, or any successor thereto.

"Net Proceeds" means, with respect to a Receivable, all monies representing collected available funds net of NSF checks received or otherwise recovered from or for the account of the related Obligor on such Receivable including, without limitation in connection with a Sale thereof. Third-Party Fees incurred in connection with collecting a Receivable will be deducted from collections on such Receivable by such third parties or by the Servicer on their behalf and will not constitute Net Proceeds.

"Note" means one of the 9.63% Midland Receivables-Backed Notes, Series 1999-1 executed by the Issuer and authenticated by the Trustee in substantially the form attached hereto as Exhibit C.

"Note Balance" shall initially equal, on the Closing Date, the Original Note Balance and, as of any subsequent date of determination, shall equal the Original Note Balance less all amounts paid to Noteholders on previous Payment Dates and applied in reduction of the Note Balance pursuant to Section 4.04(b)(viii) or pursuant to Section 4.04(b)(ix)(A) through (D), inclusive.

"Note Insurer" means Asset Guaranty Insurance Company.

"Note Insurer Obligations" means all amounts from time to time payable to the Note Insurer hereunder, under the Premium Letter or under the Insurance Agreement, whether constituting principal or interest, whether fixed or contingent, and howsoever arising (including, without limitation, all Reimbursement Obligations, and any and all such interest, premiums, fees and other obligations that accrue after the commencement of an Insolvency Proceeding relating to the Issuer or the Servicer, in each such case whether or not allowed as a claim in such Insolvency Proceeding).

"Note Insurer Additional Premium" means the premium payable to the Note Insurer in respect of the Policy, in an amount equal to the product of (i) one-twelfth of a per annum rate equal to the Additional Premium Rate and (ii) the average daily Note Balance during the preceding Collection Period.

"Note Insurer Base Premium" means the premium payable to the Note Insurer in respect of the Policy, in an amount equal to the product of (i) one-twelfth of a per annum rate equal to the Base Premium Rate and (ii) the average daily Note Balance during the preceding Collection Period.

"Note Payment Account" means the segregated account or accounts, each of which shall be an Eligible Account, established and maintained pursuant to Section 4.01 and entitled "Norwest Bank Minnesota, National Association, as Trustee for Midland Receivables-Backed Notes, Series 1999-1, Note Payment Account."

"Note Rate" means 9.63% per annum, calculated on the basis of a 360-day year consisting of twelve (12) 30-day months.

"Note Register" means the register maintained pursuant to Section 6.03.

"Note Registrar" means the Trustee unless a successor thereto is appointed pursuant to Section 6.03. The Note Registrar initially designates its offices at Sixth Street and Marquette Avenue, MAC N9311-161, Minneapolis, Minnesota 55479 as its offices for purposes of Section 6.07.

"Noteholder" means the Person in whose name a Note is registered in the Note Register, except that, solely for the purposes of giving certain consents, waivers, requests or demands pursuant to this Agreement the interests evidenced by any Note registered in the name of, or in the name of a Person or entity holding for the benefit of, the Issuer, the Servicer or any Person actually known to a Responsible Officer of the Trustee to be controlling, controlled by or under common control with the Issuer or the Servicer, shall not be taken into

account in determining whether the requisite percentage necessary to effect any such consent, waiver, request or demand shall have been obtained.

"Obligor" on a Receivable means any Person who owes or may be liable for payments under such Receivable.

"Officer's Certificate" means a certificate signed by a Responsible Officer of the Issuer or the Servicer, as the case may be, and delivered to the Trustee and Note Insurer.

"Opinion of Counsel" means a written opinion of counsel, who may be an employee of or outside counsel to the Person responsible for providing such opinion, and which opinion shall be reasonably acceptable to the Trustee, the Note Insurer and the other recipients thereof.

"Original Note Balance" means \$28,900,000.

"Originating Institution" means any Person from which Midland has acquired any Receivables and their successors and assigns.

"Payment Date" means the fifteenth day of each calendar month or, if such day is not a Business Day, the next succeeding Business Day, commencing February 15, 2000.

"PBGC" shall mean the Pension Benefit Guaranty Corporation and any Person succeeding to the functions thereof.

"Permitted Investments" means, at any time, any one or more of the following obligations and securities:

(i) obligations of, and obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency thereof, provided such obligations are backed by the full faith and credit of the United States;

(ii) general obligations of, or obligations guaranteed by, FNMA or any state of the United States or the District of Columbia, which are then rated the highest available credit rating for such obligations by the Required Rating Agencies then providing such a rating;

(iii) demand deposits, time deposits, or certificates of deposit of any depository institution or trust company (including the Trustee) organized under the laws of the United States or of any state thereof, the District of Columbia (or any branch of a foreign bank licensed under the laws of the United States of America or any State thereof) and subject to supervision and examination by banking authorities of one or more of such jurisdictions, provided that the short-term unsecured debt obligations of such depository institution or trust company are then rated the highest available credit rating for such obligations by the Required Rating Agencies then providing such a rating;

(iv) repurchase obligations held by the Trustee that are acceptable to the Trustee with respect to any security described in clauses (i) or (ii) hereof or any other security issued or guaranteed by any other agency or instrumentality of the United States, in either case entered into with a federal agency or a depository institution or trust company (acting as principal) described in clause (iii) above, provided that the party

agreeing to repurchase such obligations shall have the highest available short-term debt rating from the Required Rating Agencies then providing such a rating; and

(v) freely redeemable shares in money market funds (including such funds for which the Trustee or an Affiliate of the Trustee serves as an investment advisor, administrator, shareholder servicing agent and/or custodian or subcustodian) which invest solely in the types of instruments and obligations described in clauses (i) through (iv) above, so long as such funds are then rated in the highest available rating category for money market funds by the Required Rating Agencies then providing such a rating and notwithstanding that (i) the Trustee or an Affiliate of the Trustee may charge and collect fees and expenses from such funds for services rendered, (ii) the Trustee charges and collects fees and expenses for services rendered pursuant to this Agreement and (iii) services performed for such funds and pursuant to this Agreement may converge at any time. Each of the Issuer and the Servicer hereby specifically authorizes the Trustee or an Affiliate of the Trustee to charge and collect all fees and expenses from such funds for services rendered to such funds, in addition to any fees and expenses the Trustee may charge and collect for services rendered pursuant to this Agreement;

(vi) commercial paper having, at the time of the investment or contractual commitment to invest therein, the highest available credit rating for such obligations by the required Rating Agencies then providing such a rating;

(vii) bankers' acceptances (with a maturity of one month or less) issued by any depository institution or trust company referred to in clause (iii) above;

(viii) money market mutual funds that can be liquidated on a single day's notice and which are registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act and have the highest available credit rating for such obligations by the Required Rating Agencies then providing such a rating;

(ix) any other investment grade investment as may be acceptable to the Required Rating Agencies and the Controlling Party, as evidenced by a writing to that effect;

provided that each of the foregoing investments above shall mature no later than the Business Day prior to the Payment Date immediately following the date of purchase thereof (other than in the case of the investment of monies in instruments of which the entity at which the related Account is located is the obligor, which may mature on the related Payment Date), and shall be required to be held to such maturity; and provided further that each of the Permitted Investments may be purchased by the Trustee through an Affiliate of the Trustee.

Permitted Investments are only those which are acquired by the Trustee in its name and in its capacity as Trustee, and with respect to which (a) the Trustee has noted its interest therein on its books and records, and (b) the Trustee has purchased such investments for value without notice of any adverse claim thereto (and, if such investments are securities or other financial assets or interests therein, within the meaning of Section 8-102 of the UCC, without acting in collusion with a securities intermediary in violating such securities intermediary's obligations to entitlement holders in such assets, under Section 8-504 of the UCC, to maintain a sufficient quantity of such assets in favor of such entitlement holders), and (c) either (i) such investments

are in the possession of the Trustee, or (ii) such investments, (A) if certificated securities and in bearer form, have been delivered to the Trustee, or in registered form, have been delivered to the Trustee and either registered by the issuer in the name of the Trustee or endorsed by effective endorsement to the Trustee or in blank; (B) if uncertificated securities, the ownership of which has been registered to the Trustee on the books of the issuer thereof (or another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the Trustee or, having previously become the registered owner, acknowledges that it holds for the Trustee); or (C) if securities entitlements (within the meaning of Section 8-102 of the UCC) representing interests in securities or other financial assets (or interests therein) held by a securities intermediary (within the meaning of said Section 8-102), a securities intermediary indicates by book entry that a security or other financial asset has been credited to the Trustee's securities account with such securities intermediary. No Permitted Investment may be purchased at a premium.

"Permitted Sale Receivable" means any Receivable that the Servicer has determined to be uncollectible.

"Person" means any legal person, including any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Placement Agent" means Rothschild Inc.

"Policy" means the Financial Guaranty Insurance Policy issued pursuant to the Insurance Agreement.

"Pool" means a particular group of Receivables designated as such in the Schedule of Receivables.

"Premium Letter" means the letter agreement between the Note Insurer and the Issuer, dated as of December 14, 1999.

"Proprietary Information" shall have the meaning specified in Section 6.09.

"Purchase Price" means the amount paid by Seller to purchase a Receivable.

"Purchaser" means Midland Receivables 99-1 Corporation, in its capacity as transferee of the Receivables under the Receivables Sale Agreement.

"Qualified Institutional Buyer" has the meaning assigned to such term in Rule 144A under the Securities Act.

"Rating Agency" means Standard & Poor's Rating Services, a division of McGraw-Hill Companies, Inc.

"Receivable" means any receivable generated under or in connection with a Consumer Account identified in a Schedule of Receivables delivered by Seller to Issuer in connection with the Receivables Sale Agreement.

"Receivable File" means the documents described in Section 2.02 pertaining to a particular Receivable.

"Receivables Sale Agreement" means the Receivables Sale Agreement and Release, dated as of December 14, 1999, between the Seller and the Purchaser.

"Record Date" means, with respect to each Payment Date, the last Business Day of the Collection Period immediately preceding such Payment Date. Any amount stated "as of a Record Date" or "on a Record Date" shall give effect to all applications of collections, and all payments to any party under this Agreement or to the related Obligor, as the case may be, in each case as determined as of the opening of business of the Note Registrar on the related Record Date.

"Redemption Amount" means, with respect to a redemption of the Notes by the Issuer pursuant to Section 11.01, an amount equal to the sum of (i) the Note Balance as of the date the Issuer elects to redeem the Notes, (ii) all accrued and unpaid interest on the Notes through the end of the Collection Period immediately preceding the Payment Date as of which such redemption will occur, and (iii) all outstanding Note Insurer Obligations then due and payable.

"Reimbursement Obligations" means the sum of (i) each payment made under the Policy and (ii) interest on any payment made under the Policy from the date of the payment until the date the Note Insurer is repaid, in full and in cash, at an annual rate equal to the "Prime Rate" (as hereinafter defined) plus 100 basis points (calculated on the basis of the actual number of days elapsed in a 360 day year). The term "Prime Rate" means the interest rate published in the "Money Rates" column in The Wall Street Journal and referred to therein as the "Prime Rate;" any change in such Prime Rate shall correspondingly change the interest rate as of the date of any such change.

"Remittance Date" means, with respect to any Payment Date, the third Business Day next preceding such Payment Date.

"Removed Receivable" means a Receivable which the Servicer is obligated to acquire pursuant to Section 3.04, or which the Issuer is obligated to reacquire pursuant to Section 2.05 or 7.02, or the Issuer has elected to reacquire pursuant to Section 11.01.

"Required Rating Agencies" means with respect to any debtor or indebtedness the Rating Agency and one other Nationally Recognized Statistical Rating Agency; provided that none of the other such Nationally Recognized Statistical Rating Agencies has given a lower rating to the relevant debtor or indebtedness than the Rating Agency and such other Nationally Recognized Statistical Rating Agency (in which case, for the avoidance of doubt, such other nationally recognized statistical rating agency giving the lower rating shall be one of the "Required Rating Agencies").

"Required Reserve Amount" means \$1,445,000 deposited in the Reserve Account on the Closing Date and thereafter maintained in the Reserve Account for so long as the Notes are outstanding, such amount being equal to the sum of (i) the greater of (a) five percent (5%) of the Note Balance and (b) three and one-half percent (3.5%) of the Original Note Balance and (ii) if a Cumulative Collections Deficiency has occurred, the lesser of (A) \$3,000,000 or (B) the Cumulative Collections Deficiency Amount for the most recent Collection Period; provided, however, that if no Cumulative Collections Deficiency exists during the two succeeding quarterly periods after the calculation of the Cumulative Collections Deficiency Amount, then \$0.

"Reserve Account" means the segregated account or accounts, each of which shall be an Eligible Account, established and maintained pursuant to Section 4.01 and entitled "Norwest

Bank Minnesota, National Association, as Trustee for Midland Receivables-Backed Notes, Series 1999-1, Reserve Account."

"Reserve Fund Reimbursement Amount" means, with respect to any Payment Date, the excess of the Required Reserve Amount over the amount then on deposit in the Reserve Account.

"Responsible Officer" means,

(i) when used with respect to the Trustee, any officer within the Corporate Trust Office of the Trustee, including any vice president, assistant vice president, assistant treasurer, assistant secretary or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with such particular subject, and

(ii) when used with respect to the Issuer or the Servicer, the president, treasurer or the chief financial officer of the Issuer or the Servicer, as the case may be.

"Sale" means any sale of any portion of the Trust Estate.

"Schedule of Receivables" means each Schedule of Receivables containing a true and complete list of Receivables delivered to the Issuer by the Seller in connection with the Receivables Sale Agreement, and incorporated by reference herein.

"Securities Act" means the Securities Act of 1933, as amended.

"Seller" means Midland Funding 98-A Corporation, in its capacity as transferor of Receivables under the Receivables Sale Agreement.

"Servicer" means Midland Credit Management, Inc., in its capacity as servicer of the Receivables pursuant to this Agreement, and each successor thereto (in the same capacity) appointed pursuant to Section 9.03.

"Servicer Default" shall have the meaning specified in Section 9.01.

"Servicer's Remittance Date Certificate" means an Officer's Certificate of the Servicer completed and executed pursuant to Section 3.06 and delivered to the Trustee, in each case specifying Removed Receivables in respect of which the making of an Acquisition Payment is required hereunder, prepared by the Servicer as of the opening of business of the Trustee on each applicable Remittance Date.

"Servicing Fee" means the fee payable to the Servicer on each Payment Date, calculated pursuant to Section 3.05, for services rendered during the related Collection Period, which shall be, for any Payment Date, equal to the Servicing Fee Percentage of all Net Proceeds during such Collection Period other than Net Proceeds from a sale pursuant to Section 3.13.

"Servicing Fee Percentage" means 30% for the Collection Periods ending on or before May 31, 2000 and 35% for all Collection Periods thereafter; provided, however, if the Backup

Servicer becomes successor Servicer, the "Servicing Fee Percentage" shall be 35% for all Collection Periods for which the Backup Servicer acts as successor Servicer.

"SPC Receivables Contribution Agreement" means the Receivables Contribution Agreement, dated as of March 31, 1999, between Midland, as seller, and Seller, as purchaser, as the same may be amended or otherwise modified from time to time.

"Subservicers" shall have the meaning specified in Section 9.07.

"Successor Servicer" means any entity appointed as a successor to the Servicer pursuant to Section 9.03.

"Third-Party Fees" means, with respect to a Receivable and any Collection Period, the amount of any fees or compensation paid or owed to unrelated third-party contingency fee lawyers retained or otherwise engaged by the Servicer under fee or compensation arrangements that are contingent upon, and determined by reference to, amounts recovered in respect of the related Receivable.

"Transaction Documents" means, collectively, this Agreement, the Receivables Sale Agreement, the Schedule of Receivables, the Notes, the Policy, the Insurance Agreement, the Premium Letter, and each of the other documents, instruments and agreements entered into in connection with any of the foregoing or the transactions contemplated thereby.

"Transfer" shall have the meaning specified in Section 6.03(g). It is expressly provided that the term "Transfer" in the context of the Notes includes, without limitation, any distribution of the Notes by (i) a corporation to its shareholders, (ii) a partnership to its partners, (iii) a limited liability company to its members, (iv) a trust to its beneficiaries or (v) any other business entity to the owners of the beneficial interests in such entity.

"Transferee Certificate" means a certificate in the form of Exhibit D-2 or D-3.

"Transition Fees" shall have the meaning specified in Section 9.02.

"Trust" means the trust created by this Agreement.

"Trust Estate" or "Midland Receivables-Backed Notes, Series 1999-1 Trust Estate" means the trust estate established under this Agreement for, the benefit of the Noteholders and the Note Insurer, which consists of the property described in Section 2.01(b).

"Trust Property" means the property, or interests in property, constituting the Trust Estate from time to time.

"Trustee" means Norwest Bank Minnesota, National Association, and any successor trustee appointed pursuant to Section 10.11.

"Trustee Fee" means the fee payable to the Trustee on each Payment Date for services rendered under this Agreement, which shall be equal to the greater of (a) \$500 per month or (b) an amount per month equal to one-twelfth of five basis points (.05%) per annum times the Note Balance as of the immediately preceding Payment Date (after giving effect to payments in reduction of the Note Balance made on such immediately preceding Payment Date, if any); provided, however, that with respect to the initial Payment Date, the Trustee Fee shall be pro-

rated based upon a fraction, the numerator of which is the number of days from and including the Closing Date through January 31, 2000, and the denominator of which is 30.

"Trustee's Certificate" means a certificate completed and executed by a Responsible Officer of the Trustee pursuant to Section 10.02 or 10.03, substantially in the form attached hereto as Exhibit B.

"UCC" means the Uniform Commercial Code as in effect in the State of Kansas.

"United States" means the United States of America.

"Vice President" of any Person means any vice president of such Person, whether or not designated by a number or words before or after the title "Vice President," who is a duly elected officer of such Person.

"Voting Interests" means the aggregate voting power evidenced by the Notes, corresponding to the outstanding Note Balance of the Notes held by individual Noteholders; provided, however, that where the Voting Interests are relevant in determining whether the vote of the requisite percentage of Noteholders necessary to effect any consent, waiver, request or demand shall have been obtained, the Voting Interests shall be deemed to be reduced by the amount equal to the Voting Interests (without giving effect to this provision) represented by the interests evidenced by any Note registered in the name of, or in the name of a Person or entity holding for the benefit of, the Issuer, the Servicer or any Person actually known to a Responsible Officer of the Trustee to be an Affiliate of either or both of the Issuer and the Servicer.

#### SECTION 1.02 INTERPRETATION.

Unless otherwise indicated in this Agreement:

(a) reference to and the definition of any document (including this Agreement) shall be deemed a reference to such document as it may be amended or modified from time to time;

(b) all references to an "Article," "Section," "Schedule" or "Exhibit" are to an Article or Section hereof or to a Schedule or an Exhibit attached hereto;

(c) defined terms in the singular shall include the plural and vice versa, and the masculine, feminine or neuter gender shall include all genders;

(d) the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(e) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding";

(f) periods of days referred to in this Agreement shall be counted in calendar days unless Business Days are expressly prescribed and references in this Agreement to months and years shall be to calendar months and calendar years unless otherwise specified;

(g) accounting terms not otherwise defined herein and accounting terms partly defined herein to the extent not defined, shall have the respective meanings given to them under GAAP; and

(h) the headings in this Agreement are for the purpose of reference only and do not limit or affect its meaning.

ARTICLE II  
CREATION OF TRUST ESTATE; CUSTODY OF RECEIVABLE FILES  
REPRESENTATIONS REGARDING RECEIVABLES; DISCHARGE

SECTION 2.01 CREATION OF TRUST ESTATE.

(a) Upon the execution of this Agreement by the parties hereto, there is hereby created for the benefit of the Noteholders and the Note Insurer the Midland Receivables-Backed Notes, Series 1999-1 Trust Estate. The Issuer, pursuant to the mutually agreed upon terms contained in this Agreement, hereby grants a security interest to the Trustee on behalf of the Noteholders and the Note Insurer, in all of its right, title and interest in and to the Trust Estate, including, without limitation, Receivables and any proceeds related thereto, and such other items as shall be specified in this Agreement.

(b) In consideration of the Trustee's delivery to the Issuer of authenticated Notes, in authorized denominations, in an aggregate amount equal to the Original Note Balance, the Issuer does hereby grant a security interest to the Trustee, in trust for the benefit of the Noteholders and the Note Insurer, all pursuant to the terms of this Agreement, in the following property and rights in property, whether now owned or existing or hereafter acquired or arising, whether tangible or intangible, and wheresoever located:

(i) all right, title and interest of the Issuer in and to the Receivables and all monies due thereon or paid thereunder or in respect thereof (including, without limitation, any fees and charges paid by Obligor and any proceeds of any Sales) on and after the Cut-Off Date (including any Acquisition Payments made with respect to Removed Receivables reacquired by the Issuer pursuant to Section 2.05 or 7.02 or Removed Receivables acquired by the Servicer pursuant to Section 3.04), net of any Third-Party Fees;

(ii) the rights of the Issuer as Purchaser under the Receivables Sale Agreement to enforce the obligations of the Seller thereunder;

(iii) the Collection Account, the Note Payment Account and the Reserve Account, and all monies, "securities," "instruments," "accounts" "general intangibles," "chattel paper," "financial assets," "investment property" (the terms in quotations are defined in the UCC) and other property on deposit or credited to the Collection Account, the Note Payment Account, and the Reserve Account from time to time (whether or not constituting or derived from payments, collections or recoveries received, made or realized in respect of the Receivables);

(iv) all right, title and interest of the Seller in, to and under the SPC Receivables Contribution Agreement, and all related documents, instruments and

agreements pursuant to which the Seller acquired, or acquired an interest in, any of the Receivables from Midland Credit Management, Inc., including, without limitation, all right, title and interest of the Issuer in, to and under each Asset Sale Agreement, and all related documents, instruments and agreements pursuant to which Midland acquired, or acquired an interest in, any of the Receivables from an Originating Institution; provided, that such interest shall be limited solely, and with respect, to the Receivables that are subject to this Indenture;

(v) all payments due under the Policy;

(vi) all books, records and documents relating to the Receivables in any medium, including without limitation paper, tapes, disks and other electronic media;

(vii) all other monies, securities, reserves and other property now or at any time in the possession of the Trustee or its bailee, agent or custodian and relating to any of the foregoing; and

(viii) all proceeds, products, rents and profits of any of the foregoing and all other amounts payable in respect of the foregoing; including, without limitation, proceeds of insurance policies insuring any of the foregoing or any indemnity or warranty payable by reason of loss or damage to or otherwise in respect of any of the foregoing.

(c) The parties hereto intend that the security interest granted under this Agreement shall give the Trustee on behalf of the Noteholders and the Note Insurer a first priority perfected security interest in, to and under the Receivables, and all other property described in this Section 2.01 as a part of the Trust Estate and all proceeds of any of the foregoing in order to secure the Note Insurer obligations and the obligations of the Issuer to the Trustee, the Noteholders and the Note Insurer under the Notes, this Agreement, the Insurance Agreement and all of the other Transaction Documents. The Trustee on behalf of the Noteholders and the Note Insurer shall have all the rights, powers and privileges of a secured party under the UCC. The Issuer agrees to execute and file all filings (including filings under the UCC) and take all other actions reasonably necessary in any jurisdiction to provide third parties with notice of the security interest granted pursuant to this Agreement and to perfect such security interest under the UCC.

(d) The Issuer shall ensure that from and after the time of the grant of the security interest in this Trust Estate, the master computer records (including any back-up archives) maintained by or on behalf of the Issuer that refer to any Receivable indicate clearly the interest in such Receivable and that such Receivable is subject to a security interest in favor of the Trustee. Indication of the interest of the Trustee in a Receivable shall be deleted from or modified on such computer records when, and only when, the Receivable has been paid in full or has been acquired, assigned or released pursuant to this Agreement.

#### SECTION 2.02 CUSTODY OF RECEIVABLE FILES.

In order to assure uniform quality in servicing the Receivables and to reduce administrative costs, the Trustee on behalf of the Noteholders and the Note Insurer, upon the execution and delivery of this Agreement, revocably appoints the Servicer, and the Servicer

accepts such appointment, to act as the agent of the Trustee as custodian of the following documents to each Receivable:

- (i) the related Asset Sale Agreement;
- (ii) any other documents received from or made available by the related Originating Institution in respect of such Receivable;
- (iii) a copy of the marked computer records indicating the interest of the Trustee on behalf of the Noteholders and the Note Insurer, as evidenced by the Schedule of Receivables; and
- (iv) any and all other documents that the Issuer or the Servicer, as the case may be, shall keep on file, in accordance with its customary procedures, relating to such Receivable or the related Obligor.

#### SECTION 2.03 ACCEPTANCE BY TRUSTEE.

The Trustee hereby acknowledges its acceptance, on behalf of the Noteholders and the Note Insurer, pursuant to this Agreement, of the security interest in and to the Receivables and the other Trust Property granted by the Issuer pursuant to this Agreement, and declares and shall declare from and after the date hereof that the Trustee, on behalf of the Noteholders and the Note Insurer, holds and shall hold such Trust Property, pursuant to the trusts set forth in this Agreement.

#### SECTION 2.04 REPRESENTATIONS AND WARRANTIES OF ISSUER AS TO THE RECEIVABLES.

The Issuer does hereby make the following representations and warranties as of the Closing Date on which (i) the Trustee is relying in accepting the Receivables and the other Trust Property and authenticating the Notes; (ii) the Noteholders are relying in purchasing the Notes; (iii) the Note Insurer is relying in issuing the Policy; and (iv) the Rating Agency is relying in providing its rating of the Notes.

(a) Characteristics of Receivables. Each such Receivable is payable in United States dollars, has been purchased by Midland Credit Management, Inc. from the related Originating Institution under an Asset Sale Agreement with such Originating Institution in accordance with the Customary Procedures of Midland Credit Management, Inc., and has been subsequently transferred, assigned and conveyed by the Seller to the Issuer pursuant to the Receivables Sale Agreement.

(b) Schedule of Receivables. The information set forth in the Schedule of Receivables is true and correct in all material respects as of the close of business as of December 29, 1999.

(c) No Government Obligors. None of the Receivables are due from the United States or any state or local government, or from any agency, department or instrumentality of the United States or any state or local government.

(d) Employee Obligors. None of the Receivables are due from any employee of Midland, the Seller, the Issuer or any of their respective Affiliates.

(e) Good Title. No Receivable has been transferred, assigned, conveyed or pledged by the Issuer to any Person other than the Trustee. The Issuer has good and marketable title to each Receivable, free and clear of all Liens and rights of others; the Trustee on behalf of the Noteholders and the Note Insurer has a first priority perfected security interest in, each Receivable, free and clear of all Liens and rights of others; and such security interest has been perfected under the UCC and any other applicable law.

(f) No Impairment of Rights. As of the Closing Date, the Issuer has not taken any action that, or failed to take any action the omission of which, would impair the rights of the Trustee or the Noteholders or the Note Insurer with respect to any such Receivable; provided, however, that the writing down of any Receivable balance in accordance with Customary Procedures shall not be deemed an impairment of the rights of any of the Trustee, the Noteholders or the Note Insurer.

(g) No Fraudulent Use. As of the Closing Date, no Receivable has been identified by the Issuer or reported to the Issuer by the related Originating Institution as having resulted from fraud perpetrated by any Person with respect to the related account.

(h) All Filings Made. All filings (including UCC filings) necessary in any jurisdiction to provide third parties with notice of the transfer and assignment herein contemplated, and to give the Trustee on behalf of the Noteholders and the Note Insurer a first priority perfected security interest in the Receivables shall have been made.

(i) UCC Status. No Receivable is secured by "real property" or "fixtures" or evidenced by an "instrument" under and as defined in the UCC.

(j) Location of Receivable Files. As of the Closing Date, each Receivable File is kept by the Servicer at its offices at 4310 East Broadway Road, Phoenix Arizona 85040 or such other address permitted pursuant to Section 2.06(b).

#### SECTION 2.05 REACQUISITION OF RECEIVABLES UPON BREACH.

(a) Upon discovery by the Issuer or the Servicer or upon the actual knowledge of a Responsible Officer of the Trustee of a breach of any of the representations and warranties of the Issuer set forth in Section 2.04, the party discovering such breach shall give prompt written notice to the others. If, as a result of such breach, any Receivable is rendered uncollectible or the Trustee's rights in, to or under such Receivable or the proceeds thereof are materially impaired or such proceeds are not available for any reason to the Trustee free and clear of any Lien, then (i) the Issuer shall repay a portion of the Note Balance equal to the Acquisition Payment related to such Receivable or (ii) if Midland or the Seller has the right to demand, or is obligated to accept, substitution of Receivables of equal or greater value from the Originating Institution, or in the case of the Seller, from Midland, (the "Substitute Receivables") of the affected Receivables upon such a breach under the applicable Asset Sale Agreement, or in the case of the Seller under the SPC Receivables Contribution Agreement, and the Seller has contributed (or simultaneously with the removal of the Receivables affected by such breach, will contribute) such Substitute Receivables to the Issuer pursuant to the Receivables Sale Agreement, the Issuer shall cause Substitute Receivables to become subject to this lien under this Indenture; and, in each case, if necessary, the Issuer shall enforce the obligation of the Seller under the Receivables Sale Agreement, as the case may be, to reacquire such Receivable from the Issuer, unless such breach shall have been cured within 30 days after the earlier to occur of the discovery of such breach by the Issuer or receipt of written notice of such

breach by the Issuer, such that the relevant representation and warranty shall be true and correct in all material respects as if made on such day, and the Issuer shall have delivered to the Trustee, the Note Insurer and each Noteholder an Officer's Certificate describing the nature of such breach and the manner in which the relevant representation and warranty became true and correct. This reacquisition or substitution obligation shall pertain to all representations and warranties of the Issuer contained in Section 2.04, whether or not the Issuer has knowledge of the breach at the time of the breach or at the time the representations and warranties were made. The Issuer will be obligated to accept any reassignment of a Receivable as set forth above on the Remittance Date following the date on which such reassignment obligation arises. In consideration of the reacquisition of any such Receivable, on the Remittance Date immediately following the date on which such reassignment obligation arises, the Issuer shall remit the Acquisition Payment of such Receivable to the Collection Account in the manner specified in Section 4.03 or shall cause Substitution Receivables to become a part of the Trust Property hereunder.

(b) Upon any such reacquisition or substitution, the Trustee on behalf of the Noteholders and the Note Insurer shall, without further action, be deemed to release its security interest in, to and under the Removed Receivable so reacquired, all monies due or to become due with respect thereto after the aforementioned Remittance Date and all proceeds thereof. The Trustee shall execute such documents and instruments of release and take such other actions as shall be reasonably requested by the Issuer to effect the security interest release pursuant to this Section. The sole remedies of the Trustee, the Noteholders and the Note Insurer with respect to a breach of the Issuer's representations and warranties pursuant to Section 2.04 shall be to require the Issuer to reacquire the related Receivable pursuant to this Section and to enforce the Issuer's obligation hereunder to enforce the obligation of the Seller under the Receivables Sale Agreement, as the case may be, to reacquire such Receivable from the Issuer. The Trustee shall have no duty to conduct any affirmative investigation as to the occurrence of any condition requiring the reacquisition of any Receivable pursuant to this Section, except as otherwise provided in Section 10.02.

#### SECTION 2.06 DUTIES OF SERVICER AS CUSTODIAN.

(a) Safekeeping. The Servicer, in its capacity as custodian, shall hold the Receivable Files in its possession from time to time on behalf of the Trustee for the use and benefit of the Note Insurer and all present and future Noteholders, and maintain such accurate and complete accounts, records and computer systems pertaining to each Receivable File as shall enable the Trustee to comply with this Agreement. In performing its duties as custodian, the Servicer shall act with reasonable care, using that degree of skill and attention that it exercises with respect to the receivable files of comparable defaulted receivables that the Servicer services for itself or others. The Servicer shall conduct, or cause to be conducted, periodic examinations of the files of receivables owned or serviced by it, which shall include the Receivable Files held by it under this Agreement, and of the related accounts, records and computer systems, in such a manner as shall enable the Trustee to verify the accuracy of the Servicer's record keeping; provided however, that the Trustee shall be under no obligation to verify the accuracy of the Servicer's record-keeping unless requested to do so in writing by the Note Insurer, the Noteholders with Voting Interest in excess of 50% or the Rating Agency. Any such written request shall specify in detail the procedures to be employed by the Trustee. The Servicer shall promptly report to the Trustee any failure on its part to hold the Receivable Files and maintain its accounts, records and computer systems as herein provided and promptly take appropriate action to remedy any such failure.

(b) Maintenance of and Access to Records. The Servicer shall maintain each Receivable File at its offices at 4310 East Broadway Road, Phoenix Arizona 85040, 4302 East Broadway Road, Phoenix, Arizona 85040, or at such other office as shall be specified to the Trustee and the Note Insurer by 30 days' prior written notice, provided that the Servicer shall have taken all actions necessary or reasonably requested by the Trustee or the Note Insurer to amend any existing financing statements and continuation statements, and file additional financing statements and any other steps reasonably requested by the Trustee or the Note Insurer to further perfect or evidence the rights, claims or security interests of any of the Trustee or the Note Insurer under any of the Transaction Documents. The Servicer shall make available to the Trustee, the Note Insurer and the Noteholders or their duly authorized representatives, attorneys or auditors the Receivable Files and the accounts, records and computer systems maintained by the Servicer with respect thereto upon not less than two (2) Business Days prior written notice for examination during normal business hours; provided, however, that the Noteholders will only be entitled to the access provided in this subclause (b) in the event of a Servicer Default.

(c) Release of Documents. Upon written instruction from the Trustee, the Servicer shall release any document in the Receivable Files to the Trustee or its agent or designee, as the case may be, at such place or places as the Trustee may designate, as soon as practicable. Nothing in this Section shall impair the obligation of the Servicer to observe any applicable law prohibiting disclosure of information regarding the Obligors, which obligation shall be evidenced by an Opinion of Counsel to such effect, and the failure of the Servicer to provide access as provided in this Section as a result of such obligation shall not constitute a breach of this Section. The Servicer shall not be responsible for any loss occasioned by the failure of the Trustee to return any document or any delay in doing so.

#### SECTION 2.07 INSTRUCTIONS; AUTHORITY TO ACT.

The Servicer shall be deemed to have received proper instructions with respect to the Receivable Files upon its receipt of written instructions signed by a Responsible Officer of the Trustee. A certified copy of a bylaw or of a resolution of the board of directors of the Trustee shall constitute conclusive evidence of the authority of any such Responsible Officer to act and shall be considered in full force and effect until receipt by the Servicer of written notice to the contrary given by the Trustee.

#### SECTION 2.08 INDEMNIFICATION OF CUSTODIAN.

The Servicer, as custodian of the Receivable Files, shall indemnify the Trustee for any and all liabilities, obligations, losses, compensatory damages, payments, costs or expenses of any kind whatsoever (including reasonable attorney's fees and expenses incurred in connection with defending against any such claim) that may be imposed on, incurred or asserted against the Trustee as the result of any improper act or omission in any way relating to the maintenance and custody of the Receivable Files by the Servicer, as custodian; provided, however, that the Servicer shall not be liable for any portion of any such amount resulting from the willful misfeasance, bad faith or gross negligence of the Trustee.

#### SECTION 2.09 EFFECTIVE PERIOD AND TERMINATION.

The Servicer's appointment as custodian of the Receivable Files shall become effective as of the Closing Date and shall continue in full force and effect so long as it is the Servicer

under this Agreement. If the Servicer shall resign as Servicer pursuant to Section 8.05 or if all of the rights and obligations of the Servicer have been terminated pursuant to Section 9.02, the appointment of the Servicer as custodian of the Receivable Files shall immediately terminate. As soon as practicable after any termination of such appointment, the Servicer shall deliver the Receivable Files to the Trustee or its agent at such place or places as the Trustee may reasonably designate.

#### SECTION 2.10 AGENT FOR SERVICE.

The agent for service for the Issuer shall be its Secretary whose address is 3219 Inverness Road, Hutchinson, KS 67502, and the agent for service for the Servicer shall be its Secretary whose address is 500 West First Street, Hutchinson, Kansas 67504 or such other person or address as shall be specified to the Trustee and the Note Insurer by 30 days' prior written notice.

#### SECTION 2.11 SATISFACTION AND DISCHARGE OF INDENTURE.

Whenever the following conditions shall have been satisfied:

(a) an amount sufficient to pay and discharge the outstanding Note Balance, plus accrued and unpaid interest on the Notes, has been paid to the Noteholders;

(b) the Issuer has paid or caused to be paid all other sums payable hereunder by the Issuer;

(c) the Issuer has paid or caused to be paid all Note Insurer Obligations then outstanding to the Note Insurer;

(d) the obligation of the Note Insurer under the Policy shall have been terminated; and

(e) the Issuer has delivered to the Trustee an Officers' Certificate of the Issuer and an Opinion of Counsel each stating that all conditions precedent herein provided for the satisfaction and discharge of this Agreement with respect to the Notes and the Policy have been complied with;

then this Agreement and the lien, rights and interests created hereby shall cease to be of further effect with respect to the Notes, and the Trustee shall, at the expense of the Issuer, (i) execute and deliver all such instruments as may be necessary to acknowledge the satisfaction and discharge of this Agreement with respect to the Notes, (ii) pay, or assign or transfer and deliver, to the Issuer, all cash, securities and other property held by it as part of the Trust Estate or other assets remaining after satisfaction of the conditions specified in clauses (a), (b) and (c) above, and (iii) arrange for the cancellation, surrender and termination of the Policy pursuant to the terms thereof and of the Insurance Agreement.

Notwithstanding the satisfaction and discharge of this Agreement with respect to the Notes, the obligations of the Issuer to the Trustee under Section 10.07, the obligations of the Trustee to the Issuer, the Servicer and to the Noteholders and the Note Insurer under Section 4.04, the obligations of the Trustee to the Noteholders and the Note Insurer under Section 4.07, and rights to receive payments of principal of and interest on the Notes, and

payment of Note Insurer Obligations, and the rights, privileges and immunities of the Trustee under Article X, shall survive.

#### SECTION 2.12 APPLICATION OF TRUST MONEY.

All money deposited with the Trustee pursuant to Sections 4.02 and 4.03 shall be held in trust and applied by it, in accordance with the provisions of the Notes, the Insurance Agreement and this Agreement to the payment to the Persons entitled thereto, of the principal, interest, fees, costs and expenses for whose payment such money has been deposited with the Trustee.

### ARTICLE III ADMINISTRATION AND SERVICING OF RECEIVABLES

#### SECTION 3.01 DUTIES OF SERVICER.

(a) The Servicer, as agent for the Trustee, shall manage, service, administer and make collections on and in respect of the Receivables with reasonable care, using that degree of skill and attention that the Servicer exercises with respect to all comparable defaulted consumer receivables that it services for itself or others (whether or not the Servicer shall then be servicing comparable defaulted consumer receivables for itself or others). The Servicer's duties shall include collecting and posting all payments, responding to inquiries of Obligor or by federal, state or local government authorities with respect to the Receivables, investigating delinquencies, implementation of payment plans, sending payment information to Obligor, reporting tax information to Obligor in accordance with its customary practices, accounting for collections, publishing monthly and annual statements to the Trustee with respect to payments, generating federal income tax information and performing the other duties specified herein. In performing the above-referenced services, the Servicer shall perform in accordance with Customary Procedures and shall have full power and authority, acting alone, to do any and all things in connection with such managing, servicing, administration and collection that it may deem necessary or desirable. Notwithstanding the foregoing, the Servicer may not sell any Receivables (other than the Permitted Sale Receivables) unless so directed by the Trustee or the Controlling Party in accordance with the provisions of this Agreement.

(b) Without limiting the generality of the foregoing, the Servicer shall be authorized and empowered by the Trustee to execute and deliver, on behalf of itself, the Trustee, the Noteholders, the Note Insurer, or any of them, any and all instruments of satisfaction or cancellation, or of partial or full release or discharge and all other comparable instruments, with respect to the Receivables. To the extent not prohibited by applicable law, the Servicer is hereby authorized to commence, in its own name or in the name of the Issuer or the Trustee, a legal proceeding to enforce a Receivable or to commence or participate in a legal proceeding (including without limitation a bankruptcy proceeding) relating to or involving a Receivable. If the Servicer commences or participates in such a legal proceeding in its own name, the Trustee and the Issuer shall thereupon be deemed to have automatically assigned, solely for the purpose of collection on behalf of the party retaining an interest in such Receivable, such Receivable and the other property conveyed as part of the Trust Estate pursuant to Section 2.01 with respect to such Receivable to the Servicer for purposes of commencing or participating in any such proceeding as a party or claimant, and the Servicer is authorized and empowered by the Trustee and the Issuer to execute and deliver in the Servicer's name any notices, demands, claims, complaints, responses, affidavits or other documents or instruments in connection with any such proceeding (to the fullest extent permitted by applicable law). If in any enforcement

suit or legal proceeding it shall be held that the Servicer may not enforce a Receivable on the grounds that it shall not be a real party in interest or a holder entitled to enforce such Receivable, the Trustee on behalf of the Noteholders and the Note Insurer shall, at the Servicer's expense and written direction, take reasonable steps to enforce such Receivable. To the extent an assignment is prohibited, prior consent by the Trustee is hereby given to Servicer authorizing the forwarding of Receivables to legal counsel (selected by Servicer) for the purpose of commencing legal proceedings on behalf of the Issuer or the Trustee. It being understood by Servicer that nothing contained herein will permit or allow Servicer to control or interfere with the relationship between counsel, Issuer or the Trustee, but Servicer is hereby authorized on behalf of the Issuer or the Trustee to receive and convey information and instructions in order to facilitate and coordinate the collection of forwarded Receivables. The Servicer shall deposit or cause to be deposited into the Collection Account, within one (1) Business Day of its receipt thereof, all Net Proceeds realized in connection with any such action pursuant to Section 4.02. The Trustee and the Issuer shall furnish the Servicer with any powers of attorney and other documents and take any other steps which the Servicer may deem reasonably necessary or appropriate to enable the Servicer to carry out its servicing and administrative duties under this Agreement.

#### SECTION 3.02 COLLECTION OF RECEIVABLE PAYMENTS.

The Servicer shall make reasonable efforts to collect all payments due and payable in connection with the Receivables, and shall at all times follow the Customary Procedures in so doing. The Servicer shall be authorized to write down the balance of any Receivable in accordance with the Customary Procedures without the prior consent of the Trustee; provided however, that such write-down will not affect the rights of the Noteholders or the Note Insurer to any amounts thereafter collected with respect to such Receivable. The Servicer may, in accordance with the Customary Procedures, waive any charges or fees that otherwise may be collected in the ordinary course of servicing the Receivables.

#### SECTION 3.03 COVENANTS OF SERVICER.

(a) The Servicer hereby makes the following covenants with respect to each Receivable on which the Trustee is relying in accepting the Receivables in trust and authenticating the Notes and on which the Note Insurer is relying in issuing the Policy:

(i) Fulfillment of Obligations. The Servicer shall duly fulfill all obligations on its part to be fulfilled pursuant to this Indenture under or in connection with the Receivables, shall perform such obligations in accordance with the Customary Procedures, and shall maintain in effect all licenses and qualifications required in order to service the Receivables and shall comply in all respects with all other requirements of law in connection with servicing the Receivables, the failure to comply with which would have a material adverse effect on the rights or interests of the Noteholders or the Note Insurer.

(ii) No Rescission or Cancellation. The Servicer shall not permit any rescission or cancellation of the Receivables except as ordered by a court of competent jurisdiction or other governmental authority; provided, however, that the writing down of the Receivables balance in accordance with Customary Procedures shall not be deemed a rescission or cancellation of such Receivables.

(iii) No Impairment. The Servicer shall not take or fail to take any action in breach of this Indenture that would impair the rights of the Trustee, the Trust Estate, the Noteholders or the Note Insurer with respect to the Receivables; provided, however, that the writing down of the Receivables balance in accordance with Customary Procedures shall not be deemed an impairment of the rights of the Trustee, the Noteholders or the Note Insurer. The Servicer shall not engage in any pattern of conduct under which it intentionally elects (i) to write down a Receivables balance from an Obligor rather than writing down amounts due from the same Obligor which are not a part of the Receivables or (ii) to apply a payment received from an Obligor to a Consumer Account which is not a Receivable rather than to a Receivable (unless expressly instructed to do so by the Obligor), if the Servicer has actual knowledge that such write-downs or payment applications discriminate against the Noteholders, or with knowledge that the effect of such intentional election is to discriminate against the Noteholders.

(iv) No Instruments. Except in connection with its enforcement or collection of the Receivables, the Servicer shall take no action to cause any Receivables to be evidenced by any instruments (as defined in the UCC) and if any Receivable is so evidenced (whether or not in connection with such enforcement or collection), it shall be assigned to the Servicer as provided in Section 3.04.

(b) The Servicer shall not purchase more than \$3,000,000 of additional receivables under or in connection with a Consumer Account during each period that the Servicer has less than \$10,000,000 in Liquidity.

#### SECTION 3.04 PURCHASE OF RECEIVABLES UPON BREACH AND OTHER EVENTS.

Upon discovery by the Issuer or the Servicer or upon the actual knowledge of a Responsible Officer of the Trustee of a breach of any of the covenants of the Servicer set forth in Section 3.03 that materially and adversely affects the rights or interests of the Noteholders or the Note Insurer, the party discovering such breach shall give prompt written notice to the others. If, as a result of such breach, any Receivables are rendered uncollectible or the Trustee's rights in, to or under such Receivables or the proceeds thereof are materially impaired or such proceeds are not available for any reason to the Trustee free and clear of any Lien, the Servicer shall acquire from the Issuer such Receivables, unless such breach shall have been cured within thirty (30) days after the earlier to occur of the discovery of such breach by the Servicer or receipt of written notice of such breach by the Servicer, such that the relevant covenant shall be true and correct in all material respects as if made on such day, and the Servicer shall have delivered to the Trustee a certificate of a Responsible Officer of the Servicer describing the nature of such breach and the manner in which the relevant covenant became true and correct. The Servicer will be obligated to accept the assignment of such Receivables as set forth above on the Remittance Date following the date on which such assignment obligation arises. In consideration of the acquisition of any such Receivables, on the Remittance Date immediately following the date on which such acquisition obligation arises, the Servicer shall remit the Acquisition Payment of such Receivables to the Collection Account in the manner specified in Section 4.03. Upon any such acquisition, and the remitting of the Release Payment to the Collection Account, the Trustee on behalf of the Noteholders and the Note Insurer shall, without further action, be deemed to have released its security interest in, to and under such

Removed Receivables, all monies due or to become due with respect thereto after the aforementioned Remittance Date and all proceeds thereof. The Trustee shall execute such documents and take such other actions as shall be reasonably requested by the Servicer to further evidence such release. The sole remedy of the Trustee, the Noteholders and the Note Insurer with respect to a breach pursuant to Section 3.03 shall be to require the Servicer to acquire the related Receivables pursuant to this Section, except as otherwise provided in Section 8.02, 9.01 or 9.08. The Trustee shall have no duty to conduct any affirmative investigation as to the occurrence of any condition requiring the acquisition of any Receivable pursuant to this Section except as otherwise provided in Section 10.02.

**SECTION 3.05 SERVICING FEE; PAYMENT OF CERTAIN EXPENSES BY SERVICER.**

As compensation for the performance of its obligations hereunder, the Servicer shall be entitled to receive on each Payment Date the Servicing Fee as provided in Section 4.04. Except to the extent otherwise provided herein, the Servicer shall be required to pay from its servicing compensation all expenses incurred in connection with servicing the Receivables including, without limitation, recovery and collection expenses related to the enforcement of the Receivables (other than those specified in the following proviso), payment of the fees and disbursements of the Rating Agency and independent accountants and all other fees and expenses that are not expressly stated in this Agreement to be payable by the Trustee, the Noteholders, the Note Insurer or the Issuer; provided, however, that the Servicer shall not be liable for any liabilities, costs or expenses of the Trustee, the Noteholders or the Note Insurer arising under any tax law, including without limitation any federal, state or local income or franchise taxes or any other tax imposed on or measured by income (or any interest or penalties with respect thereto or arising from a failure to comply therewith), except as otherwise expressly provided in this Agreement.

**SECTION 3.06 MONTHLY SERVICER REPORT; SERVICER'S REMITTANCE DATE CERTIFICATE.**

(a) On or before 11:00 a.m. New York, New York time on each Determination Date, the Servicer shall deliver to the Trustee and to the Note Insurer a Monthly Servicer Report executed by a Responsible Officer of the Servicer substantially in the form attached hereto as Exhibit A, including a CD-ROM or computer tape listing all Receivables subject to this Agreement at the end of such Collection Period (and setting forth such additional information as requested by the Trustee, the Note Insurer, the Rating Agency or any Noteholder from time to time, which information the Servicer is able to reasonably provide) containing all information necessary to make the payments required by Section 4.04 in respect of the Collection Period and Interest Distribution Period immediately preceding the date of such Monthly Servicer Report and all information necessary for the Trustee to send statements to Noteholders and the Note Insurer pursuant to Section 4.07(a). The Servicer shall include as part of each Monthly Servicer Report a monthly compliance report (in a form reasonably requested by the Controlling Party prior to February 5, 2000) which shall be accompanied by an agreed-upon computation regarding Liquidity.

(b) On or before 11:00 a.m. New York, New York time on each Remittance Date on which the Issuer or the Servicer, as applicable, shall be obligated hereunder to acquire a Removed Receivable, the Servicer shall deliver to the Trustee and the Note Insurer a Servicer's Remittance Date Certificate substantially in the form attached hereto as Schedule I to Exhibit A, identifying each such Removed Receivable acquired by reference to the related Obligor's

account number (as specified in the Schedule of Receivables), and the amount of the Acquisition Payment with respect thereto.

#### SECTION 3.07 ANNUAL STATEMENT AS TO COMPLIANCE; NOTICE OF DEFAULT.

(a) The Servicer shall deliver to the Note Insurer and the Trustee, on or before March 1 of each calendar year, beginning in March 2001, an Officer's Certificate executed by the chief financial officer of the Servicer, stating that (i) a review of the activities of the Servicer during the preceding 12-month period ended December 31 (or, in the case of the first such statement, from the Closing Date through December 31, 2000) and of its performance under this Agreement has been made under the supervision of the officer executing the Officer's Certificate, and (ii) to such officer's knowledge, based on such review, the Servicer has fulfilled all its obligations under this Agreement in all material respects throughout such period or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to such officer and the nature and status thereof.

(b) The Servicer shall deliver to the Note Insurer and the Trustee, promptly after having obtained knowledge thereof, but in no event later than three Business Days thereafter, an Officer's Certificate specifying the nature and status of any Servicer Default or Event of Default, or other occurrence which would have a material adverse effect on the rights or interests of the Note Insurer.

#### SECTION 3.08 PERIODIC ACCOUNTANTS REPORT.

The Servicer, at its own expense, shall cause Ernst & Young LLP or another firm of nationally recognized independent public accountants acceptable to the Note Insurer (who may also render other services to the Servicer or to the Issuer) to deliver to the Note Insurer and Trustee a report of agreed upon procedures acceptable to the Controlling Party with respect to the Servicer's accounting for matters regarding the Trust Estate including cash receipts, account posting and remittances to the Accounts during the preceding reporting period. The first reporting period is from the Closing Date through March 31, 2000, and each subsequent reporting period is each subsequent calendar quarter thereafter, unless any report is not reasonably acceptable to the Note Insurer then such shorter or longer time as the Note Insurer shall determine from time to time by written notice to the Servicer (with a copy to the Trustee), but in no event shall the reporting period be shorter than monthly. Each such report must be delivered within forty-five (45) days after the end of each reporting period. Such report shall also indicate that the firm is independent with respect to the Issuer and the Servicer within the meaning of the Code of Professional Ethics of the American Institute of Certified Public Accountants. In the event such independent public accountants require the Trustee to agree to the procedures to be performed by such firm in any of the reports required to be prepared pursuant to this Section 3.08, the Servicer shall direct the Trustee in writing to so agree; it being understood and agreed that the Trustee will deliver such letter of agreement in conclusive reliance upon the direction of the Servicer, and the Trustee has not made any independent inquiry or investigation as to, and shall have no obligation or liability in respect of, the sufficiency, validity or correctness of such procedures.

#### SECTION 3.09 QUARTERLY SERVICER'S COMPLIANCE REPORT.

The Servicer, at its own expense, shall cause Ernst & Young LLP or another firm of nationally recognized independent public accountants (who may also render other services to

the Servicer or to the Issuer) to deliver to the Trustee and the Note Insurer, within thirty days after the end of each calendar quarter of each year, beginning with the calendar quarter ending on March 31, 2000, or more or less frequently pursuant to the written direction of the Note Insurer, but in no event more frequently than monthly, a report concerning the activities of the Servicer during the preceding calendar quarter to the effect that such accountants have performed agreed-upon procedures acceptable to the Controlling Party with respect to each of the Monthly Servicer Reports for the period under review. The report should specify the procedures performed on such Monthly Servicer Reports (which procedures should include recalculating all calculations contained in such Monthly Servicer Reports and taking other pertinent information from supporting schedules of the Servicer) and any exceptions, if any, shall be set forth therein. Such report shall also indicate that the firm is independent with respect to the Issuer and the Servicer within the meaning of the Code of Professional Ethics of the American Institute of Certified Public Accountants. In the event such independent public accountants require the Trustee to agree to the procedures to be performed by such firm in any of the reports required to be prepared pursuant to this Section 3.09, the Servicer shall direct the Trustee in writing to so agree; it being understood and agreed that the Trustee will deliver such letter of agreement in conclusive reliance upon the direction of the Servicer, and the Trustee has not made any independent inquiry or investigation as to, and shall have no obligation or liability in respect of, the sufficiency, validity or correctness of such procedures.

#### SECTION 3.10 ACCESS TO CERTAIN DOCUMENTATION AND INFORMATION.

(a) The Servicer shall provide the Note Insurer, the Trustee and the Noteholders with access to the documentation relating to the Receivables as provided in Section 2.06(b). In each case, access to documentation relating to the Receivables shall be afforded without charge but only upon reasonable request and during normal business hours at the offices of the Servicer. Nothing in this Section shall impair the obligation of the Servicer to observe any applicable law prohibiting disclosure of information regarding the Obligors, which obligation shall be evidenced by an Opinion of Counsel to such effect, and the failure of the Servicer to provide access as provided in this Section as a result of such obligation shall not constitute a breach of this Section.

(b) In addition to, and not by way of limitation of, any other rights of the Note Insurer hereunder, each of the Issuer and the Servicer shall permit the Note Insurer, upon reasonable notice and during normal business hours, to visit and inspect the properties of the Issuer or Servicer, to examine its books of account, records, reports, and other papers, to make copies and extracts therefrom and to discuss its affairs, finances and accounts with its officers, employees, and independent public accountants, all at such reasonable times and as often as may be reasonably requested.

#### SECTION 3.11 REPORTS TO NOTEHOLDERS, THE RATING AGENCY AND THE PLACEMENT AGENT.

The Trustee shall provide to the Note Insurer, each Noteholder, the Rating Agency and the Placement Agent a copy of each (i) Servicer's Remittance Date Certificate, (ii) Monthly Servicer Report, (iii) Officer's Certificate of annual statement as to compliance described in Section 3.07(a), (iv) Officer's Certificate with respect to Servicer Defaults and Events of Default, described in Section 3.07(b), (v) accountants' report described in Section 3.08, (vi) accountants' report described in Section 3.09, and (vii) Trustee's Certificate delivered pursuant to Section 10.02 or 10.03.

## SECTION 3.12 TAX TREATMENT.

Notwithstanding anything to the contrary set forth herein, the Issuer has entered into this Agreement with the intention that for federal, state and local income and franchise tax purposes (i) the Notes, which are characterized as indebtedness at the time of their issuance, will qualify as indebtedness secured by the Receivables and (ii) neither the Trust nor the Trust Estate shall be treated as an association or publicly traded partnership taxable as a corporation. The Issuer, by entering into this Agreement, each Noteholder, by its acceptance of a Note and each purchaser of a beneficial interest therein, by accepting such beneficial interest, agree to treat such Notes as debt for federal, state and local income and franchise tax purposes. The Trustee shall treat the Trust Estate as a security device only, and shall not file tax returns or obtain an employer identification number on behalf of the Trust Estate. The provisions of this Agreement shall be construed in furtherance of the foregoing intended tax treatment.

Notwithstanding the foregoing, if the Trust is required to be recognized as a partnership for federal or state income tax purposes, including by reason of a determination by the Internal Revenue Service or any other taxing authority that the Trust constitutes a partnership for income tax purposes, the Issuer and the Noteholders agree that payments made to the Noteholders pursuant to Section 4.04(b)(iv) shall be treated as "guaranteed payments" (within the meaning of Section 707(c) of the Code) and all remaining taxable income or loss and any separably allocable items thereof shall be allocated to the Issuer.

## SECTION 3.13 SALE OF PERMITTED SALE RECEIVABLES.

The Servicer, as agent of the Trustee, may sell any Permitted Sale Receivable in arm's length transactions with third parties who are not Affiliates of the Issuer or the Servicer; provided that the aggregate Purchase Price for all Permitted Sale Receivables sold in any Collection Period does not exceed \$75,000 in any Collection Period. The Net Proceeds must be in immediately available funds. The Servicer shall deliver to the Trustee and the Noteholders and the Note Insurer no later than three (3) Business Days preceding the date of such sale, an Officer's Certificate of the Servicer, identifying the Permitted Sale Receivables, and identifying the material terms of the transaction including without limitation the identity of the purchaser and the price for which the Permitted Sale Receivables are to be sold.

## SECTION 3.14 SUBSERVICERS.

(a) The Servicer may, at its own expense and with the prior written consent of the Controlling Party, enter into subservicing agreements with any entity (each, a "Subservicer") for the servicing and administration of the Receivables. References in this Agreement to actions taken or to be taken by the Servicer in servicing and managing the Receivables include actions taken by a Subservicer on behalf of the Servicer. Each Subservicer shall be authorized to transact business in the state or states in which the related Receivables it is to service or manage are situated, if and to the extent required by applicable law to enable the Subservicer to perform its obligations hereunder and under the applicable subservicing agreement. Each subservicing agreement shall be upon such terms and conditions as are not inconsistent with this Agreement, (ii) shall specifically reference this Indenture, and (iii) shall state that the Noteholders, Note Insurer and Trustee are third-party beneficiaries thereto. For purposes of this Agreement, the Servicer shall be deemed to have received any Net Proceeds when the Subservicer receives such Net Proceeds. The Servicer shall notify the Trustee, the Issuer, the

Note Insurer, the Backup Servicer and the Rating Agency in writing promptly upon the appointment of any Subservicer.

(b) As part of its servicing activities hereunder, the Servicer, for the benefit of the Trustee, the Note Insurer and the Noteholders, shall enforce the obligations of each Subservicer under the related subservicing agreement. Such enforcement, including, without limitation, the legal prosecution of claims, termination of subservicing agreements and pursuit of other appropriate remedies, shall be in accordance with the servicing standards set forth herein. The Servicer shall pay the costs of such enforcement at its own expense.

(c) Notwithstanding any subservicing agreement, any of the provisions of this Agreement relating to agreements or arrangements between the Servicer and a Subservicer, or reference to actions taken through a Subservicer or otherwise, the Servicer shall remain obligated and liable to the Trustee, the Note Insurer and the Noteholders for the servicing, managing, collecting and administering of the Receivables and the other assets included in the Trust Estate in accordance with the provisions of Section 3.01 without diminution of such obligation or liability by virtue of such subservicing agreement or arrangements or by virtue of indemnification from a Subservicer and to the same extent and under the same terms and conditions as if the Servicer alone were servicing, managing, collecting and administering the Receivables and the other assets included in the Trust Estate.

#### ARTICLE IV

##### THE ACCOUNTS; PAYMENTS; STATEMENTS TO NOTEHOLDERS

###### SECTION 4.01 ACCOUNTS.

The Trustee shall establish and maintain, or cause to be established and maintained, the Collection Account, the Reserve Account and the Note Payment Account, each of which shall be an Eligible Account, for the benefit of the Noteholders and the Note Insurer. All amounts held in the Collection Account, the Reserve Account or the Note Payment Account shall, to the extent permitted by this Agreement and applicable laws, rules and regulations, be invested in Permitted Investments by the depository institution or trust company then maintaining such Account only upon written direction of the Issuer, provided, however, in the event the Issuer fails to provide such written direction to the Trustee, and until the Issuer provides such written direction, the Trustee shall invest in Permitted Investments satisfying the requirements of clause (v) of the definition thereof. Investments held in Permitted Investments in the Accounts shall not be sold or disposed of prior to their maturity. Earnings on investment of funds in the Collection Account and Reserve Account shall remain in such Accounts for disposition in accordance with this Agreement. Earnings on investment of funds in the Note Payment Account shall be remitted by the Trustee to the Collection Account promptly upon receipt thereof in the Note Payment Account. Any losses and investment expenses relating to any investment of funds in any of the Accounts shall be for the account of the Issuer, which shall deposit or cause to be deposited the amount of such loss (to the extent not offset by income from other investments of funds in the related Account) in the related Account immediately upon the realization of such loss. The taxpayer identification number associated with each of the Accounts shall be that of the Issuer and the Issuer will report for federal, state and local income tax purposes the income, if any, earned on funds in the relevant Account. The Issuer hereby acknowledges that all amounts on deposit in each Account (including investment earnings thereon) are held in trust by the Trustee

for the benefit of the Noteholders and the Note Insurer, subject to any express rights of the Issuer set forth herein, and shall remain at all times during the term of this Agreement under the sole dominion and control of the Trustee. Payments from the Collection Account shall be made only on the Business Day prior to the Payment Date and only to the Note Payment Account.

#### SECTION 4.02 COLLECTIONS.

Each of the Servicer and the Issuer shall remit to the Collection Account all Net Proceeds it receives or otherwise obtains from or on behalf of the Obligors from or in respect of the Receivables on the next Business Day after receipt thereof, by ACH transfer from the account into which payments from or on behalf of Obligors are initially deposited. Other than as specifically contemplated pursuant to Section 4.03, the Servicer shall not remit to the Collection Account, and shall take all reasonable actions to prevent other Persons from remitting to the Collection Account, amounts which do not constitute payments, collections or recoveries received, made or realized in respect of the Receivables, and the Trustee will return to Issuer any such amounts upon receiving written evidence reasonably satisfactory to the Trustee that such amounts are not a part of the Trust Estate.

#### SECTION 4.03 ADDITIONAL DEPOSITS.

(a) The following additional deposits shall be made to the Collection Account, as applicable: (i) the Issuer shall remit the aggregate Acquisition Payments with respect to Removed Receivables reacquired pursuant to Section 2.05 or 7.02; and (ii) the Servicer shall remit the aggregate Acquisition Payments with respect to Removed Receivables acquired pursuant to Section 3.04.

(b) The following deposits shall be made to the Note Payment Account, as applicable: the Issuer shall remit the Redemption Amount pursuant to Section 11.02; (ii) the Note Insurer shall remit any required payment pursuant to the Policy; (iii) the Trustee shall transfer all Available Funds from the Collection Account to the Note Payment Account on the Business Day prior to the Payment Date.

(c) All deposits required to be made pursuant to this Section by the Issuer or the Servicer, as the case may be, may be made in the form of a single deposit. All deposits required to be made by the Note Insurer, shall be made in immediately available funds, no later than the date and time required pursuant to the terms of the Policy.

#### SECTION 4.04 ALLOCATIONS AND PAYMENTS.

(a) On each Determination Date, the Servicer shall calculate (i) the amount of funds on deposit in each of the Accounts and the amount of Available Funds, and (ii) as applicable, the Trustee Fee, the Backup Servicing Fee, the Servicing Fee, the Interest Distributable Amount, the Required Reserve Amount, the Reserve Fund Reimbursement Amount, the amount to be paid to Noteholders in respect of principal, and the amount payable by the Note Insurer pursuant to the Policy, which amounts shall be set forth in the Monthly Servicer Report for the related Payment Date. The Servicer shall send the Monthly Servicer Report to the Trustee and the Note Insurer by 11:00 a.m. New York, New York time on each such Determination Date.

(b) On each Payment Date, the Trustee shall make the following payments from the applicable Accounts in the following order of priority and in the amounts set forth in the Monthly

Servicer Report for such Payment Date; provided however, such payments shall be made only to the extent of funds then on deposit in the applicable Account, and provided, further that payments from the Note Payment Account shall be made only on the Payment Date:

(i) to the Trustee (A) from Available Funds transferred from the Collection Account to the Note Payment Account, an amount equal to the sum of the Trustee Fee for such Payment Date, plus all accrued and unpaid Trustee Fees, if any, for prior Payment Dates, plus all reasonable out of pocket expenses (but only up to \$200,000 during the term of this Agreement) to which the Trustee is entitled to payment (to the extent expressly set forth under this Agreement) provided that (B) if Available Funds transferred from the Collection Account to the Note Payment Account are insufficient to pay the amount described in clause (A) above, the Trustee will withdraw from the Reserve Account an amount equal to the lesser of the amount then on deposit in the Reserve Account and the amount of such shortfall for disbursement to the Trustee in reduction of such shortfall;

(ii) to the Servicer, from the Available Funds transferred from the Collection Account to the Note Payment Account, an amount equal to the sum of the Servicing Fee for the related Collection Period, plus all accrued and unpaid Servicing Fees, if any, for prior Collection Periods (plus an amount equal to any Transition Fees of \$100,000 or less then owing to the Successor Servicer, if any);

(iii) to the Backup Servicer (A) from Available Funds transferred from the Collection Account to the Note Payment Account, the Backup Servicer Fee for such Payment Date, plus all accrued and unpaid Backup Servicer Fees, if any, for prior Payment Dates, plus all reasonable out of pocket expenses to which the Backup Servicer is entitled to payment (to the extent expressly set forth under this Agreement) provided that (B) if Available Funds transferred from the Collection Account to the Note Payment Account are insufficient to pay the amount described in clause (A) above, the Trustee will withdraw from the Reserve Account an amount equal to the lesser of the amount then on deposit in the Reserve Account and the amount of such shortfall for disbursement to the Backup Servicer in reduction of such shortfall;

(iv) to the Noteholders, pro rata, based on their respective Note Balances (A) from Available Funds transferred from the Collection Account to the Note Payment Account, an amount equal to the sum of the Interest Distributable Amount for such Payment Date, plus any outstanding amount of Interest Carryover Shortfall, if any, for prior Payment Dates provided that (B) if Available Funds transferred from the Collection Account to the Note Payment Account, are insufficient to pay the amount described in clause (A) above, the Trustee will withdraw from the Reserve Account an amount equal to the lesser of the amount then on deposit in the Reserve Account and the amount of such interest shortfall for disbursement to the Noteholders in reduction of such shortfall, and provided further that (C) if the amount described in clause (A) above remains unpaid after the application of amounts withdrawn from the Reserve Account in accordance with clause (B) above, the Trustee will withdraw from the amount remitted by the Note Insurer to the Note Payment Account for disbursement to the Noteholders in reduction of such shortfall an amount equal to the lesser of the amount then on

deposit in the Note Payment Account pursuant to a payment by the Note Insurer and the amount of such interest shortfall;

(v) for so long as no Insurer Default shall have occurred and be continuing, to the Note Insurer, (A) from Available Funds transferred from the Collection Account to the Note Payment Account the sum of (x) the Note Insurer Base Premium for such Payment Date, plus (y) all accrued but unpaid Note Insurer Base Premiums, if any, for prior Payment Dates plus (z) the aggregate amount of all other Note Insurer Obligations payable to the Note Insurer and outstanding on such Payment Date, except for any Note Insurer Additional Premiums, provided that (B) if Available Funds transferred from the Collection Account to the Note Payment Account are insufficient to pay the amounts due the outstanding Note Insurer Obligations then payable, the Trustee will withdraw from the Reserve Account an amount equal to the lesser of the amount then on deposit in the Reserve Account and the amount of such shortfall, and remit such lesser amount to the Note Insurer in reduction of such shortfall;

(vi) to the Reserve Account, from Available Funds transferred from the Collection Account to the Note Payment Account, an amount equal to the lesser of remaining Available Funds and the Reserve Fund Reimbursement Amount for such Payment Date, if applicable;

(vii) [Reserved];

(viii) to the Noteholders, pro rata based on their respective Note Balances, if such Payment Date is a Payment Date on which the Issuer is making or is required to make an Acquisition Payment, any remaining Available Funds transferred from the Collection Account to the Note Payment Account to the extent of the required Acquisition Payment;

(ix) to the Noteholders, pro-rata, based on their respective Note Balances (A) any remaining Available Funds transferred from the Collection Account to the Note Payment Account in reduction of the Note Balance of the Notes, until such Note Balance is reduced to zero, (B) if such Payment Date is the Payment Date on which the Issuer is effecting an optional redemption of the Notes pursuant to Section 11.01, and there is an outstanding Note Balance after payment of the amounts described in clause (A) above, the Trustee will disburse to the Noteholders for payment on the Note Balance any amounts deposited in the Note Payment Account by the Issuer in respect of the Redemption Amount pursuant to Section 11.02, (C) if such Payment Date is the Final Payment Date or the Payment Date on which the Issuer is effecting an optional redemption of the Notes pursuant to Section 11.01, and there is an outstanding Note Balance (after payment of the amounts described in clauses (A) and (B) above), the Trustee will withdraw from all remaining funds on deposit in the Collection Account and remit to the Note Payment Account, an amount equal to the lesser of the amount then on deposit in the Collection Account and the amount of the outstanding Note Balance and remit such lesser amount to the Noteholders in reduction of the outstanding Note Balance, (D) if on the Final Payment Date there is an outstanding Note Balance (after payment of the amounts described in clauses (A), (B) and (C) above), the Trustee will withdraw from the Reserve Account an amount equal to the lesser of the amount then on deposit in the

Reserve Account and the amount of the outstanding Note Balance and remit such lesser amount to the Noteholders in reduction of the outstanding Note Balance, and (E) if on the Final Payment Date there is an outstanding Note Balance after all amounts have been withdrawn from the Reserve Account in accordance with clause (D) above, the Trustee will disburse to the Noteholders for payment on the Note Balance any amounts deposited in the Note Payment Account by the Note Insurer; and

(x) remaining amounts in the following order of priority: (A) any of the Trustee's reasonable, out of pocket expenses to which the Trustee is entitled to payment (to the extent expressly set forth in this Agreement) which have exceeded \$200,000 in the aggregate during the term of this Agreement; then (B) any amounts which would have been paid to the Note Insurer under subsection (b)(v) but for the occurrence and continuation of an Insurer Default; then (C) any unpaid Note Insurer Additional Premium; then (D) any of the Backup Servicer's or Successor Servicer's Transition Fees in excess of \$100,000 and then (E) to the Issuer.

(c) The Servicer shall on each Payment Date instruct the Trustee to distribute to each Noteholder of record on the related Record Date by wire transfer of immediately available funds, the amount to be paid to such Noteholder in respect of the related Note on such Payment Date. The Servicer shall on each Payment Date instruct the Trustee to distribute to the Note Insurer by wire transfer of immediately available funds, the amount to be paid to the Note Insurer on such Payment Date.

#### SECTION 4.05 RESERVE ACCOUNT.

(a) Pursuant to Section 4.01, the Trustee shall establish and maintain the Reserve Account which shall be an Eligible Account, for the benefit of the Noteholders and the Note Insurer. On or prior to the Closing Date, the Issuer shall deposit an amount equal to the Required Reserve Amount into the Reserve Account. Thereafter, the Trustee shall deposit into the Reserve Account on each Payment Date, to the extent of funds then on deposit in the Note Payment Account an amount equal to the lesser of (x) Available Funds remaining on such Payment Date after required payments pursuant to Section 4.04(b)(i) through (v), and (y) the Reserve Fund Reimbursement Amount.

(b) Consistent with the limited purposes for which the Reserve Account is to be established, (x) on each Payment Date, an amount equal to the aggregate of amounts described in Sections 4.04(b)(i)(B), 4.04(b)(iii)(B), 4.04(b)(iv)(B), 4.04(b)(v)(B) (if no Insurer Default has occurred and is continuing) and 4.04(b)(ix)(D), if any, shall be withdrawn from the Reserve Account by the Trustee and remitted to the Trustee, the Backup Servicer, the Noteholders or the Note Insurer (as the case may be) for payment as described in those Sections, and (y) upon payment of all sums payable hereunder with respect to the Notes, any amounts then on deposit in the Reserve Account shall be remitted by the Trustee to the Note Insurer to the extent of any unpaid Note Insurer Obligations then outstanding, until all such Note Insurer Obligations are paid in full, and any remaining amounts then on deposit in the Reserve Account shall be released from the lien of the Trust Estate and paid to the Issuer.

(c) Amounts held in the Reserve Account shall be invested in Permitted Investments at the direction of the Issuer as provided in Section 4.01. Such investments shall not be sold or disposed of prior to their maturity.

(d) The Trustee shall pay to the Issuer on each Payment Date the amount by which the amount in the Reserve Account exceeds the Required Reserve Amount, after giving effect to all distributions required to be made from the Reserve Account or the Note Payment Account on such date.

#### SECTION 4.06 NOTE PAYMENT ACCOUNT.

(a) Pursuant to Section 4.01, the Trustee shall establish and maintain the Note Payment Account which shall be an Eligible Account, for the benefit of the Noteholders and the Note Insurer. The Note Payment Account shall be funded to the extent that (x) the Issuer shall remit the Redemption Amount pursuant to Section 11.02, (y) the Note Insurer shall remit any required payment pursuant to the Policy, or (z) the Trustee shall remit the Available Funds from the Collection Account pursuant to Section 4.03.

(b) On each Payment Date, an amount equal to the aggregate of amounts described in Section 4.04(b) shall be withdrawn from the Note Payment Account by the Trustee and remitted to the Noteholders and other persons or Accounts described therein for payment as described in that Section, and upon payments of all sums payable hereunder with respect to the Notes, any amounts then on deposit in the Note Payment Account shall be remitted by the Trustee to the Note Insurer to the extent of any unpaid Note Insurer Obligations then outstanding, until all such Note Insurer Obligations are paid in full, and any remaining amounts then on deposit in the Note Payment Account shall be released from the lien of the Trust Estate and paid to the Issuer.

(c) Amounts held in the Note Payment Account shall be invested in Permitted Investments at the direction of the Issuer as provided in Section 4.01. Such investments shall not be sold or disposed of prior to their maturity.

#### SECTION 4.07 STATEMENTS TO NOTEHOLDERS.

(a) On each Payment Date, the Trustee shall include with each payment to each Noteholder of record and the Note Insurer the Monthly Servicer Report furnished pursuant to Section 3.06, setting forth for the related Collection Period the information provided in Exhibit A.

(b) Within a reasonable period of time after the end of each calendar year, but not later than the latest date permitted by law, the Trustee shall mail a statement or statements prepared by the Servicer to the Note Insurer and each Person who at any time during such calendar year shall have been a Noteholder that provides the information that the Servicer actually knows is necessary under applicable law for the preparation of the income tax returns of such Noteholders.

### ARTICLE V THE POLICY

#### SECTION 5.01 THE POLICY.

The Servicer and the Issuer agree, simultaneously with the execution and delivery of this Agreement, to cause the Note Insurer to issue the Policy to the Trustee for the benefit of the Trust in accordance with the terms thereof and the Insurance Agreement.

## SECTION 5.02 CLAIMS UNDER POLICY.

(a) If on any Determination Date the Servicer has reported to the Trustee in the Monthly Servicer Report that the Servicer has determined that (A) as of the opening of business of the Trustee on such Determination Date, the amount of Available Funds on deposit in the Collection Account, together with any amounts on deposit in the Reserve Account and the Note Payment Account, are insufficient to provide for the payment in full of the Interest Distributable Amount payable on the related Payment Date (after giving effect to each payment required to be made prior to such payment on such Payment Date pursuant to Section 4.04(b)), and/or (B) if such Payment Date is the Final Payment Date and the Note Balance has not been reduced to zero prior to such Determination Date, and all amounts then on deposit in the Collection Account, together with any amounts then on deposit in the Reserve Account and the Note Payment Account are insufficient to make a payment to the Noteholders reducing the Note Balance to zero (after giving effect to each payment required to be made prior to such payment on the Final Payment Date pursuant to Section 4.04(b)), then by 2:00 p.m., New York time on such Determination Date, the Trustee shall deliver to the Note Insurer and the Servicer a completed notice for payment in the form set forth as Exhibit A to the Policy (the "Notice for Payment"), and shall confirm delivery of such Notice for Payment, each as specified in the Policy. The Notice for Payment shall specify the amount of the Interest Deficiency Draw Amount and/or the Final Principal Deficiency Amount (as each such term is defined in the Policy) and shall constitute a claim pursuant to the Policy. Upon receipt of any payments on behalf of the Trust under the Policy, the Trustee shall deposit any Interest Deficiency Draw Amount and/or Principal Deficiency Draw Amount in the Note Payment Account. Such amounts shall be distributed pursuant to Section 4.04.

(b) The Trustee shall receive in the Note Payment Account, as attorney-in-fact of each Noteholder, any payment from the Note Insurer and disburse the same to each Noteholder, for the purposes and in the respective amounts required in accordance with the provisions of Section 4.04.

(c) The Trustee shall keep complete and accurate records of the amount of payments received from the Note Insurer and the Note Insurer shall have the right to inspect such records at reasonable times upon one Business Days' prior notice to the Trustee. The statements the Trustee prepares in the normal course of business with respect to accounts similar in nature to the Note Payment Account shall fulfill the record requirements of this Section.

(d) If any of the payments guaranteed by the Policy are voided (a "Preference Event") pursuant to a final and non-appealable order under any applicable bankruptcy, insolvency, receivership or similar law in an Insolvency Proceeding and, as a result of such a Preference Event, the Trustee is required to return such voided payment, or any portion of such voided payment, made in respect of the Notes (an "Avoided Payment"), the Trustee shall furnish to the Note Insurer (x) a certified copy of a final order of a court exercising jurisdiction in such Insolvency Proceeding to the effect that the Trustee is required to return any such payment or portion thereof during the term of the Policy because such payment was voided under applicable law, with respect to which order the appeal period has expired without an appeal having been filed (the "Final Order"), (y) an assignment, in form reasonably satisfactory to the Note Insurer, irrevocably assigning to the Note Insurer all rights and claims of the Trustee relating to or arising under such Avoided Payment, and (z) a Notice for Payment appropriately completed and executed by the Trustee. Such payment shall be disbursed to the receiver, conservator, debtor-in-possession or trustee in bankruptcy named in the Final Order and not to the Trustee directly. The Trustee is not permitted to make a claim on the Trust or on any

Noteholder for payments made to Noteholders which are characterized as preference payments by any bankruptcy court having jurisdiction over any bankrupt Obligor unless ordered to do so by such bankruptcy court.

#### SECTION 5.03 SURRENDER OF POLICY.

The Trustee shall surrender the Policy to the Note Insurer for cancellation upon its expiration in accordance with the terms thereof.

#### SECTION 5.04 RIGHTS OF SUBROGATION AND ASSIGNMENT.

(a) The parties hereto agree that to the extent the Note Insurer makes any payment with respect to the Notes under the Policy, the Note Insurer shall become subrogated to the rights of the recipients of such payments to the extent of such payments (including, without limitation, to the fullest extent permitted by law, all rights of the Trustee and each Noteholder in the conduct of any related Insolvency Proceeding). In furtherance and not by way of limitation of the foregoing, and subject to and conditioned upon any payment with respect to the Notes by or on behalf of the Note Insurer, the Trustee shall assign, and the Noteholders, by reason of their acquisition and holding of the Notes, shall be deemed to have agreed to the assignment, to the Note Insurer, of all rights to the payment of interest or principal with respect to the Notes which are then due for payment, together with all other rights and remedies of the Trustee or the Noteholders with respect to the Notes (including, without limitation, all rights of the Trustee and each Noteholder in the conduct of any related Insolvency Proceeding), to the extent of all payments made by the Note Insurer with respect to the Notes. The Trustee shall take all such actions and deliver all such instruments as may be reasonably requested or required by the Note Insurer to effectuate the purpose or provisions of the foregoing subrogation and/or assignment. For the avoidance of doubt, any payment made under the Policy in respect of interest or principal due under the Notes shall not reduce in any manner the amount of interest or principal (or the Note Balance) otherwise due hereunder or under the Notes.

(b) The foregoing rights of subrogation and assignment described in clause (a) above are in all cases in addition to, and not in limitation of, all equitable rights of subrogation and other rights and remedies otherwise available to the Note Insurer in respect of payments under the Policy, and the Note Insurer hereby specifically reserves all such rights and remedies.

### ARTICLE VI THE NOTES

#### SECTION 6.01 THE NOTES.

(a) The Notes shall be non-recourse obligations of the Issuer and the Trust Estate shall be the sole source of payments of principal thereof and interest thereon. Notwithstanding anything else to the contrary contained herein, the Notes shall not be considered a general obligation of the Issuer for any purpose.

(b) The Notes shall be issued on the Closing Date and the Note Balance shall accrue interest at the Note Rate from and including the Closing Date.

(c) The Notes shall be substantially in the form attached hereto as Exhibit C, and shall be issuable in minimum denominations of \$1,000,000 and integral multiples of \$1,000 in excess thereof. The Notes shall each be executed by the Issuer and authenticated by the Trustee by the manual or facsimile signature of a Responsible Officer of the Trustee. Notes bearing the manual or facsimile signatures of individuals who were, at the time when such signatures were affixed, authorized to sign on behalf of the Issuer or the Trustee shall be valid and binding obligations of the Issuer, notwithstanding that such individuals or any of them have ceased to be so authorized prior to the authentication and delivery of such Notes or did not hold such offices at the date of such Notes. The Notes shall be dated the date of their authentication.

(d) The Notes shall be issued only in a transaction (or transactions) that was not required to be registered under the Securities Act. For purposes of the preceding sentence, the term "Securities Act" shall mean the provisions thereof exclusive of Regulation S (17 CFR 230.901 through 230.904).

#### SECTION 6.02 AUTHENTICATION AND DELIVERY OF THE NOTES.

The Trustee shall cause to be authenticated and delivered to or upon the order of the Issuer, in exchange for the Receivables and the other property included in the Trust Estate, simultaneously with the assignment, transfer and conveyance to the Trustee of the Receivables and the constructive delivery to the Trustee on behalf of the Noteholders of the Receivable Files and the other components of the Trust Estate, the Notes duly authenticated by the Trustee, in authorized denominations equaling in the aggregate the Note Balance. No Note shall be entitled to any benefit under this Agreement or be valid for any purpose, unless there appears thereon a certificate of authentication substantially in the form set forth in the form of such Note attached hereto as Exhibit C, executed by the Trustee by manual or facsimile signature, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered under this Agreement.

#### SECTION 6.03 REGISTRATION OF TRANSFER AND EXCHANGE OF NOTES.

(a) The Note Registrar shall maintain a Note Register in which, subject to such reasonable regulations as it may prescribe, the Note Registrar shall provide for the registration of the Notes and transfers and exchanges thereof as provided in this Agreement. The Trustee is hereby initially appointed Note Registrar for the purpose of registering the Notes and transfers and exchanges thereof as provided in this Agreement. In the event that, subsequent to the Closing Date, the Trustee notifies the Servicer that it is unable to act as Note Registrar, the Servicer shall appoint another bank or trust company, agreeing to act in accordance with the provisions of this Agreement applicable to it, and otherwise acceptable to the Trustee, to act as successor Note Registrar under this Agreement.

(b) Subject to the provisions of this Agreement, upon surrender for registration of transfer of any Note at the Corporate Trust Office, the Issuer shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes in authorized denominations of a like aggregate principal amount.

(c) Notes may be exchanged for other Notes of authorized denominations of a like aggregate principal amount, at the option of the related Noteholder upon surrender of the Note to be exchanged at any such office or agency. Whenever any Note is so surrendered for exchange, the Issuer shall execute and the Trustee shall authenticate and deliver the Note that

the Noteholder making the exchange is entitled to receive. Every Note presented or surrendered for registration of transfer or exchange shall be accompanied by a written instrument of transfer in form satisfactory to the Trustee and the Note Registrar duly executed by the Noteholder thereof or his or her attorney duly authorized in writing.

(d) No service or other charge shall be made for any registration of transfer or exchange of Notes by the Trustee or the Servicer, but the Trustee may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer or exchange of Notes.

(e) Any Notes surrendered for registration of transfer or exchange shall be canceled and subsequently destroyed by the Trustee.

(f) Each purchaser of a Note or of a beneficial interest therein shall be deemed to have represented and warranted, by accepting such Note or beneficial interest as follows:

(i) it is acquiring the Notes for its own account or for an account with respect to which it exercises sole investment discretion, and that it or such account is a Qualified Institutional Buyer or an Accredited Investor acquiring the Notes for investment purposes and not for distribution;

(ii) it acknowledges that the Notes have not been registered under the Securities Act or any state securities laws and may not be sold except as permitted below;

(iii) it understands and agrees that such Notes are being offered only in a transaction not involving any public offering within the meaning of the Securities Act, and that such Notes may be resold, pledged or transferred only in accordance with Section 6.03(g) below (1) to a person who the transferor reasonably believes after due inquiry is, and who has certified that it is, a Qualified Institutional Buyer that purchases for its own account or for the account of a Qualified Institutional Buyer to whom notice is given that the resale, pledge or transfer is being made in reliance on Rule 144A or (2) to an institution that is an Accredited Investor who has certified that it is an Accredited Investor purchasing for its own account or for the account of another Accredited Investor (unless the purchaser is a bank acting in its fiduciary capacity);

(iv) it understands that the following legend will be placed on the Notes, unless otherwise agreed by the Issuer:

"THIS NOTE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS, AND MAY NOT BE SOLD OR OTHERWISE TRANSFERRED, PLEDGED OR HYPOTHECATED EXCEPT IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. THE TRANSFER OF THIS NOTE IS SUBJECT TO CERTAIN RESTRICTIONS AND CONDITIONS SET FORTH IN THE INDENTURE AND SERVICING AGREEMENT UNDER WHICH THIS NOTE IS ISSUED (A COPY OF WHICH IS AVAILABLE FROM THE TRUSTEE UPON REQUEST). PROSPECTIVE PURCHASERS ARE HEREBY NOTIFIED THAT THE SELLER OF ANY NOTES MAY BE RELYING ON THE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A UNDER THE SECURITIES ACT."

(v) it (x) has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its prospective investment in the Notes; and (y) it (or any account for which it is purchasing) has the ability to bear the economic risks of its prospective investment for an indefinite period and can afford the complete loss of such investment; and

(vi) it understands that the Issuer, the Placement Agent and others will rely upon the truth and accuracy of the foregoing acknowledgments, representations, warranties and agreements and agrees that if any of the acknowledgments, representations, warranties and agreements deemed to have been made by it by its purchase of the Notes are no longer accurate, it shall promptly notify the Issuer and the Placement Agent. If it is acquiring the Notes as a fiduciary or agent for one or more investor accounts, it represents that it has sole investment discretion with respect to each such account and it has full power to make the foregoing acknowledgments, representations, warranties and agreements on behalf of each such account; and

(vii) it understands that the Notes may not be transferred to an Employee Plan, or an entity, account or other pooled investment fund the underlying assets of which include or are deemed to include Employee Plan assets by reason of an Employee Plans involvement in the entity, account or other pooled investment fund unless the Holder or prospective transferee delivers to the Trustee an opinion of counsel (which counsel and opinion shall be reasonably acceptable to the Issuer, Servicer and Trustee) as provided in this Agreement. The Issuer, Servicer, Trustee and Backup Servicer shall not be responsible for confirming or otherwise investigating whether a proposed transferee is an employee benefit plan, trust or account subject to ERISA, or described in Section 4975(e)(1) of the Code.

(viii) in the case of the acquisition of Notes, directly or indirectly, by a partnership, limited liability company, S corporation, grantor trust, or any other "flow-through entity" (within the meaning of United States Treasury Regulations Section 1.7704-1(h)(3)) ( a "Flow-Through Entity"), the Flow-Through Entity, on behalf of each beneficial owner of interests, directly and indirectly, in such Flow-Through Entity, acknowledges that (A) use of such Flow-Through Entity to acquire and hold Notes (as opposed to direct acquisition or ownership of Notes by the beneficial owners of the Flow-Through Entity) is not motivated by, or a direct consequence of, efforts to qualify for the "private placement" safe harbor of United States Treasury Regulations Section 1.7704-1(h) pursuant to which the Flow-Through Entity, rather than each beneficial owner owning a direct or indirect interest in the Flow-Through Entity, is counted as a partner in determining whether there are fewer than one hundred (100) partners in the Trust (assuming for purposes of the foregoing that the Trust were classified as a partnership for federal and state income tax purposes and not solely as a security device for such purposes) and, hence, whether the Notes are not treated as "readily tradable" on a "secondary market" or the "substantial equivalent thereof" (all as defined in United States Treasury Regulations Section 1.7704-1 et. seq.) by reason of such safe harbor.

(ix) it understands that there are restrictions on the transfer of Notes that are intended to avoid classification of the Trust as a "publicly traded partnership" within the meaning of the Section 7704(b) of the Code.

(g) No sale, pledge or other transfer (a "Transfer") of any Notes shall be made unless that Transfer is made pursuant to an effective registration statement under the Securities Act, and effective registration or qualification under applicable state securities laws, or is made in a transaction that does not require such registration or qualification. If such a Transfer is made without registration under the Securities Act (other than in connection with the initial issuance thereof by the Issuer, the Placement Agent or the initial purchasers), then the Note Registrar shall refuse to register such Transfer unless it receives (and upon receipt, may conclusively rely upon) either: (i) a certificate from the Noteholder desiring to effect such Transfer substantially in the form attached as Exhibit D-1 hereto, and a certificate from such Noteholder's prospective transferee substantially in the form attached as either Exhibit D-2 hereto or as Exhibit D-3 hereto; or (ii) an Opinion of Counsel reasonably satisfactory to the Issuer and the Note Registrar to the effect that such Transfer may be made without registration under the Securities Act and/or applicable state securities laws (which Opinion of Counsel shall not be an expense of the Trust Estate or of the Issuer, the Servicer, the Trustee or the Note Registrar in their respective capacities as such), together with the written certification(s) as to the facts surrounding such Transfer from the Noteholder desiring to effect such Transfer and/or such Noteholder's prospective transferee on which such Opinion of Counsel is based. None of the Issuer, the Trustee or the Note Registrar is obligated to register or qualify the Notes under the Securities Act or any other securities law or to take any action not otherwise required under this Agreement to permit the transfer of any Note without registration or qualification. Any Holder of a Note desiring to effect such a Transfer shall, and upon acquisition of such a Note shall be deemed to have agreed to, indemnify the Trustee, the Note Registrar and the Issuer against any liability that may result if the Transfer is not so exempt or is not made in accordance with such federal and state laws. In connection with a Transfer of the Notes, the Issuer shall furnish upon request of a Noteholder to such Holder and any prospective purchaser designated by such Noteholder the information required to be delivered under paragraph (d)(4) of Rule 144A of the Securities Act.

(h) No Transfer of any Notes shall be made if such Transfer would result in the beneficial ownership of Notes by more than 75 Persons; provided, however, that no Transfer of Notes shall be made if the transferee of Notes is a Flow-Through Entity (as defined in Section 6.3(f)(viii)), unless such Flow-Through Entity is able to make and makes the acknowledgment in Section 6.3(f)(viii). The Trustee shall be authorized to rely on a determination by the Servicer or the Issuer, in written form, as to whether or not any Transfer is authorized under this Section 6.03(h). Each Noteholder, by its acceptance of a Note, acknowledges and agrees that the foregoing restriction on transfer of the Notes is reasonable given the potentially adverse treatment to the Trust and the Noteholders of classification of the Partnership as a "publicly traded partnership" within the meaning of Section 7704(b) of the Code.

(i) In no event shall a Note be transferred to an employee benefit plan, trust annuity or account subject to ERISA or a plan described in Section 4975(e)(1) of the Code (or any such plan, trust or account, including any Keogh (HR-10) plans, individual retirement accounts or annuities and other employee benefit plans subject to Section 408 of ERISA or Section 4975 of the Code being referred to herein as an "Employee Plan") or an entity, account or other pooled investment fund the underlying assets of which include or are deemed to include Employee Plan assets by reason of an Employee Plan's investment in the entity, account or other pooled

investment fund, unless the Holder or prospective transferee delivers to the Trustee an opinion of counsel (which counsel and opinion shall be reasonably acceptable to the Issuer, Servicer and Trustee) to the effect that (i) such transfer would not reasonably be likely to cause the underlying assets of the Trust to constitute Employee Plan assets, or (ii) that the transfer or sale of the Note to the prospective transferee, the subsequent management, administration, servicing and operation of the Trust and the ownership of the Note by the prospective transferee would not reasonably be likely to constitute a violation of the prohibited transaction rules of ERISA or the Code for which no statutory exception or administrative exemption applies. In connection with the delivery of such opinion, the Issuer, the Servicer, the Trustee and the Backup Servicer shall cooperate with the Holder and the prospective transferee and, upon reasonable request of such Holder or prospective transferee, provide such information as may be necessary to render or evaluate such opinion. Such opinion of counsel shall be at the expense of the Holder or the proposed transferee providing the opinion. The Issuer, Servicer, Trustee and Backup Trustee shall not be responsible for confirming or otherwise investigating whether a proposed transferee is an employee benefit plan, trust or account subject to ERISA, or described in Section 4975(e)(1) of the Code. Notwithstanding anything to the contrary herein, the foregoing restriction on sale or transfer to an Employee Plan or an entity, account or other pooled investment fund deemed to include Employee assets shall not apply to or prevent the initial issuance, transfer or sale, or any subsequent issuance, transfer or sale, of a Note to an insurance company, insurance servicer or insurance organization qualified to do business in a state that purchases Notes with funds held in one or more of its general accounts.

(j) To the extent permitted under applicable law, the Trustee shall be under no liability to any Person for any registration of transfer of any Note that is in fact not permitted by this Section 6.03 or for making any payments due to the Noteholder thereof or taking any other action with respect to such Noteholder under the provisions of this Agreement so long as the transfer was registered by the Trustee in accordance with the requirements of this Agreement.

#### SECTION 6.04 MUTILATED, DESTROYED, LOST OR STOLEN NOTES.

(a) If (i) any mutilated Note is surrendered to the Note Registrar, or the Note Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Note, and (ii) there is delivered to the Note Registrar, the Note Insurer, the Trustee and the Issuer such security or indemnity as may be required by them to save each of them harmless (the general obligation of an institutional investor that is investment grade rated being sufficient indemnity), then, in the absence of notice that such Note has been acquired by a bona fide purchaser, the Issuer shall execute and the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a new Note of like tenor and denomination or ownership interest, as applicable. In connection with the issuance of any new Note under this Section, the Issuer or the Trustee may require the payment by the Noteholder thereof of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

(b) If, after the delivery of such replacement Note or payment with respect to a destroyed, lost or stolen Note, a bona fide purchaser of the original Note in lieu of which such replacement Note was issued presents for payment such original Note, the Issuer and the Trustee shall be entitled to recover such replacement Note (or such payment) from the Person to whom it was delivered or any Person taking such replacement Note from such Person to whom such replacement Note was delivered or any assignee of any such Person, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided

therefor to the extent of any loss, damage, cost or expense incurred by the Issuer or the Trustee in connection therewith.

#### SECTION 6.05 PERSONS DEEMED OWNERS.

Prior to due presentation of a Note for registration of transfer, the Trustee, the Note Registrar and any of their respective agents may treat the Person in whose name any Note is registered as the owner of such Note for the purpose of receiving payments pursuant to Section 4.04 and for all other purposes whatsoever, and neither the Trustee, the Note Registrar nor any of their respective agents shall be affected by any notice to the contrary.

#### SECTION 6.06 ACCESS TO LIST OF NOTEHOLDERS' NAMES AND ADDRESSES.

The Note Registrar shall furnish or cause to be furnished to the Servicer, within 15 days after receipt by the Note Registrar of a written request therefor from the Servicer, a list of the names and addresses of the Noteholders as of the most recent Record Date. If three or more Noteholders, or one or more Noteholders evidencing not less than 25% of the Voting Interests (hereinafter referred to as "Applicants"), apply in writing to the Trustee, and such application states that the Applicants desire to communicate with other Noteholders with respect to their rights under this Agreement or under the Notes and such application is accompanied by a copy of the communication that such Applicants propose to transmit, then the Trustee shall, within five Business Days after the receipt of such application, afford such Applicants access, during normal business hours, to the current list of Noteholders as reflected in the Note Register. Every Noteholder, by receiving and holding a Note, agrees with the Servicer and the Trustee that neither the Servicer nor the Trustee shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Noteholders under this Agreement, regardless of the source from which such information was derived.

#### SECTION 6.07 SURRENDERING OF NOTES.

Each Noteholder shall surrender its Note within fourteen (14) days after receipt of the final payment received in connection therewith, whether by optional redemption of the Issuer or otherwise. Each Noteholder, by its acceptance of the final payment with respect to its Note, will be deemed to have relinquished any further right to receive payments under this Agreement and any interest in the Trust Estate. Each Noteholder shall indemnify and hold harmless the Issuer, the Trustee and any other Person against whom a claim is asserted in connection with such Noteholder's failure to tender the Note to the Trustee for cancellation.

#### SECTION 6.08 MAINTENANCE OF OFFICE OR AGENCY.

The Trustee shall maintain in the City of Minneapolis, Minnesota, an office or offices or agency or agencies where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Trustee in respect of the Notes and this Agreement may be served. The Trustee initially shall designate the Corporate Trust Office as its office for such purposes. The Trustee shall give prompt written notice to the Issuer, the Servicer and the Noteholders of any change in the location of the Note Register or any such office or agency.

## SECTION 6.09 CONFIDENTIAL INFORMATION.

Each purchaser of a Note or of a beneficial interest therein (a "Holder") shall be deemed to have agreed to comply by this Section 6.09 by accepting such Note or beneficial interest. Each Holder acknowledges that it may obtain information relating to the Servicer or the Issuer which is of a confidential and proprietary nature ("Proprietary Information"). Such Proprietary Information may include, but is not limited to, non-public trade secrets, know how, invention techniques, processes, programs, schematics, source documents, data, and financial information. Each Holder shall at all times, both during the term of this Agreement and for a period of three (3) years after its termination, keep in trust and confidence all such Proprietary Information, and shall not use such Proprietary Information other than as required to enforce its rights under its Note, nor shall any Holder disclose any such Proprietary Information without the written consent of the Servicer or the Issuer. Each Holder further agrees to immediately return all Proprietary Information (including copies thereof) in its possession, custody, or control upon termination of this Agreement for any reason.

No Holder shall disclose, advertise or publish the existence or the terms or conditions of this Agreement without prior written consent of the Servicer or the Issuer. Notwithstanding the foregoing, this Section 6.09 shall not prohibit disclosure of information that is required to be disclosed by each Holder pursuant to federal or state laws or regulation. In particular each Holder agrees that it shall not, without the prior consent of the Servicer or the Issuer, disclose the existence of this Agreement or any of the terms herein to any Person other than (i) counsel to each Holder (ii) an employee or director of each Holder with a need to know in order to implement this Agreement and only if such employee or director or counsel agrees to maintain the confidentiality of this Agreement or (iii) a bona fide purchaser or potential purchaser of the Note. The parties hereto agree that the Servicer and/or the Issuer shall have the right to enforce these nondisclosure provisions by an action for specific performance filed in any court of competent jurisdiction in the State of Kansas.

ARTICLE VII  
THE ISSUER

## SECTION 7.01 REPRESENTATIONS OF ISSUER.

The Issuer hereby makes the following representations on which the Trustee is relying in accepting the Receivables in trust and authenticating the Notes and the Note Insurer is relying in issuing the Policy. The representations shall speak as of the execution and delivery of this Agreement and shall survive the grant of a security interest in or the transfer of the Receivables to the Trustee.

(a) Organization and Good Standing. The Issuer is duly organized and validly existing as a corporation in good standing under the laws of the State of Delaware, with power and authority to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted, and had at all relevant times, and now has, power, authority and legal right to acquire, own, hold, transfer, assign and convey the Receivables.

(b) Due Qualification. The Issuer is duly qualified to do business as a foreign corporation in good standing, and has obtained all necessary licenses and approvals in Kansas and in all

other jurisdictions in which the ownership or lease of property or the conduct of its business requires such qualifications, licenses or approvals, the noncompliance with which would have a material adverse effect on the Note Insurer or the Noteholders.

(c) Power and Authority. The Issuer has the power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party, and to carry out their respective terms; the Issuer has full power and authority to grant a security interest in the Trust Estate and has duly authorized such grant to the Trustee by all necessary action; and the execution, delivery and performance by the Issuer of this Agreement and each of the other Transaction Documents to which it is a party has been duly authorized by all necessary action of the Issuer.

(d) Valid Transfers; Binding Obligations. This Agreement evidences a valid grant of a first priority perfected security interest under the UCC in the Receivables, and such other portion of the Trust Estate as to which a security interest may be perfected under the UCC, which is effective for so long as the Notes or the Note Insurer Obligations remain outstanding, enforceable against creditors of and purchasers from the Issuer, and each of the Transaction Documents to which the Issuer is a party constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally or by general equity principles.

(e) No Violation. The consummation of the transactions contemplated by this Agreement and the other Transaction Documents and the fulfillment of the terms of this Agreement and the other Transaction Documents do not conflict with, result in any breach of any of the terms or provisions of, nor constitute (with or without notice or lapse of time) a default under, its Certificate of Incorporation or Bylaws of the Issuer or any indenture, agreement or other instrument to which the Issuer is a party or by which it shall be bound, nor result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any such indenture, agreement or other instrument (other than this Agreement), nor violate any law, order, rule or regulation applicable to the Issuer of any court or of any federal or state regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Issuer or its properties, which breach, default, conflict, Lien or violation would have a material adverse effect on the rights or interests of the Noteholders or the Note Insurer.

(f) No Proceedings. There is no action, suit or proceeding before or by any court or governmental agency or body, domestic or foreign, now pending, or to the Issuer's knowledge, threatened, against or affecting the Issuer: (i) asserting the invalidity of this Agreement, the Notes or any of the other Transaction Documents to which the Issuer is a party, (ii) seeking to prevent the issuance of the Notes or the consummation of any of the transactions contemplated by this Agreement, or any of the other Transaction Documents, (iii) seeking any determination or ruling that might materially and adversely affect the performance by the Issuer of its obligations under, or the validity or enforceability of, this Agreement, the Notes or any other Transaction Documents, or (iv) relating to the Issuer and which might adversely affect the federal income tax attributes of the Notes.

(g) No Subsidiaries. The Issuer has no subsidiaries.

(h) Not an Investment Company. Neither the Issuer nor the Trust Estate is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act, and none of the issuance of the Notes, the execution

and delivery of the Transaction Documents to which the Issuer is a party, the acquisition by the Issuer of one or more Pools of Receivables, or the performance by the Issuer of its obligations under the Transaction Documents, or the use of the proceeds of the Notes by the Issuer will violate any provision of the Investment Company Act, or any rule, regulation or order issued by the Securities and Exchange Commission thereunder.

(i) No Violation of Securities Act. The Issuer has not offered or sold, and will not offer or sell, any Notes in any manner that would render the issuance and sale of the Notes a violation of the Securities Act, or any state securities or "Blue Sky" laws or require registration pursuant thereto, nor has it authorized, nor will it authorize, any Person to act in such manner. No registration under the Securities Act is required for the sale of the Notes as contemplated hereby, assuming the accuracy of the Purchaser's representations and warranties set forth in the Purchase Agreement and the compliance of Placement Agent with its obligations under the Placement Agreement.

(j) Truth and Completeness of Private Placement Memorandum. As of the Closing Date, the Private Placement Memorandum does not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(k) No Violation of Exchange Act or Regulations T, U or X. None of the transactions contemplated in the Transaction Documents (including the use of the proceeds from the sale of the Notes) will result in a violation of Section 8 of the Exchange Act, or any regulations issued pursuant thereto, including Regulations T, U and X of the Board of Governors of the Federal Reserve System, 12 C.F.R., Chapter II. The Issuer does not own nor does it intend to carry or purchase any "margin security" within the meaning of said Regulation U, including margin securities originally issued by it or any "margin stock" within the meaning of said Regulation U.

(l) All Tax Returns, True, Correct and Timely Filed. All material tax returns required to be filed by the Issuer in any jurisdiction have in fact been filed and all taxes, assessments, fees and other governmental charges upon the Issuer or upon any of its properties, income of franchises shown to be due and payable on such returns have been paid. To the best of the Issuers knowledge all such tax returns were true and correct and the Issuer knows of no proposed material additional tax assessment against it nor of any basis therefor. The provisions for taxes on the books of the Issuer are in accordance with generally accepted accounting principles.

(m) No Restriction on Issuer Affecting its Business. The Issuer is not a party to any contract or agreement, or subject to any charter or other restriction which materially and adversely affects its business nor has it agreed or consented to cause any of its properties to become subject to any Lien other than the Lien created hereby.

(n) Perfection of Security Interest. All filings and recordings as may be necessary to perfect the interest of the Issuer in the Receivables and such other portion of the Trust Estate as to which a security interest may be perfected under the UCC, have been accomplished and are in full force and effect. All filings and recordings against the Issuer required to perfect the security interest of the Trustee on such Receivables and such other portion of the Trust Estate as to which a security interest may be perfected under the UCC, have been accomplished and are in full force and effect. The Issuer will from time to time, at its own expense, execute and file such additional financing statements (including continuation statements) as may be necessary to ensure that at any time, the interest of the Issuer in all of the Receivables and such other

portion of the Trust Estate as to which a security interest may be perfected under the UCC, and the security interest of the Trustee on all of the Receivables and such other portion of the Trust Estate as to which a security interest may be perfected under the UCC are fully protected.

(o) All Taxes, Fees and Charges Relating to Transaction and Transaction Documents Paid. Any taxes, fees and other governmental charges in connection with the execution and delivery of the Transaction Documents and the execution and delivery and sale of the Notes have been or will be paid by the Issuer at or prior to the Closing Date.

(p) No Requirement that Issuer File a Registration Statement. There are no contracts, agreements or understandings between the Issuer and any person granting said person the right to require the Issuer to file a registration statement under the Securities Act with respect to any Notes owned or to be owned by such person.

(q) No Broker, Finder or Financial Adviser Other than Rothschild. The Issuer or any of its respective officers, directors, employees or agents has not employed any broker, finder or financial adviser other than Rothschild Inc. or incurred any liability for fees or commissions to any person other than Rothschild Inc. in connection with the offering, issuance or sale of the Notes.

(r) Notes Authorized, Executed, Authenticated, Validly Issued and Outstanding. The Notes have been duly and validly authorized and, when duly and validly executed and authenticated by the Trustee in accordance with the terms of this Agreement and delivered to and paid for by each Purchaser as provided herein, will be validly issued and outstanding and entitled to the benefits hereof.

(s) Location of Chief Executive Office and Records. The principal place of business and chief executive office of the Issuer, and the office where Issuer maintains all of its corporate records, is located at 3219 Inverness Road, Hutchinson, Kansas 67502; provided that, at any time after the Closing Date, upon 30 days prior written notice to each of the Servicer, the Note Insurer and the Trustee, the Issuer may relocate its principal place of business and chief executive office, and/or the office where it maintains all of its records, to another location within the United States to the extent that the Issuer shall have taken all actions necessary or reasonably requested by the Servicer, the Trustee or the Note Insurer to amend its existing financing statements and continuation statements, and file additional financing statements and to take any other steps reasonably requested by the Servicer, the Trustee or the Note Insurer to further perfect or evidence the rights, claims or security interests of any of the Servicer, the Trustee or the Note Insurer under any of the Transaction Documents.

(t) Ownership of the Issuer. One hundred percent (100%) of the issued and outstanding shares of capital stock of the Issuer are directly owned (both beneficially and of record) by Midland Credit Management, Inc. Such shares are validly issued, fully paid and nonassessable and no one other than Midland Credit Management, Inc. has any options, warrants or other rights to acquire shares of capital stock of and from the Issuer.

(u) Solvency. The Issuer, both prior to and after giving effect to each transfer and sale of Receivables identified in a Schedule of Receivables on the Closing Date (i) is not "insolvent" (as such term is defined in Section 101(32)(A) of the Bankruptcy Code); (ii) is able to pay its debts as they become due; and (iii) does not have unreasonably small capital for the business in which it is engaged or for any business or transaction in which it is about to engage.

(v) Treatment. In its books and records, the Issuer will treat each transfer of Receivables pursuant to the Receivables Contribution Agreement and the Receivables Sale Agreement as an absolute sale and assignment of Midland Credit Management Inc.'s and Midland Funding 98-A Corporation's full right, title and ownership interest in each such Receivable and the Issuer has not in any other manner accounted for or treated the transactions.

(w) Governmental and Other Consents. No consents, approvals, authorization or orders of, registration or filing with, or notice to any governmental authority or court is required for the execution, delivery and performance of, or compliance with, the Transaction Documents by the Issuer, except such consent, approvals, authorizations, filings and notices that have already been made or obtained.

(x) Enforceability of Transaction Documents. Each of the Transaction Documents to which it is a party has been duly authorized, executed and delivered by the Issuer and constitutes the legal, valid and binding obligation of the Issuer, enforceable against it in accordance with its terms.

(y) Accuracy of Information. The representations and warranties of the Issuer in the Transaction Documents are true and correct in all material respects as of the Closing Date.

(z) Separate Identity. The Issuer is operated as an entity separate from Midland Credit Management, Inc. In addition, the Issuer:

(i) has its own board of directors,

(ii) has at least two independent directors who satisfy the definition of Independent Director provided in the Certificate of Incorporation who are not direct, indirect, or beneficial stockholders, officers, directors, employees, affiliates, associates, customers or suppliers of any of the Servicer or its Affiliates (other than, in the case of the Issuer, directors thereof) or relatives of any thereof,

(iii) maintains its assets in a manner which facilitates their identification and segregation from those of the Servicer,

(iv) has all office furniture, fixtures and equipment necessary to operate its business,

(v) conducts all intercompany transactions with the Servicer on terms which the Issuer reasonably believes to be on an arm's-length basis,

(vi) has not guaranteed any obligation of the Servicer or any of its Affiliates, nor has it had any of its obligations guaranteed by any such entities and has not held itself out as responsible for debts of any such entity or for the decisions or actions with respect to the business affairs of any such entity,

(vii) has not permitted the commingling or pooling of its funds or other assets with the assets of the Servicer (other than in respect of items of payment and funds which may be commingled until deposit into the Collection Account in accordance with this Agreement),

(viii) has separate deposit and other bank accounts to which neither the Servicer nor any of its Affiliates has any access and does not at any time pool any of its funds with those of the Servicer or any of its Affiliates, except for such funds which may be commingled until deposit into the Collection Account in accordance with this Agreement,

(ix) maintains financial records which are separate from those of the Servicer or any of its Affiliates,

(x) compensates all employees, consultants and agents, or reimburses the Servicer from the Issuer's own funds, for services provided to the Issuer by such employees, consultants and agents,

(xi) conducts all of its business (whether in writing or orally) solely in its own name,

(xii) is not, directly or indirectly, named as a direct or contingent beneficiary or loss payee on any insurance policy covering the property of the Servicer or any of its Affiliates and has entered into no agreement to be named as such a beneficiary or payee,

(xiii) acknowledges that the Trustee and the Note Insurer are entering into the transactions contemplated by this Agreement and the other Transaction Documents in reliance on the Issuer's identity as a separate legal entity from the Servicer, and

(xiv) practices and adheres to company formalities such as complying with its By-laws and resolutions and the holding of regularly scheduled board of directors meetings.

(aa) ERISA Compliant. The Issuer and all ERISA Affiliates are in compliance with all applicable federal or state laws, including the rule and regulations promulgated thereunder, relating to discrimination in the hiring, promotion or pay of employees, any applicable federal or state wages and hours law, and the provisions of the ERISA applicable to its business, except where such noncompliance would not, individually or in the aggregate, have a Material Adverse Effect. The employee benefit plans, including employee welfare benefit plans (the "Employee Plans") of the Issuer and all ERISA Affiliates have been operated in compliance with the Code, all regulations, rulings and announcements promulgated or issued thereunder and all other applicable governmental laws and regulations (except to the extent such noncompliance would not, individually or in the aggregate, have a Material Adverse Effect). No reportable event under Section 4043(b) of ERISA or any prohibited transaction under Section 406 of ERISA has occurred with respect to any employee benefit Plan maintained by the Issuer or any ERISA Affiliate (except to the extent that any such event or transaction would not, individually or in the aggregate, have a Material Adverse Effect). There are no pending or, to the Issuer's best knowledge, threatened, claims by or on behalf of any employee plan, by any employee or beneficiary covered under any such plan or by any governmental authority or otherwise involving such plans or any of their respective fiduciaries (other than for routine claims for benefits). All Employee Plans that are group health plans have been operated in compliance with the group health plan continuation coverage requirements of Section 4980B of the Code in all material respects (except to the extent that such noncompliance would not, individually or in the aggregate, have a Material Adverse Effect). "Material Adverse Effect" means, when used in

connection with the Issuer, any development, change or effect that is materially adverse to the business, properties, assets, net worth, condition (financial or other), or results of operations of the Issuer or that reasonably could be expected to be materially adverse to the prospects of the Issuer. Neither the Issuer nor any of its ERISA Affiliates have a "defined benefit plan" as defined in ERISA.

#### SECTION 7.02 REACQUISITION OF RECEIVABLES UPON BREACH.

(a) Upon discovery by the Issuer or the Servicer (which discovery shall be deemed to have occurred upon the receipt of notice by a Responsible Officer of the Issuer or the Servicer) or upon the actual knowledge of a Responsible Officer of the Trustee of a breach of any of the representations and warranties of the Issuer set forth in Section 7.01, the party discovering such breach shall give prompt written notice to the others. If such breach has or would have a material adverse effect on the rights or interests of the Noteholders or the Note Insurer with respect to all or a portion of the Receivables, the Issuer shall reacquire the Receivables and, if necessary, the Issuer shall enforce the obligation of the Seller under the Receivables Sale Agreement, as the case may be, to reacquire the Receivables from the Issuer, unless such breach shall have been cured within thirty (30) days after the earlier to occur of the discovery of such breach by the Issuer or receipt of written notice of such breach by the Issuer, such that the relevant representation and warranty shall be true and correct in all material respects as if made on such day, and the Issuer shall have delivered to the Trustee a certificate of any Responsible Officer of the Issuer describing the nature of such breach and the manner in which the relevant representation and warranty became true and correct. This repurchase obligation shall pertain to all representations and warranties of the Issuer contained in Section 7.01, whether or not the Issuer has knowledge of the breach at the time of the breach or at the time the representations and warranties were made. The Issuer will be obligated to accept the reassignment of the Receivables as set forth above on the Remittance Date next succeeding the date on which such reassignment obligation arises. In consideration of the reacquisition of the Receivables, on such Remittance Date, the Issuer shall remit the aggregate Acquisition Payments of the Receivables to the Note Account in the manner specified in Section 4.03. The payment of such consideration, in immediately available funds, will be considered a payment in full of the Receivables.

(b) Upon any such reacquisition, the Trustee on behalf of the Noteholders and the Note Insurer shall, without further action, be deemed to have released its interest in, to and under the Removed Receivables, all monies due or to become due with respect thereto after the aforementioned Remittance Date and all proceeds thereof. The Trustee shall execute such documents and instruments and take such other actions as shall be reasonably requested by the Issuer to effect the security interest release pursuant to this Section. Notwithstanding the foregoing, the Controlling Party may by delivery of prior written notice waive any breach and repurchase the obligation of the Issuer pursuant to this Section 7.02. The Trustee shall have no duty to conduct any affirmative investigation as to the occurrence of any condition requiring the reacquisition of the Receivables pursuant to this Section, except as otherwise provided in Section 10.02.

#### SECTION 7.03 LIABILITY OF ISSUER.

The Issuer shall be liable in accordance with this Agreement only to the extent of the obligations in this Agreement specifically undertaken by the Issuer in such capacity under this Agreement and shall have no other obligations or liabilities hereunder.

SECTION 7.04 MERGER OR CONSOLIDATION OF, OR ASSUMPTION OF THE OBLIGATIONS OF, THE ISSUER; CERTAIN LIMITATIONS.

(a) Merger, Etc. Any corporation (i) into which the Issuer may be merged or consolidated, (ii) which may result from any merger, conversion or consolidation to which the Issuer shall be a party, or (iii) which may succeed to all or substantially all of the business of the Issuer, which corporation or in any of the foregoing cases executes an agreement of assumption to perform every obligation of the Issuer under this Agreement, shall be the successor to the Issuer under this Agreement without the execution or filing of any document or any further act on the part of any of the parties to this Agreement, except that if the Issuer in any of the foregoing cases is not the surviving entity, then the surviving entity shall execute an agreement of assumption to perform every obligation of the Issuer hereunder, and the surviving entity shall have taken all actions necessary or reasonably requested by the Issuer, the Trustee or the Note Insurer to amend its existing financing statements and continuation statements, and file additional financing statements and to take any other steps reasonably requested by the Issuer, the Trustee or the Note Insurer to further perfect or evidence the rights, claims or security interests of any of the Issuer, the Trustee or the Note Insurer under any of the Transaction Documents. The Issuer (1) shall provide notice of any merger, consolidation or succession pursuant to this Section to the Rating Agency, the Trustee, the Note Insurer, the Noteholders and the Placement Agent, (2) for so long as the Notes are outstanding, shall receive from the Rating Agency a letter to the effect that such merger, consolidation or succession will not result in a qualification, downgrading or withdrawal of the then-current rating on the Notes, and (3) shall receive from the Controlling Party its prior written consent to such merger, consolidation or succession, absent which consent, the Issuer shall not become a party to such merger, consolidation or succession.

(b) Certain Limitations.

(i) The business, activities and purpose of the Issuer shall be limited as specified in its Certificate of Incorporation

(ii) So long as any outstanding debt of the Issuer or the Notes is rated by the Rating Agency, the Issuer shall not issue unsecured notes or otherwise borrow money unless (A) the Issuer has made a written request to the Rating Agency to issue unsecured notes or incur indebtedness and such notes or borrowings are rated by the Rating Agency the same as or higher than the rating afforded any outstanding rated debt or the Notes, and (B) such notes or borrowings (1) are fully subordinated (and which shall provide for payment only after payment in respect of all outstanding rated debt and/or the Notes) or are nonrecourse against any assets of the Issuer other than the assets pledged to secure such notes or borrowings, (2) do not constitute a claim against the Issuer in the event such assets are insufficient to pay such notes or borrowings and (3) where such notes or borrowings are secured by the collateral securing the rated debt or the Notes, such notes or borrowings are fully subordinated (and which shall provide for payment only after payment in respect of all outstanding rated debt and/or the Notes) to such rated debt or the Notes.

(iii) The Issuer shall not issue unsecured notes or otherwise borrow money, or otherwise grant any consensual Lien in favor of any Person (other than the Lien granted pursuant hereto) absent the prior written consent of the Controlling Party.

(c) Unanimous Consent. Notwithstanding any other provision of this Section and any provision of law, the Issuer shall not do any of the following without the affirmative unanimous vote of all members of the Board of Directors of the Issuer (which includes both Independent Directors, as such term is defined in the Certificate of Incorporation).

(i) (A) dissolve or liquidate, in whole or in part, or institute proceedings to be adjudicated bankrupt or insolvent, (B) consent to the institution of bankruptcy or insolvency proceedings against it, (C) file a petition seeking or consent to reorganization or relief under any applicable federal or state law relating to bankruptcy, (D) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the corporation or a substantial part of its property, (E) make any assignment for the benefit of creditors, (F) admit in writing its inability to pay its debts generally as they become due, or (G) take any action in furtherance of the actions set forth in clauses (A) through (F) above; or

(ii) merge or consolidate with or into any other person or entity or sell or lease its property and all or substantially all of its assets to any person or entity; or

(iii) modify any provision of its Certificate of Incorporation or Bylaws.

#### SECTION 7.05 LIMITATION ON LIABILITY OF ISSUER AND OTHERS.

The Issuer and any director or officer or employee or agent of the Issuer may rely in good faith on the advice of counsel or on any document of any kind, prima facie properly executed and submitted by any Person respecting any matters arising under this Agreement. The Issuer shall not be under any obligation to appear in, prosecute or defend any legal action that is not incidental to its obligations as Issuer under this Agreement or as the acquirer of the Receivables under the Receivables Contribution Agreement, and that in its opinion may involve it in any expense or liability.

#### SECTION 7.06 ISSUER MAY OWN NOTES.

The Issuer and any Person controlling, controlled by or under common control with the Issuer may, in its individual or any other capacity, become the owner or pledgee of one or more Notes with the same rights as it would have if it were not the Issuer or an affiliate thereof, except as otherwise specifically provided in the definition of the term "Noteholder." The Notes so owned by or pledged to the Issuer or such controlling or commonly controlled Person shall have an equal and proportionate benefit under the provisions of this Agreement, without preference, priority or distinction as among any of the Notes, except as set forth herein with respect to, among other things, certain rights to vote, consent or give directions to the Trustee as a Noteholder.

#### SECTION 7.07 COVENANTS OF ISSUER.

(a) Bylaws and Certificate of Incorporation. The Issuer hereby covenants not to change, or agree to any change of, its Bylaws or Certificate of Incorporation without (i) notice to the Trustee, the Rating Agency and the Note Insurer, and (ii) the prior written consent of the Controlling Party.

(b) Merger of the Issuer, Asset Sales and Purchases. Without the prior written consent of the Controlling Party, the Issuer shall not merge with or into or, or transfer or sell all or substantially all of its assets to, or buy all or substantially all the assets of, any person.

(c) Preservation of Existence. The Issuer hereby covenants to do or cause to be done all things necessary on its part to preserve and keep in full force and effect its existence as a corporation, and to maintain each of its licenses, approvals, registrations or qualifications in all jurisdictions in which its ownership or lease of property or the conduct of its business requires such licenses, approvals, registrations or qualifications, except for failures to maintain any such licenses, approvals, registrations or qualifications which, individually or in the aggregate, would not have a material adverse effect on the ability of Issuer to perform its obligations hereunder or under any of the other Transaction Documents.

(d) Compliance with Laws. The Issuer hereby covenants to comply in all material respects with all applicable laws, rules and regulations and orders of any governmental authority, the noncompliance with which would have a material adverse effect on the business, financial condition or results of operations of the Issuer or on the ability of the Issuer to repay the Notes or the Note Insurer Obligations, or perform any of its other obligations under this Agreement or the other Transaction Documents.

(e) Payment of Taxes. The Issuer hereby covenants to pay and discharge promptly or cause to be paid and discharged promptly all taxes, assessments and governmental charges or levies imposed upon the Issuer or upon its income and profits, or upon any of its property or any part thereof, before the same shall become in default, provided that the Issuer shall not be required to pay and discharge any such tax, assessment, charge or levy so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings and the Issuer shall have set aside on its books adequate reserves with respect to any such tax, assessments, charge or levy so contested, or so long as the failure to pay any such tax, assessment, charge or levy would not have a material adverse effect on the ability of the Issuer to perform its obligations hereunder.

(f) Exercise of Rights Under the Transaction Documents. The Issuer hereby covenants to exercise its rights as the Purchaser under the Receivables Contribution Agreement and take such other action in connection with the Transaction Documents as may be appropriate or desirable, taking into account the associated costs, to maximize the collection of amounts payable to the Trust Estate.

(g) Investments. The Issuer hereby covenants that it will not without the prior written consent of the Controlling Party, acquire or hold any indebtedness for borrowed money of another person, or any capital stock, debentures, partnership interests or other ownership interests or other securities of any Person, other than the Receivables acquired under any Receivables Contribution Agreement.

(h) Keeping Records and Books of Account. The Issuer hereby covenants and agrees to maintain and implement administrative and operating procedures (including, without limitation, an ability to recreate records evidencing the Receivables in the event of the destruction or loss of the originals thereof) and keep and maintain, all documents, books, records and other information reasonably necessary or advisable for the collection of all Receivables (including, without limitation, records adequate to permit the daily identification of all collections with respect to, and adjustments of amounts payable under, each Receivable).

(i) Benefit Plan. The Issuer hereby covenants and agrees to comply in all material respects with the provisions of ERISA, the Code, and all other applicable laws, and the regulations and interpretations thereunder to the extent applicable, with respect to each Benefit Plan. Issuer covenants that it will not:

(i) engage in any non-exempt prohibited transaction (within the meaning of Code Section 4975 or ERISA Section 406) with respect to any Benefit Plan which would result in a material liability to the Issuer;

(ii) permit to exist any accumulated funding deficiency as defined in Section 302(a) of ERISA and Section 412(a) of the Code, with respect to any Benefit Plan which is subject to Section 302(q) of ERISA or 412 of the Code; or

(iii) terminate any Benefit Plan of the Issuer or any ERISA Affiliate if such termination would result in any material liability to the Issuer or an ERISA Affiliate.

(j) No Release. The Issuer shall not take any action and shall use its best efforts not to permit any action to be taken by others that would release any Person from any of such Persons covenants or obligations under any document, instrument or agreement included in the Trust Estate, or which would result in the amendment, hypothecation, subordination, termination or discharge of, or impair the validity or effectiveness of, any such document, instrument or agreement.

(k) Separate Identity. The Issuer hereby covenants and agrees to take all actions required to maintain the Issuers status as a separate legal entity. Without limiting the foregoing, the Issuer shall:

(i) conduct all of its business, and make all communications to third parties (including all invoices (if any), letters, checks and other instruments) solely in its own name (and not as a division of any other Person), and require that its employees, if any, when conducting its business identify themselves as such (including, without limitation, by means of providing appropriate employees with business or identification cards identifying such employees as the Issuer's employees);

(ii) compensate all employees, consultants and agents directly or indirectly through reimbursement of the Servicer, from the Issuer's bank accounts, for services provided to the Issuer by such employees, consultants and agents and, to the extent any employee, consultant or agent of the Issuer is also an employee, consultant or agent of the Servicer, allocate the compensation of such employee, consultant or agent between the Issuer and the Servicer on a basis which reflects the respective services rendered to the Issuer and the Servicer;

(iii) (A) pay its own incidental administrative costs and expenses from its own funds, (B) allocate all other shared overhead expenses (including, without limitation, telephone and other utility charges, the services of shared employees, consultants and agents, and reasonable legal and auditing expenses) which are not reflected in the Servicing Fee, and other items of cost and expense shared between the Issuer and the Servicer, on the basis of actual use to the extent

practicable, and to the extent such allocation is not practicable, on a basis reasonably related to actual use or the value of services rendered;

(iv) at all times have at least two (2) independent directors who satisfy the definition of Independent Director provided in the Certificate of Incorporation, and have at least one officer responsible for managing its day-to-day business and manage such business by or under the direction of its board of directors;

(v) maintain its books and records separate from those of any Affiliate;

(vi) prepare its financial statements separately from those of its Affiliates and ensure that any consolidated financial statement have notes to the effect that the Issuer is a separate entity whose creditors have a claim on its assets prior to those assets becoming available to its equity holders and therefore to any of their respective creditors, as the case may be;

(vii) not commingle its funds or other assets with those of any of its Affiliates (other than in respect of items of payment or funds which may be commingled until deposit into the Collection Account in accordance with this Agreement), and not to hold its assets in any manner that would create an appearance that such assets belong to any such Affiliate, not maintain bank accounts or other depository accounts to which any such Affiliate is an account party, into which any such Affiliate makes deposits or from which any such Affiliate has the power to make withdrawals, and not act as an agent or representative of any of its Affiliates in any capacity;

(viii) not permit any of its Affiliates to pay the Issuer's operating expenses;

(ix) not guarantee any obligation of any of its Affiliates nor have any of its obligations guaranteed by any such Affiliate (either directly or by seeking credit based on the assets of such Affiliate), or otherwise hold itself out as responsible for the debts of any Affiliate;

(x) maintain at all times stationery separate from that of any Affiliate and have all its officers and employees conduct all of its business solely in its own name;

(xi) hold regular meetings of its board of directors in accordance with the provisions of its Certificate of Incorporation and otherwise take such actions as are necessary on its part to ensure that all corporate procedures required by its Certificate of Incorporation and Bylaws are duly and validly taken;

(xii) respond to any inquires with respect to ownership of a Receivable by stating that it is the owner of such contributed Receivable, and, if requested to do so, that the Trustee has been granted a security interest in such Receivable;

(xiii) on or before March 31 of each year, beginning in 2000, the Issuer shall deliver to the Trustee an Officer's Certificate stating that Issuer has, during the preceding year, observed all of the requisite company formalities and

conducted its business and operations in such a manner as required for the Issuer to maintain its separate company existence from any other entity; and

(xiv) take such other actions as are necessary on its part to ensure that the facts and assumptions set forth in the non-consolidation opinion delivered by Issuer's counsel remain true and correct at all times.

(l) Compliance with all Transaction Documents. The Issuer hereby covenants and agrees to comply in all material respects with the terms of, employ the procedures outlined in and enforce the obligations of the parties to all of the Transaction Documents to which the Issuer is a party, and take all such action to such end as may be from time to time reasonably requested by the Trustee, and/or the Controlling Party, maintain all such Transaction Documents in full force and effect and make to the parties thereto such reasonable demands and requests for information and reports or for action as the Issuer is entitled to make thereunder and as may be from time to time reasonably requested by the Trustee.

(m) No Sales, Liens, Etc. Against Receivables and Trust Property. The Issuer hereby covenants and agrees, except for releases specifically permitted hereunder, not to sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist, any Lien (other than the Lien created hereby) upon or with respect to, any Receivables or Trust Estate, or any interest in either thereof, or upon or with respect to any Account, or assign any right to receive income in respect thereof. The Issuer shall promptly, but in no event later than one (1) Business Day after a Responsible Officer has obtained actual knowledge thereof, notify the Trustee of the existence of any Lien on any Receivables or Trust Estate, and the Issuer shall defend the right, title and interest of each of the Issuer and the Trustee in, to and under the Receivables and Trust Estate, against all claims of third parties.

(n) No Change in Business. The Issuer covenants that it shall not make any change in the character of its business.

(o) No Change in Name, Etc. The Issuer covenants that it shall not make any change to its corporate name, or use any trade names, fictitious names, assumed names or "doing business as" names.

(p) No Institution of Insolvency Proceedings. The Issuer covenants that it shall not institute Insolvency Proceedings with respect to the Issuer or any Affiliate thereof or consent to the institution of Insolvency Proceedings against the Issuer or any affiliate thereof or take any action in furtherance of any such action, or seek dissolution or liquidation in whole or in part of the Issuer or any Affiliate thereof.

(q) No Change in Chief Executive Office or Location of Records. The Issuer covenants that it shall maintain its principal place of business and chief executive office, and the office where it maintains its records, at 3219 Inverness Road, Hutchinson, KS 67502; provided that, at any time after the Closing Date, upon 30 days' prior written notice to each of the Servicer, the Note Insurer and the Trustee, the Issuer may relocate its principal place of business and chief executive office, and/or the office where it maintains all of its records, to another location within the United States to the extent that the Issuer shall have taken all actions necessary or reasonably requested by the Servicer, the Trustee or the Note Insurer to amend its existing financing statements and continuation statements, and file additional financing statements and to take any other steps reasonably requested by the Servicer, the Trustee or the Note Insurer to further perfect or evidence the rights, claims or security interests of any of the Servicer, the

Trustee or the Note Insurer under any of the Transaction Documents. Each Receivable File shall be kept by the Servicer at its offices at 4310 East Broadway Road, Phoenix, Arizona 85040, 4302 East Broadway Road, Phoenix, Arizona 85040 or at such other office of the Servicer permitted pursuant to Section 2.06(b).

(r) Access to Certain Documentation and Information. The Issuer shall provide the Note Insurer, the Trustee and the Noteholders with reasonable access to the documentation relating to the Receivables required to be maintained at the location described in Section 7.07(q). In each case, access to documentation relating to the Receivables shall be afforded without charge but only upon reasonable request and during normal business hours at the offices of the Issuer. Nothing in this Section shall impair the obligation of the Issuer to observe any applicable law prohibiting disclosure of information regarding the Obligors, which obligation shall be evidenced by an Opinion of Counsel to such effect, and the failure of the Issuer to provide access as provided in this Section as a result of such obligation shall not constitute a breach of this Section.

(s) Benefit Plan. The Issuer hereby covenants and agrees to comply in all material respects with the provisions of ERISA, the Code, and all other applicable laws, and the regulations and interpretations thereunder to the extent applicable, with respect to each Benefit Plan. Issuer covenants that it will not, and it will cause any ERISA Affiliate to not:

(i) engage in any non-exempt prohibited transaction (within the meaning of Code Section 4975 or ERISA Section 406) with respect to any Benefit Plan which would result in a material liability to the Issuer or the Servicer;

(ii) permit to exist any accumulated funding deficiency, as defined in Section 302(a) of ERISA and Section 412(a) of the Code, with respect to any Benefit Plan of the Issuer or any ERISA affiliate which is subject to Section 302(q) of ERISA or 412 of the Code;

(iii) terminate any Benefit Plan of the Issuer or any ERISA Affiliate so as to result in any material liability to the Issuer or an ERISA Affiliate; or

(iv) create any defined benefit plan (as defined in ERISA).

#### ARTICLE VIII THE SERVICER

##### SECTION 8.01 REPRESENTATIONS OF SERVICER.

The Servicer hereby makes the following representations on which the Trustee is relying in accepting the Receivables in trust and authenticating the Notes and the Note Insurer is relying in issuing the Policy. The representations shall speak as of the execution and delivery of this Agreement and shall survive the grant of a security interest to the Trustee.

(a) Organization and Good Standing. The Servicer is duly organized and validly existing as a corporation in good standing under the laws of the State of its incorporation, with corporate power and authority to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted, and had at all relevant times, and now has, corporate power, authority and legal right to acquire, own, hold, transfer, convey and

service the Receivables and to hold the Receivable Files as custodian on behalf of the Issuer and Trustee.

(b) Due Qualification. The Servicer is duly qualified to do business as a foreign corporation in good standing, and has obtained all necessary licenses and approvals in all jurisdictions in which the ownership or lease of property or the conduct of its business (including the servicing of the Receivables as required by this Agreement) requires such qualification, licenses and approvals except where the failure to be qualified or to obtain such qualifications, licenses and approvals would not materially and adversely affect the rights or interests of any of the Noteholders, the Note Insurer or the Trust Estate.

(c) Power and Authority. The Servicer has the corporate power and authority to execute and deliver this Agreement and each of the other Transaction Documents to which it is a party, and to carry out its terms; and the execution, delivery and performance of this Agreement has been duly authorized by the Servicer by all necessary corporate action.

(d) Binding Obligations. This Agreement and each of the other Transaction Documents to which the Servicer is a party constitutes a legal, valid and binding obligation of the Servicer enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally or by general principles of equity.

(e) No Violation. The consummation of the transactions contemplated by this Agreement and each of the other Transaction Documents and the fulfillment of the terms of this Agreement and each of the other Transaction Documents does not conflict with, result in any breach of any of the terms and provisions of, nor constitute (with or without notice or lapse of time) a default under, the articles of incorporation or bylaws of the Servicer, or conflict with or breach any of the material terms or provisions of, or constitute (with or without notice or lapse of time) a default under, any indenture, agreement or other instrument to which the Servicer is a party or by which it shall be bound; nor result in the creation or imposition of any Lien upon any of its properties pursuant to the terms of any such indenture, agreement or other instrument (other than this Agreement); nor violate, any law, order, rule or regulation applicable to the Servicer of any court or of any federal or state regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Servicer or its properties; which breach, default, conflict, Lien or violation would have, or would have, a material adverse effect on the rights or interests of the Noteholders or the Note Insurer.

(f) No Proceedings. There is no action, suit or proceeding before or by any court or governmental agency or body, domestic or foreign, now pending, or to the Servicer's knowledge, threatened, against or affecting the Servicer: (i) asserting the invalidity of this Agreement, the Notes, or any of the other Transaction Documents, (ii) seeking to prevent the issuance of the Notes or the consummation of any of the transactions contemplated by this Agreement or any of the other Transaction Documents, (iii) seeking any determination or ruling that could reasonably be expected to materially and adversely affect the performance by the Servicer of its obligations under, or the validity or enforceability of, this Agreement, the Notes or any of the other Transaction Documents, or (iv) relating to the Servicer and which might adversely affect the federal income tax attributes of the Notes.

(g) No Subsidiaries. The Servicer has no subsidiaries other than the Issuer, Midland Receivables 98-1 Corporation and Midland Funding 98-A Corporation.

(h) Not an Investment Company. The Servicer is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act, and none of the issuance of the Notes, the execution and delivery of the Transaction Documents to which the Servicer is a party, or the performance by the Servicer of its obligations thereunder, will violate any provision of the Investment Company Act, or any rule, regulation or order issued by the Securities and Exchange Commission thereunder.

(i) Year 2000. The Servicer represents and warrants that, to the best of its knowledge, its computer and other systems used in servicing the Receivables currently are capable of operating in a manner so that on and after January 1, 2000 (i) the Servicer can service the Receivables in accordance with the terms of this Agreement and (ii) the Servicer can operate its business in the same manner as it is operating on the date hereof.

(j) Finders Fee. No broker, finder or financial adviser other than Rothschild Inc. has been employed by any of the Servicer or the Issuer in connection with the offering and sale of the Notes or the transactions contemplated hereby and neither the Servicer nor the Issuer has incurred any liability for fees or commissions to any person other than Rothschild Inc. in connection with the offering and sale of the Notes or the transactions contemplated hereby.

(k) No Violation of Securities Act. The Servicer has not offered or sold, and will not offer or sell, any Notes in any manner that would render the issuance and sale of the Notes a violation of the Securities Act or any state securities or "Blue Sky" laws or require registration pursuant thereto, nor has it authorized, nor will it authorize, any Person to act in such manner. No registration under the Securities Act is required for the sale of the Notes as contemplated hereby, assuming the accuracy of the Purchaser's representations and warranties set forth in any Purchase Agreement and satisfaction by the Placement Agent of its obligations set forth in paragraph 7 of the Placement Agency Agreement.

(l) No Violation of Exchange Act or Regulations T, U or X. None of the transactions contemplated in the Transaction Documents (including the use of the proceeds from the sale of the Notes) will result in a violation of Section 7 of the Securities and Exchange Act, or any regulations issued pursuant thereto, including Regulations T, U and X of the Board of Governors of the Federal Reserve System, 12 C.F.R., Chapter II.

#### SECTION 8.02 LIABILITY OF SERVICER; INDEMNITIES.

(a) Obligations. The Servicer shall be liable in accordance herewith only to the extent of the obligations specifically undertaken by the Servicer under this Agreement and shall have no other obligations or liabilities under this Agreement. Such obligations shall include the following:

(i) the Servicer shall indemnify, defend and hold harmless the Trustee, the Note Insurer and the Trust Estate from and against any taxes that may at any time be asserted against the Trustee or the Trust Estate with respect to the transactions contemplated in this Agreement or any of the other Transaction Documents, including, without limitation, any sales, gross receipts, general corporation, tangible or intangible personal property, privilege or license taxes (but not including any taxes asserted with respect to, and as of the date of, the pledge of the Receivables to the Trust, the issuance and original sale of the Notes, or asserted with respect to ownership of the Receivables, or federal, state or local income or franchise taxes or any other tax, or other income taxes arising out of payments on the Notes, or any interest or penalties with respect thereto or

arising from a failure to comply therewith) and costs and expenses in defending against the same;

(ii) the Servicer shall indemnify, defend and hold harmless the Trustee, the Trust Estate, the Noteholders and the Note Insurer from and against any and all costs, expenses, losses, claims, damages and liabilities to the extent that such cost, expense, loss, claim, damage or liability arose out of, and was imposed upon the Trustee, the Trust Estate, any Noteholder or the Note Insurer through the gross negligence, willful misfeasance or bad faith of the Servicer in connection with the performance of its duties under this Agreement and the other Transaction Documents, or by reason of the breach by the Servicer of any of its representations, warranties or covenants hereunder or under any of the other Transaction Documents; and

(iii) the Servicer shall indemnify, defend and hold harmless the Trustee from and against all reasonable costs, expenses, losses, claims, damages and liabilities arising out of or incurred in connection with the acceptance or performance of the trusts and duties contained in this Agreement, except to the extent that such cost expense, loss, claim, damage or liability: (A) shall be due to the willful misfeasance, bad faith or gross negligence of the Trustee, (B) shall arise from the breach by the Trustee of any of its representations or warranties set forth in Section 10.14, (C) relates to any tax other than the taxes with respect to which either the Issuer or the Servicer shall be required to indemnify the Trustee, or (D) shall arise out of or be incurred in connection with the performance by the Trustee of the duties as the Backup Servicer under this Agreement.

(b) Expenses. Indemnification under this Section shall include, without limitation, reasonable fees and expenses of counsel and expenses of litigation. If the Servicer has made any indemnity payments pursuant to this Section and the recipient thereafter collects any of such amounts from others, the recipient shall promptly repay such amounts collected to the Servicer, without interest, so long as no amounts are outstanding to the Trustee then due and owing to the Trustee by the Servicer in which event such amounts shall offset such obligations.

(c) Survival. The provisions of this Section shall survive the resignation or removal of the Servicer or the Trustee and the termination of this Agreement.

(d) Successor Servicer Liability. Notwithstanding anything to the contrary contained in this Agreement, the Successor Servicer shall have no liability or obligation with respect to any Servicer indemnification obligations of any prior Servicer. Upon assuming its role as Successor Servicer, the Successor Servicer shall be responsible only for the indemnification obligations set forth in Section 8.02(a)(ii).

**SECTION 8.03 MERGER OR CONSOLIDATION OF, OR ASSUMPTION OF THE OBLIGATIONS OF, THE SERVICER.**

Any corporation (i) into which the Servicer may be merged or consolidated, (ii) which may result from any merger, conversion or consolidation to which the Servicer shall be a party, or (iii) which may succeed to all or substantially all of the business of the Servicer, which corporation in any of the foregoing cases executes an agreement of assumption to perform every obligation of the Servicer under this Agreement, shall be the successor to the Servicer

under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties to this Agreement; provided, however, that (i) such merger, consolidation or conversion shall not cause a Servicer Default and (ii) prior to any such merger, consolidation or conversion the Servicer shall have provided to the Trustee and the Noteholders a letter from the Rating Agency indicating that such merger, consolidation or conversion will not result in the qualification, reduction or withdrawal of the rating then assigned to the Notes by the Rating Agency. The Servicer shall provide notice of any merger, consolidation or succession pursuant to this Section to the Trustee, the Noteholders, the Note Insurer, the Rating Agency and the Placement Agent.

#### SECTION 8.04 LIMITATION ON LIABILITY OF SERVICER AND OTHERS.

(a) Neither the Servicer nor any of its directors, officers, employees or agents shall be under any liability to the Note Insurer, the Trustee or the Noteholders, except as provided in this Agreement, for any action taken or for refraining from the taking of any action pursuant to this Agreement, or for errors in judgment; provided however, that this provision shall not protect the Servicer or any such person against any liability that would otherwise be imposed by reason of willful misfeasance, bad faith or negligence of the Servicer in connection with the transactions contemplated by this Agreement and any of the other Transaction Documents, or the breach by the Servicer of any of its representations, warranties or covenants hereunder or under any of the other Transaction Documents. The Servicer and any director, officer, employee or agent of the Servicer may rely in good faith on any document of any kind prima facie properly executed and submitted by any Person respecting any matters arising under this Agreement.

(b) The Servicer shall not be under any obligation to appear in, prosecute, or defend any legal action that shall not be incidental to its duties to service the Receivables in accordance with this Agreement; provided, however, that the Servicer may undertake any reasonable action that it may deem necessary or desirable in respect of this Agreement and the rights and duties of the parties to this Agreement and the interests of the Noteholders under this Agreement.

(c) The Servicer and any director, officer, employee or agent of the Servicer may rely in good faith on the advice of counsel or on any document of any kind, prima facie properly executed and submitted by any Person respecting any matters arising under this Agreement.

#### SECTION 8.05 SERVICER NOT TO RESIGN.

Subject to the provisions of Section 8.03, Midland Credit Management, Inc. shall not resign from the obligations and duties hereby imposed on it as Servicer under this Agreement except upon determination that the performance of its duties under this Agreement shall no longer be permissible under applicable law. Notice of any such determination permitting the resignation of Midland Credit Management, Inc. shall be communicated to the Trustee, the Note Insurer, the Noteholders and the Rating Agency at the earliest practicable time and any such determination shall be evidenced by an Opinion of Counsel to such effect delivered to the Trustee and the Noteholders concurrently with or promptly after such notice. No such resignation shall become effective until the Backup Servicer or a Successor Servicer shall have assumed the responsibilities and obligations of Midland Credit Management, Inc. in accordance with Sections 9.02 or 9.03.

## SECTION 8.06 BACKUP SERVICING.

(a) Norwest Bank Minnesota, National Association is hereby appointed to act as Backup Servicer with respect to this Agreement and the transactions contemplated hereby and by the other Transaction Documents.

(b) The Servicer agrees to provide monthly to the Backup Servicer a computer diskette or computer tape with all information necessary for the Backup Servicer, including any subservicer to the Backup Servicer, to perform all of the servicing obligations of the Servicer under this Agreement. However, during the continuation of either a Servicer Default, or any event which with the passage of time or the giving of notice or both, would become a Servicer Default, the Servicer will provide such computer diskette or computer tape up to four times per month if reasonably requested by the Backup Servicer. The Servicer further agrees to provide all updates with respect to its computer processing necessary for the Backup Servicer to maintain a continuous ability to fulfill the role of Successor Servicer under this Agreement.

(c) The Backup Servicer shall assume its duties as Successor Servicer in accordance with Sections 9.02 and 9.03 except upon determination that the Backup Servicer is legally unable to perform the duties of the Servicer under this Agreement as provided in Section 9.03.

(d) On or before 11 a.m., New York, New York time on each Determination Date, the Servicer will deliver to the Backup Servicer a computer diskette (or other electronic transmission) in a format acceptable to the Backup Servicer containing the fields listed in Exhibit E hereto, which fields contain information with respect to the Receivables as of the close of business on the last day of the related Collection Period. The Backup Servicer shall not be obligated to verify the information contained in such transmission or the Monthly Servicer Report.

(e) Other than the duties specifically set forth in this Agreement, the Backup Servicer shall have no obligations hereunder, including without limitation to supervise, verify, monitor or administer the performance of the Servicer. The Backup Servicer shall have no liability for any actions taken or omitted by the Servicer. The duties and obligations of the Backup Servicer shall be determined solely by the express provisions of this Agreement and no implied covenants or obligations shall be read into this Agreement against the Backup Servicer. The Backup Servicer shall be entitled to all of the benefits and indemnities afforded the Trustee pursuant to the provisions of this Agreement. The Backup Servicer shall not be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers (other than in the ordinary course of the performance of such duties or the exercise of such rights or powers), if the repayment of such funds or adequate written indemnity against such risk or liability is not reasonably assured to it in writing prior to the expenditure or risk of such funds or incurrence of financial liability.

(f) Neither the Backup Servicer nor any of its directors, officers, employees or agents shall be under any liability to any of the parties hereto, except as specifically provided in this Agreement, for any action taken or for refraining from the taking of any action pursuant to this Agreement or for errors in judgment; provided however, that this provision shall not protect the Backup Servicer against any misfeasance, bad faith or gross negligence in the performance of duties or by reason of reckless disregard of obligations and duties under this Agreement. The Backup Servicer and any of its directors, officers, employees or agents may rely in good faith on the advice of counsel or on any document of any kind prima facie properly executed and submitted by any Person respecting any matters arising under this Agreement.

(g) The parties expressly acknowledge and consent to Norwest Bank Minnesota, National Association acting in the possible dual capacity of Backup Servicer or successor Servicer and in the capacity as Trustee. Norwest Bank Minnesota, National Association may, in such dual capacity, discharge its separate functions fully, without hindrance or regard to conflict of interest principals, duty of loyalty principles or other breach of fiduciary duties to the extent that any such conflict or breach arises from the performance by Norwest Bank Minnesota, National Association of express duties set forth in this Agreement in any of such capacities, all of which defenses, claims or assertions are hereby expressly waived by the other parties hereto except in the case of negligence, bad faith and willful misconduct by Norwest Bank Minnesota, National Association.

#### SECTION 8.07 GENERAL COVENANTS OF SERVICER.

Midland Credit Management, Inc. covenants and agrees that from the Closing Date until it is no longer the Servicer hereunder:

(a) Board. Servicer will maintain a board of directors with not less than two "independent directors" within the meaning of NASD Rule 4460(c) as in effect on the date hereof.

(b) Outside Parties. Servicer will not engage outside parties for the collection of Receivables on any basis except (i) unrelated third party contingency fee lawyers and (ii) entities acceptable to the Controlling Party and the fees for which are paid by the Servicer.

(c) Related Person Transaction. Without the prior written consent of the Controlling Party (which consent shall not be unreasonably withheld or delayed), Servicer shall not enter into any Related Person Transaction other than on terms that are no less favorable to Servicer than those that would have been obtained in a comparable transaction by Servicer with a non-Related Person. The term "Related Person" means, as to Servicer, any shareholder, director, officer or employee thereof or any Affiliate thereof or any relative of any of them. The term "Related Person Transaction" means (i) any sale, lease, transfer or other disposition of Servicer's property to any Related Person, or (ii) the purchase, lease or other acquisition by Servicer of any property from any Related Person, or (iii) the making of any contract, agreement, understanding, loan, advance, guarantee, or other credit support with or for the benefit of any Related Person.

(d) Investments. The Servicer hereby covenants that it will not without the prior written consent of the Controlling Party (which consent shall not be unreasonably withheld or delayed), acquire or hold any indebtedness for borrowed money of another person, or any capital stock, debentures, partnership interests or other ownership interests or other securities of any Person, other than (i) Issuer and Midland Funding 98-A Corporation, and (ii) receivables of similar type to the Receivables.

(e) Sale of Assets. Without the prior written consent of the Controlling Party (which consent shall not be unreasonably withheld or delayed), Servicer shall not convey, sell, lease, license, transfer or otherwise dispose of, in one transaction or in a series of transactions, all or substantially all of its assets, other than with respect to securitization transactions of its receivables.

(f) Bankruptcy. Servicer shall not take any action in any capacity to file any bankruptcy, reorganization or Insolvency Proceedings against Issuer, or cause Issuer to commence any

reorganization, bankruptcy proceedings, or Insolvency Proceedings under any applicable state or federal law, including without limitation any readjustment of debt, or marshaling of assets or liabilities or similar proceedings.

(g) Legal Existence. Servicer shall do or cause to be done all things necessary on its part to preserve and keep in full force and effect its existence as a corporation in the jurisdiction of its incorporation, and to maintain each of its licenses, approvals, registrations or qualifications in all jurisdictions in which its ownership or lease of property or the conduct of its business requires such licenses, approvals, registrations or qualifications; except for failures to maintain any such licenses, approvals, registrations or qualifications which, individually or in the aggregate, would not have a material adverse effect on the ability of Servicer to perform its obligations hereunder or under any of the other Transaction Documents.

(h) Compliance With Laws. Servicer shall comply in all material respects, with all laws, rules and regulations and orders of any governmental authority applicable to its operation, the noncompliance with which failures which would have a material adverse effect on the business, financial condition or results of operations of the Servicer or on the ability of the Servicer to perform its obligations hereunder or under any of the other Transaction Documents.

(i) Taxes. Servicer shall pay and discharge all taxes, assessments and governmental charges or levies imposed upon Servicer or upon its income and profits, or upon any of its property or any part thereof, before the same shall become in default, provided that Servicer shall not be required to pay and discharge any such tax, assessment, charge or levy so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings and Servicer shall have set aside on its books adequate reserves with respect to any such tax, assessment, charge or levy so contested, or so long as the failure to pay any such tax, assessment, charge or levy would not have a material adverse effect on the ability of the Servicer to perform its obligations hereunder.

(j) Financial Statements. Servicer shall maintain its financial books and records in accordance with GAAP. Servicer shall furnish to the Note Insurer and the Backup Servicer:

(i) Quarterly Statements. As soon as available and in any event within 45 days after the end of each of the calendar quarters of each fiscal year of the Servicer, the consolidated balance sheet of the Servicer and the related statements of income, shareholders' equity and cash flows, each for the period commencing at the end of the preceding fiscal year and ending with the end of such fiscal quarter, prepared in accordance with GAAP consistently applied; and

(ii) Annual Statements. As soon as available and in any event within 90 days after the end of each fiscal year of the Servicer, the balance sheets of the Servicer and the related statements of income, shareholder's equity and cash flows for, the fiscal year then ended, each prepared in accordance with GAAP consistently applied and reported on by a firm of nationally recognized independent public accountants.

(k) Compliance with all Transaction Documents. The Servicer hereby covenants and agrees to comply in all material respects with the terms of, employ the procedures outlined in and enforce the obligations of the parties to all of the Transaction Documents to which the Servicer is a party, and take all such action to such end as may be from time to time reasonably requested by the Trustee, maintain all such Transaction Documents in full force and effect and

make to the parties thereto such reasonable demands and requests for information and reports or for action as the Servicer is entitled to make thereunder and as may be from time to time reasonably requested by the Trustee.

(l) No Change in Chief Executive Office or Location of Records. The Servicer covenants that it shall maintain its principal place of business and chief executive office, and the office where it maintains all of its corporate records, at 500 West First Street, Hutchinson, Kansas 67504 until January 1, 2000, and at 4302 E. Broadway, Phoenix, AZ 85040 on and after January 1, 2000; provided that, at any time after the Closing Date, upon 30 days' prior written notice to each of the Issuer, the Note Insurer and the Trustee, the Servicer may relocate its principal place of business and chief executive office, and/or the office where it maintains all of its records, to another location within the United States to the extent that the Servicer shall have taken all actions necessary or reasonably requested by the Issuer, the Trustee or the Note Insurer to amend its existing financing statements and continuation statements, and file additional financing statements and to take any other steps reasonably requested by the Issuer, the Trustee or the Note Insurer to further perfect or evidence the rights, claims or security interests of any of the Issuer, the Trustee or the Note Insurer under any of the Transaction Documents. Each Receivable File shall be kept by the Servicer at its offices at 4310 East Broadway Road, Phoenix, Arizona 85040, 4302 East Broadway Road, Phoenix, Arizona 85040 or at such other office of the Servicer permitted pursuant to Section 2.06(b).

(m) Maintenance of Insurance. The Servicer hereby covenants and agrees to maintain one or more policies of "all-risk" property and general liability insurance with financially sound and reputable insurers, providing coverage in scope and amount which is at least consistent with the scope and amount of such insurance coverage obtained by prudent and similarly situated Persons in the same jurisdiction and the same business as Servicer.

(n) Separate Identity. The Servicer hereby covenants and agrees to take all actions required to maintain the Issuer's status as a separate legal entity. Without limiting the foregoing, the Servicer shall not take any action or fail to take any action that would result in the Issuer not satisfying any of the following:

(i) Issuer shall conduct all of its business, and make all communications to third parties (including all invoices (if any), letters, checks and other instruments) solely in its own name (and not as a division of any other Person), and require that its employees, if any, when conducting its business identify themselves as such;

(ii) Issuer shall compensate all employees, consultants and agents directly or indirectly through reimbursement of the Servicer, from the Issuer's bank accounts, for services provided to the Issuer by such employees, consultants and agents and, to the extent any employee, consultant or agent of the Issuer is also an employee, consultant or agent of the Servicer, allocate the compensation of such employee, consultant or agent between the Issuer and the Servicer on a basis which reflects the respective services rendered to the Issuer and the Servicer;

(iii) Issuer shall (A) pay its own incidental administrative costs and expenses from its own funds, (B) allocate all other shared overhead expenses (including, without limitation, telephone and other utility charges, the services of shared employees, consultants and agents, and reasonable legal and auditing

expenses) which are not reflected in the Servicing Fee, and other items of cost and expense shared between the Issuer and the Servicer, on the basis of actual use to the extent; practicable, and to the extent such allocation is not practicable, on a basis reasonably related to actual use or the value of services rendered;

(iv) Issuer shall at all times have at least two independent directors who satisfy the definition of Independent Director provided in the Certificate of Incorporation, and have at least one officer responsible for managing its day-to-day business and manage such business by or under the direction of its board of directors;

(v) Issuer shall maintain its books and records separate from those of any Affiliate;

(vi) Issuer shall prepare its financial statements separately from those of its Affiliates and ensure that any consolidated financial statement have notes to the effect that the Issuer is a separate entity whose creditors have a claim on its assets prior to those assets becoming available to its equity holders and therefore to any of their respective creditors, as the case may be;

(vii) Issuer shall not commingle its funds or other assets with those of any of its Affiliates (other than in respect of items of payment or funds which may be commingled until deposit into the Collection Account in accordance with this Agreement), and not to hold its assets in any manner that would create an appearance that such assets belong to any such Affiliate, not maintain bank accounts or other depository accounts to which any such Affiliate is an account party, into which any such Affiliate makes deposits or from which any such Affiliate has the power to make withdrawals, and not act as an agent or representative of any of its Affiliates in any capacity;

(viii) Issuer shall not permit any of its Affiliates to pay the Issuer's operating expenses;

(ix) Issuer shall not permit Issuer to guarantee any obligation of any of its Affiliates nor have any of its obligations guaranteed by any such Affiliate (either directly or by seeking credit based on the assets of such Affiliate), or otherwise hold itself out as responsible for the debts of any Affiliate;

(x) Issuer shall maintain at all times stationery separate from that of any Affiliate and have all its officers and employees conduct all of its business solely in its own name;

(xi) Issuer shall hold regular meetings of its board of directors in accordance with the provisions of its Certificate of Incorporation and otherwise take such actions as are necessary on its part to ensure that all company procedures required by its Certificate of Incorporation and Bylaws are duly and validly taken;

(xii) Issuer shall respond to any inquires made directly to it with respect to ownership of a Receivable by stating that it is the owner of such

contributed Receivable, and, if requested to do so, that the Trustee has been granted a security interest in such Receivable; and

(xiii) Issuer shall take such other actions as are necessary on its part to ensure that the facts and assumptions set forth in the non-consolidation opinion delivered by Issuers counsel remain true and correct at all times.

(o) Benefit Plan. The Servicer hereby covenants and agrees to comply in all material respects with the provisions of ERISA, the Code, and all other applicable laws, and the regulations and interpretations thereunder to the extent applicable, with respect to each Benefit Plan. Servicer covenants that it will not, and it will cause any ERISA Affiliate to not:

(i) engage in any non-exempt prohibited transaction (within the meaning of Code Section 4975 or ERISA Section 406) with respect to any Benefit Plan which would result in a material liability to the Servicer;

(ii) permit to exist any accumulated funding deficiency, as defined in Section 302(a) of ERISA and Section 412(a) of the Code, with respect to any Benefit Plan of the Servicer or any ERISA affiliate which is subject to Section 302 of ERISA or 412 of the Code;

(iii) terminate any Benefit Plan of the Servicer or any ERISA Affiliate so as to result in any material liability to the Servicer or an ERISA Affiliate; or

(iv) create any defined benefit plan (as defined in ERISA).

ARTICLE IX  
SERVICER DEFAULT; EVENTS OF DEFAULT; REMEDIES

SECTION 9.01 SERVICER DEFAULT.

For purposes of this Agreement, each of the following shall constitute a "Servicer Default":

(a) any failure by the Servicer to deliver to the Trustee or the Note Insurer the Monthly Servicer Report for the related Collection Period, or any failure by the Servicer to make any payment, transfer or deposit, or deliver to the Trustee any proceeds or payment required to be so delivered under the terms of the Notes, this Agreement or any of the other Transaction Documents to which it is a party, or to make any payment of the Note Insurer Obligations on the day when due, in each case that continues unremedied for a period of one Business Day after the earlier to occur of (x) actual discovery by a Responsible Officer of the Servicer, or (y) the date on which written notice requiring the same to be remedied has been given to the Servicer by the Trustee or the Controlling Party; or

(b) any failure on the part of the Servicer duly to observe or perform any other covenants or agreements of the Servicer set forth in the Notes, this Agreement, the Insurance Agreement, or any of the other Transaction Documents to which the Servicer is a party, which failure (i) would have a material adverse effect on the rights or interests of the Note Insurer, the Noteholders, the Trustee or the Trust Estate and (ii) continues unremedied for a period of 30 days after the earlier to occur of (x) actual discovery by a Responsible Officer of the Servicer or

(y) the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Servicer by the Controlling Party or the Trustee; or the Servicer delegates its duties under the Notes, this Agreement, the Insurance Agreement or any of the other Transaction Documents to which it is a party, except as specifically permitted pursuant to Section 9.07, and such delegation continues unremedied for a period of 15 days after written notice, requiring such delegation to be remedied, shall have been given to the Servicer by the Trustee or the Controlling Party; or

(c) the entry of a decree or order by a court or agency or supervisory authority having jurisdiction in the premises for the appointment of a trustee in bankruptcy, conservator, receiver or liquidator for the Servicer in any bankruptcy, insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of their respective affairs, and the continuance of any such decree or order unstayed and in effect for a period of 30 consecutive days; or

(d) the consent by the Servicer to the appointment of a trustee in bankruptcy, conservator or receiver or liquidator in any bankruptcy, insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings of or relating to the Servicer or substantially all of its property, or the Servicer shall admit in writing its inability to pay its debts generally as they become due, file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations; or

(e) any representation, warranty or certification made by Midland Credit Management, Inc. in this Agreement, the Insurance Agreement or in any other Transaction Document to which it is a party, or in any certificate delivered pursuant to this Agreement, the Insurance Agreement or in any other Transaction Document to which it is a party, proves to have been incorrect when made, which (i) would have a material adverse effect on the rights of the Noteholders, the Note Insurer or the Trust Estate, respectively (without regard to any amount deposited in the Reserve Account), and (ii) if capable of remedy, continues unremedied for a period of 30 days after the earlier to occur of (x) actual discovery by a Responsible Officer of the Servicer or (y) the date on which written notice thereof, requiring the same to be remedied, shall have been given to the Servicer by the Controlling Party or the Trustee; or

(f) for the period of time during which Midland acts as Servicer, Midland's consolidated Stockholder's Equity as required to be shown on its consolidated financial statements is less than the sum of (i) \$23,000,000 plus (ii) 50% of the net earnings of Midland for the period commencing on October 1, 1999 and ending at the end of Midland's then most recent fiscal quarter (treated for this purpose as a single accounting period), provided that, if net earnings of Midland for any period shall be less than zero, the amount calculated pursuant to clause (ii) above for such period shall be zero; or

(g) the failure by the Servicer to make any required payment in excess of \$100,000 on any obligation of Servicer, other than Servicer's obligations to make payment on account of trade accounts payable which are in dispute in the normal course of business, within two (2) Business Days after Servicer has received written notice from any such creditor of Servicer's failure to make such payment; or

(h) commencing with the March 2000 Collection Period, and at the end of every three Collection Periods thereafter, the cumulative amount of Net Proceeds in respect of all Receivables from November 1, 1999 to such date is less than the amount specified in Exhibit I

(any such deficiency a "Cumulative Collections Deficiency"); provided, however, that a Cumulative Collections Deficiency shall not be a Servicer Default if (i) the amount of such Cumulative Collections Deficiency does not exceed \$3,000,000 and (ii) the Issuer deposits an amount equal to the Cumulative Collections Deficiency (the "Cumulative Collections Deficiency Amount") to the Reserve Account within ten calendar days of the end of the Collection Period during which the Cumulative Collections Deficiency occurred; or

(i) beginning on April 1, 2000 and on the first date of each month thereafter, for the preceding three calendar months (including any portion of January 2000 following the Closing Date), the average initial payment plan for the Receivables is less than 50% of the average Charged-Off Balance related to such Receivables; or

(j) Servicer suffers the loss, suspension or other material impairment of any required license or permit in any State of the United States (or the District of Columbia) where Obligor are located which, in the aggregate for such State (or the District of Columbia), accounts for more than \$50,000,000 in the initial Charge-Off Balances of Receivables, unless such loss, suspension or impairment is cured within 60 days after any Responsible Officer of the Servicer has actual knowledge of such loss, suspension or material impairment; or

(k) Servicer sells, transfers, pledges or otherwise disposes of any of its stock in Issuer, whether voluntarily or by operation of law, foreclosure or other enforcement by a Person of its remedies against the Servicer, except pursuant to a merger, consolidation or a sale of all or substantially all the assets of Servicer in a transaction not prohibited by this Agreement; provided, however, that the Servicer may pledge its stock in the Issuer to a secured lender (x) in connection with a pledge of all or substantially all of the assets of the Servicer to secure indebtedness owed to such lender for borrowed money, or (y) with the prior written consent of the Note Insurer; or

(l) the existence in any audit of Servicer required to be provided hereunder of a material exception which may have a material adverse effect on the Noteholders or the Note Insurer, as determined by the Note Insurer in the reasonable exercise of its judgment; or

(m) the Servicer fails to have, at any time during the periods set forth below, Liquidity in at least the amounts set forth below:

Period*	Required Liquidity
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Closing Date - March 31, 2000	\$5,000,000
April 1 - April 30, 2000	\$4,250,000
May 1 - May 31, 2000	\$3,500,000
June 1 - June 30, 2000	\$3,000,000
July 1 - July 31, 2000	\$2,500,000
August 1 - August 31, 2000	\$1,750,000
September 1 - September 30, 2000	\$1,250,000
October 1 - November 29, 2000	\$1,000,000
November 30 - December 30, 2000	\$2,000,000
December 31, 2000 - January 30, 2001	\$3,250,000
January 31 - February 27, 2001	\$4,250,000
February 28, 2001 and thereafter	\$5,000,000

\* all dates inclusive

(n) the existence and continuation of a "Servicer Default" or an "Event of Default" (which has not been waived) as defined in and pursuant to any securitization transaction to which the Servicer and Note Insurer are parties.

Notwithstanding the foregoing, the cure periods referred to in each of clauses (a), (g) and (j) above may be extended for an additional period of five Business Days each, or such longer period not to exceed 30 Business Days as may be acceptable to the Controlling Party, if such delay or failure was caused by an act of God or other similar occurrence. Upon the occurrence of any such event the Servicer shall not be relieved from using its best efforts to perform its obligations in a timely manner in accordance with the terms of this Agreement and the Servicer shall provide the Trustee, the Note Insurer, the Rating Agency, the Placement Agent and the Noteholders prompt notice of such failure or delay by it, together with a description of its effort to so perform its obligations. The Servicer shall notify the Trustee and the Note Insurer in writing of any Servicer Default that it discovers within one Business Day of such discovery. The Trustee shall have no duty or obligation to determine whether or not a Servicer Default has occurred.

#### SECTION 9.02 CONSEQUENCES OF A SERVICER DEFAULT; TERMINATION.

(a) The rights and obligations of the Servicer shall terminate upon the earlier of (i) the occurrence and continuation of a Servicer Default or (ii) the last day of each calendar quarter, unless the Servicer is appointed by the Controlling Party for successive quarterly periods. If a Servicer Default shall occur and be continuing, so long as such Servicer Default has not been cured or waived pursuant to Section 9.05, or if the Controlling Party does not appoint the Servicer to a successive quarterly term at least ten (10) Business Days prior to the end of a calendar quarter, the Trustee shall, upon the direction of the Controlling Party, by notice then given in writing to the Servicer and the Note Insurer terminate all (but not less than all) of the rights and obligations of the Servicer, as Servicer under this Agreement and the other Transaction Documents, and in and to the Receivables and proceeds thereof. On or after the receipt by the Servicer of such written notice, all authority and power of the Servicer under this Agreement, whether with respect to the Notes, the Receivables, the Transaction Documents or otherwise, shall, without further action, pass to and be vested in the Backup Servicer pursuant to and under this Section or such Successor Servicer as may be appointed under Section 9.03; and, without limitation, the Backup Servicer or such Successor Servicer shall be hereby authorized and empowered to execute and deliver, on behalf of the predecessor Servicer, as attorney-in-fact or otherwise, any and all documents and other instruments, and to do or accomplish all other acts or things necessary or appropriate to effect the purposes of such notice of termination, whether to complete the transfer and endorsement of the Receivables and related documents, or otherwise. The predecessor Servicer shall cooperate with the Backup Servicer or the Successor Servicer, as applicable, in effecting the termination of the responsibilities and rights of the predecessor Servicer under this Agreement, including, without limitation, the transfer to the Backup Servicer or the Successor Servicer, as applicable, for administration by it of all cash amounts that shall at the time be held by the predecessor Servicer for deposit with respect to the Receivables, or have been deposited by the predecessor Servicer in the Accounts with respect to the Receivables or thereafter received by the predecessor Servicer with respect to the Receivables. All reasonable costs and expenses (including reasonable attorneys' fees) incurred in connection with transferring the Receivable Files to the Backup Servicer or the Successor Servicer, as applicable, and amending this Agreement to reflect such succession as Servicer pursuant to this Section shall be paid first, pursuant to Section 4.04(b)(ii), and second, by the predecessor Servicer upon presentation of

reasonable documentation of such costs and expenses (such costs and expenses are referred to herein as the "Transition Fees").

(b) In addition to the remedial provisions set forth in clause (a) above, and not by way of limitation of any remedies to which any of the Trustee, the Note Insurer or the Noteholders are entitled upon the occurrence of a Servicer Default, the Issuer and the Servicer acknowledge and agree that, so long as a Servicer Default shall occur and be continuing, and such Servicer Default has not been cured or waived pursuant to Section 9.05, or if the Controlling Party does not appoint the Servicer to a successive quarterly term, the Trustee shall, upon the direction of the Controlling Party by notice then given in writing to the Servicer and the Note Insurer, direct the Servicer (or Backup Servicer or Successor Servicer as the case may be) to (x) deposit all checks and other items of collections received in respect of Receivables directly into an account immediately upon receipt, and/or (y) instruct each Obligor to remit all collections in respect of receivables directly to an account designated for such purpose.

#### SECTION 9.03 BACKUP SERVICER TO ACT; APPOINTMENT OF SUCCESSOR SERVICER.

On and after the time the Servicer receives a notice of termination pursuant to Section 9.02 or tenders its resignation pursuant to Section 8.05, the Backup Servicer shall, by an instrument in writing, assume the rights and responsibilities of the Servicer in its capacity as Servicer under this Agreement and the Insurance Agreement and the transactions set forth or provided for in this Agreement and the Insurance Agreement, and shall be subject to all the responsibilities, restrictions, duties and liabilities relating thereto placed on the Servicer by the terms and provisions of this Agreement and the Insurance Agreement; provided, however, that the Backup Servicer shall not be liable for any acts, omissions or obligations of the Servicer that occurred prior to such succession or for any breach by the Servicer of any of its representations and warranties contained in this Agreement, in the Insurance Agreement or in any related Transaction Document. In addition, the Backup Servicer, shall have (i) no obligation to perform any repurchase or advancing obligations, if any, of the Servicer, (ii) no obligation to pay any taxes required to be paid by the Servicer, (iii) no obligation to pay any of the fees and expenses of any other party involved in this transaction and (iv) no liability or obligation with respect to any Servicer indemnification obligations of any prior servicer including the original servicer. Furthermore, notwithstanding anything contained in this Agreement to the contrary, the Backup Servicer as Servicer is authorized to accept and rely on all of the accounting, records and work of the prior Servicer relating to the Receivables (collectively, "Predecessor Servicer Work Product") without any audit or other examination thereof, and the Backup Servicer as Servicer shall have no duty, responsibility, obligation or liability for the acts and omissions of any prior Servicer. If any error, inaccuracy or omission (collectively, "Errors") exist in any Predecessor Servicer Work Product received by the Backup Servicer from the prior Servicer and such Errors should cause or materially contribute to the Backup Servicer as Servicer making or continuing any Errors (collectively, "Continued Errors"), the Backup Servicer as Servicer shall have no duty, responsibility, obligation or liability for such Continued Errors; provided, however, that the Backup Servicer agrees to perform its duties as successor Servicer in accordance with the standard of care set forth in Section 3.04. In the event that the Backup Servicer as Servicer becomes aware of Errors or Continued Errors, the Backup Servicer shall use its best efforts to reconstruct and reconcile such data as is commercially reasonable to correct such Errors and Continued Errors and to prevent future Continued Errors. The Backup Servicer as Servicer shall be entitled to recover from the Trust its costs thereby expended. Notwithstanding any other Section in this Agreement to the contrary, should the Backup Servicer by any means become successor servicer, the Backup Servicer shall not inherit any of the indemnification

obligations of any prior servicer including the original servicer. The indemnification obligations of the Backup Servicer, upon becoming a successor Servicer are expressly limited to the indemnification of the Trustee, the Trust Estate, the Noteholders and the Note Insurer from and against any and all costs, expenses, losses, claims, damages and liabilities to the extent that such cost, expense, loss, claim, damage or liability arose out of, and was imposed upon, the Trustee, the Trust Estate, any Noteholder or the Note Insurer through the gross negligence, willful misfeasance or bad faith of the Backup Servicer in its capacity as successor Servicer in connection with the performance of its duties under this Agreement and the other Transaction Documents. As compensation therefor, the Backup Servicer shall be entitled to such compensation (whether payable out of the Collection Account or otherwise) as the Servicer would have been entitled to under this Agreement. Notwithstanding anything herein to the contrary, Norwest Bank Minnesota, National Association shall not resign from the obligations and duties imposed on it as Backup Servicer under this Agreement except upon determination that the performance of its duties under this Agreement shall no longer be permissible under applicable law. Notice of any such determination permitting the resignation of Norwest Bank Minnesota, National Association shall be communicated to the Trustee, the Noteholders, the Note Insurer, and the Rating Agency at the earliest practicable time and any such determination shall be evidenced by an Opinion of Counsel to such effect delivered to the Trustee and the Noteholders concurrently with or promptly after such notice. In the event the Backup Servicer is unable or unwilling so to act, it shall appoint or petition a court of competent jurisdiction to appoint any established institution having a net worth of not less than \$5,000,000 and whose regular business includes the servicing of consumer receivables as a successor servicer (a "Successor Servicer"). In connection with such appointment and assumption, or the assumption by the Backup Servicer of the status of Successor Servicer, the Backup Servicer may make such arrangements for the compensation of such Successor Servicer (including itself) out of payments on or in respect of the Receivables as determined in accordance with the next sentence. Any Successor Servicer appointed pursuant to this Section 9.03 must have, and must certify that it has, computer systems that will be used in its duties as Servicer which will properly utilize dates beyond December 31, 1999. The Backup Servicer and such Successor Servicer shall take such action, consistent with this Agreement, as shall be necessary to effectuate any such succession. The Backup Servicer shall not be relieved of its duties as Successor Servicer under this Section until the newly appointed Successor Servicer shall have assumed the responsibilities and obligations of the Servicer under this Agreement.

SECTION 9.04 NOTIFICATION TO NOTE INSURER, NOTEHOLDERS, RATING AGENCY AND PLACEMENT AGENT.

Upon a Responsible Officer of the Trustee obtaining actual knowledge of (i) the occurrence of a Servicer Default and the expiration of any cure period applicable thereto or (ii) any termination of, or appointment of a successor to, the Servicer pursuant to this Agreement, the Trustee shall give prompt written notice thereof to Noteholders at their respective addresses appearing in the Note Register and to the Rating Agency, the Note Insurer and the Placement Agent.

SECTION 9.05 WAIVER OF PAST SERVICER DEFAULTS.

The Trustee shall at the direction of the Controlling Party waive any Servicer Default or other default by the Servicer in the performance of its obligations hereunder and its consequences, except a default in making any required deposits to or payments from the Accounts in accordance with this Agreement or in respect of a covenant or provision of this

Agreement that under Section 12.01 cannot be modified or amended without the consent of each Noteholder. Upon any such waiver of a past default, such default shall cease to exist, and any Servicer Default arising therefrom shall be deemed to have been remedied for every purpose of this Agreement. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon except to the extent expressly so waived.

SECTION 9.06 [RESERVED]

SECTION 9.07 SUBSERVICERS.

(a) Notwithstanding anything to the contrary contained in Section 3.14 hereof, the Backup Servicer, in its role of Backup Servicer or as successor Servicer, may, at its own expense, enter into subservicing agreements with subservicers (the "Subservicers") for the servicing and administration of all or any part of the Receivables; provided, that the Subservicer shall be either Colddata, Inc. or such other entity as may be reasonably acceptable to the Controlling Party. References in this Agreement to actions taken or to be taken by the Backup Servicer in servicing and managing the Receivables include actions taken by a Subservicer on behalf of the Backup Servicer. Each Subservicer shall be authorized to transact business in the state or states in which the related Receivables it is to service or manage are situated, if and to the extent required by applicable law to enable the Subservicer to perform its obligations hereunder and under the applicable subservicing agreement. Each subservicing agreement shall be upon such terms and conditions as are not inconsistent with this Agreement and as to which the Backup Servicer and the Subservicer have agreed. For purposes of this Agreement, the Backup Servicer shall be deemed to have received any payment when the Subservicer receives such payment. The Backup Servicer shall notify the Trustee, the Issuer, the Note Insurer and the Rating Agency in writing promptly upon the appointment of any Subservicer.

(b) As part of its servicing activities hereunder, the Backup Servicer, for the benefit of the Trustee, the Note Insurer and the Noteholders, shall enforce the obligations of each Subservicer under the related subservicing agreement. Such enforcement, including, without limitation, the legal prosecution of claims, termination of subservicing agreements and pursuit of other appropriate remedies, shall be in accordance with the servicing standards set forth herein. The Backup Servicer shall pay the costs of such enforcement at its own expense and shall be reimbursed therefor only from (i) a general recovery resulting from such enforcement only to the extent, if any, that such recovery exceeds all amounts due in respect of the related Receivables, or (ii) a specific recovery of costs, expenses or attorneys fees against the party against whom such enforcement is directed.

(c) Notwithstanding any subservicing agreement any of the provisions of this Agreement relating to agreements or arrangements between the Backup Servicer and a Subservicer, or reference to actions taken through a Subservicer or otherwise, the Backup Servicer shall remain obligated and liable to the Trustee, the Note Insurer and the Noteholders for the servicing, managing, collecting and administering of the Receivables and the other assets included in the Trust Estate in accordance with the provisions of Section 3.01 without diminution of such obligation or liability by virtue of such subservicing agreement or arrangements or by virtue of indemnification from a Subservicer and to the same extent and under the same terms and conditions as if the Backup Servicer alone were servicing, managing, collecting and administering the Receivables and the other assets included in the Trust Estate.

## SECTION 9.08 EVENTS OF DEFAULT.

"Event of Default" wherever used herein, means, with respect to Notes issued hereunder, any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any interest, premiums or any other amounts due and owing on any Note or in respect of the Note Insurer Obligations (which default continues for a period of two Business Days) or failure to pay the Notes or the Note Insurer Obligations in full on or before the Final Payment Date;

(b) the Note Insurer is required to make a payment under the Policy;

(c) if the Issuer shall breach or default in the due observance of any of the covenants of the Issuer set forth in Section 7.07, other than the covenants contained in Subsections (e), (f) or (h) thereof;

(d) if the Issuer shall breach or default in the due observance or performance of, any other of its covenants in this Agreement, which breach or default would have a material adverse effect on the rights or interests of the Note Insurer or the Noteholders, and such default shall continue for a period of 30 days after the earlier to occur of (x) actual discovery by a Responsible Officer of the Servicer or (y) the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Servicer by the Note Insurer or the Trustee;

(e) if any representation or warranty of the Issuer made in this Agreement or any certificate or other writing delivered pursuant hereto or in connection herewith shall prove to have been breached in any material respect as of the time when the same shall have been made or deemed made, which breach would have a material adverse effect on the rights or interests of the Note Insurer or the Noteholders, and such breach shall continue for a period of 30 days after the earlier to occur of (x) actual discovery by a Responsible Officer of the Servicer or (y) the date on which written notice of such failure, requiring the same to be remedied, shall have been given to the Servicer by the Note Insurer or the Trustee;

(f) the entry of a decree or order for relief by a court having jurisdiction in respect of the Issuer in an involuntary case under the federal bankruptcy laws, as now or hereafter in effect, or any other present or future federal or state bankruptcy, insolvency or similar law, or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Issuer or of any substantial part of its property, or ordering the winding up or liquidation of the affairs of the Issuer and the continuance of any such decree or order unstayed and in effect for a period of 30 consecutive days;

(g) the commencement by the Issuer of a voluntary case under the federal bankruptcy laws, as now or hereafter in effect, or any other present or future federal or state bankruptcy, insolvency or similar law, or the consent by the Issuer to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Issuer or of any substantial part of its property or the making by the Issuer of an assignment for the benefit of creditors or the failure by the Issuer generally to pay its debts as

such debts become due or the taking of corporate action by the Issuer in furtherance of any of the foregoing;

(h) the occurrence and continuation of a Servicer Default;

(i) The IRS or the PBGC shall have filed notice of one or more Adverse Claims against the Servicer, the Issuer or any of their ERISA Affiliates under ERISA or the Code, which constitutes a Lien on the Receivables, and such notice shall have remained in effect for more than thirty (30) Business Days unless, prior to the expiration of such period, such Adverse Claims shall have been adequately bonded by such Servicer, Issuer, or the ERISA Affiliate (as the case may be) in a transaction with respect to which the Controlling Party has given its prior written approval; or

(j) The Issuer or the Trust Estate shall have become subject to registration as an "investment company" within the meaning of the Investment Company Act as determined by a court of competent jurisdiction in a final and non-appealable order.

#### SECTION 9.09 ACCELERATION OF MATURITY; RESCISSION AND ANNULMENT.

If, and only if, an Event of Default occurs and is continuing, then and in every such case, so long as such Event of Default has not been cured or waived pursuant hereto, the Trustee shall, upon the direction of the Controlling Party, by notice then given in writing to the Issuer, the Servicer and the Note Insurer, declare all of the Notes to be immediately due and payable and upon on any such declaration such Notes, in an amount equal to the Note Balance of such Notes, together with accrued and unpaid interest thereon to the date of such acceleration, and together with all unpaid Trustee Fees, Backup Servicing Fees, and Servicing Fees, shall become immediately due and payable.

At any time after such a declaration of acceleration of maturity of the Notes has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article provided, the Note Insurer by written notice to the Issuer and the Trustee, may rescind and annul such declaration and its consequences if:

(a) the Issuer has paid or deposited with the Trustee a sum sufficient to pay:

(i) all payments of principal of, and interest on, all Notes and all other amounts which would then be due hereunder or upon such Notes if the Event of Default giving rise to such acceleration had not occurred; and

(ii) all sums paid by the Trustee hereunder and the reasonable compensation, expenses and disbursements of the Trustee, its agents and counsel; and

(b) all Events of Default, other than the nonpayment of the principal of Notes which have become due solely by such acceleration, have been cured or waived as provided in Section 9.21.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 9.10 COLLECTION OF INDEBTEDNESS AND SUITS FOR ENFORCEMENT BY TRUSTEE.

Subject to the following sentence, if an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Note Insurer and the Noteholders by any proceedings the Trustee deems appropriate to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Agreement or in aid of the exercise of any power granted herein, or enforce any other proper remedy. Any proceedings brought by the Trustee on behalf of the Note Insurer or the Noteholders or by the Note Insurer or any Noteholder against the Issuer shall be limited to the preservation, enforcement and foreclosure of the liens, assignments, rights and security interests under this Agreement and the other Transaction Documents and no attachment, execution or other suit or process shall be sought, issued or levied upon any assets, properties or funds of the Issuer, other than the Trust Estate relative to the Notes in respect of which such Event of Default has occurred. If there is a foreclosure of any such liens, assignments, rights and security interests under this Agreement, by private power of sale or otherwise, no judgment for any deficiency upon the indebtedness represented by the Notes may be sought or obtained by the Trustee or any Noteholder against the Issuer. The Trustee shall be entitled to recover the costs and expenses expended by it pursuant to this Section 9.10 including reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 9.11 REMEDIES.

If an Event of Default shall have occurred and be continuing and the Notes have been declared due and payable and such declaration and its consequences have not been rescinded and annulled, the Trustee (subject to Section 9.24, to the extent applicable) shall, at the direction of the Controlling Party, and may (with the written consent of the Controlling Party) at its discretion, do one or more of the following:

(a) institute proceedings for the collection of all amounts then payable on the Notes, or under this Agreement or under any of the other Transaction Documents, whether by declaration or otherwise, enforce any judgment obtained, and collect from the Issuer monies adjudged due, subject in all cases to the provisions of Section 9.10;

(b) in accordance with Section 9.24, sell the Trust Estate or any portion thereof or rights or interest therein, at one or more public or private Sales called and conducted in any manner permitted by law;

(c) institute proceedings from time to time for the complete or partial foreclosure of this Agreement with respect to the Trust Estate;

(d) exercise any remedies of a secured party under the UCC and take any other appropriate action to protect and enforce the rights and remedies of the Trustee, the Note Insurer or the Noteholders hereunder subject in all cases to the provisions of Section 9.10; and

(e) refrain from selling the Trust Estate and apply all Available Funds pursuant to Section 9.14.

## SECTION 9.12 TRUSTEE MAY FILE PROOFS OF CLAIM.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, composition or other judicial proceeding relative to the Issuer or any other obligor upon any of the Notes or the property of the Issuer or of such other obligor or their creditors, the Trustee (irrespective of whether the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand on the Issuer for the payment of any overdue principal or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise to:

(a) file and prove a claim for the whole amount of principal and interest owing and unpaid in respect of the Notes and the Note Insurer Obligations and file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Noteholders allowed in such Proceeding, and

(b) collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any receiver, assignee, trustee, liquidator, or sequestrator (or other similar official) in any such proceeding is hereby authorized by each Noteholder and the Note Insurer to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Noteholders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 10.07.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Noteholder or the Note Insurer any plan of reorganization, arrangement, adjustment or composition affecting any of the Notes or the rights of any Noteholder or the Note Insurer, or to authorize the Trustee to vote in respect of the claim of any Noteholder or the Note Insurer in any such Proceeding.

## SECTION 9.13 TRUSTEE MAY ENFORCE CLAIMS WITHOUT POSSESSION OF NOTES.

All rights of action and claims under this Agreement or any of the Notes or any of the other Transaction Documents may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the Noteholders in respect of which such judgment has been recovered and shall be paid as provided in Section 9.14.

## SECTION 9.14 APPLICATION OF MONEY COLLECTED.

If the Notes have been declared due and payable following an Event of Default and such declaration and its consequences have not been rescinded and annulled, any money collected by the Trustee with respect to such Notes pursuant to this Article or otherwise and any other monies that may then be held or thereafter received by the Trustee as security for such Notes shall be treated like Available Funds and applied as provided in Section 4.04(b).

## SECTION 9.15 LIMITATION ON SUITS.

No Noteholder shall have any right to institute any proceedings, judicial or otherwise, with respect to this Agreement, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Noteholder has previously given written notice to the Trustee of a continuing Event of Default;

(b) the Noteholders representing not less than 25% of the Voting Interests shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder (and such request shall have not been rescinded);

(c) such Noteholders have offered to the Trustee indemnity in full against the costs, expenses and liabilities to be incurred in compliance with such request;

(d) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding;

(e) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Controlling Party; and

(f) for so long as no Insurer Default is then in effect, the Note Insurer shall have given its written consent to the Trustee to the pursuit by the Trustee of such remedies;

it being understood and intended that no one or more Noteholders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Agreement to affect, disturb or prejudice the rights of any other Noteholders or to obtain or to seek to obtain priority or preference over any other Noteholders or to enforce any right under this Agreement, except in the manner herein provided and for the equal and ratable benefit of all the Noteholders.

In the event the Trustee shall receive conflicting or inconsistent requests and indemnity from two or more groups of Noteholders, each representing less than 50% of the Voting Interests, and the Trustee shall not have received any conflicting or inconsistent requests and indemnity from the Note Insurer at such time, the Trustee in its sole discretion may determine what action, if any, shall be taken notwithstanding any other provision herein to the contrary.

## SECTION 9.16 UNCONDITIONAL RIGHTS OF NOTEHOLDERS TO RECEIVE PRINCIPAL AND INTEREST.

Subject to the provisions in this Agreement (including Section 9.10) limiting the right to recover amounts due on a Note to recovery from amounts in the Trust Estate, the Noteholder shall have the right to the extent permitted by applicable law, which right is absolute and unconditional, to receive payment of principal of and interest on such Note on the Final Payment Date and to institute suit for the enforcement of any such payment and such right shall not be impaired without the consent of such Noteholder.

## SECTION 9.17 RESTORATION OF RIGHTS AND REMEDIES.

If the Trustee, the Note Insurer or any Noteholder has instituted any proceeding to enforce any right or remedy under this Agreement and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Noteholder, then and in every such case the Issuer, the Trustee, the Note Insurer and the Noteholders shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Noteholders shall continue as though no such proceeding had been instituted.

## SECTION 9.18 RIGHTS AND REMEDIES CUMULATIVE.

No right or remedy herein conferred upon or reserved to the Trustee, to the Note Insurer or to the Noteholders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

## SECTION 9.19 DELAY OR OMISSION NOT WAIVER.

No delay or omission of the Trustee, of the Note Insurer or of any Noteholder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee, to the Note Insurer or to the Noteholders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee, the Note Insurer or by the Noteholders, as the case may be.

## SECTION 9.20 CONTROL BY CONTROLLING PARTY.

The Controlling Party shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee; provided that:

(a) such direction shall not be in conflict with any rule of law, with this Agreement or any inconsistent direction of the Controlling Party;

(b) any direction by Noteholders (if the Note Insurer is not the Controlling Party) to the Trustee to undertake a Sale of the Trust Estate shall be by the Noteholders representing 51% of all outstanding Voting Interests; and

(c) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; provided, however, that, subject to Section 10.01, the Trustee need not take any action which it determines might involve it in liability or be unjustly prejudicial to the Noteholders not consenting.

## SECTION 9.21 WAIVER OF PAST DEFAULTS.

The Controlling Party may on behalf of the Noteholders of all the Notes waive any past default hereunder and its consequences, except a default:

(a) in the payment of any installment of principal of or interest on, any Note; or

(b) in respect of a covenant or provision hereof which under Section 12.01 cannot be modified or amended without the consent of the Noteholders.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

## SECTION 9.22 UNDERTAKING FOR COSTS.

All parties to this Agreement agree, and each Noteholder by his acceptance of a Note hereunder shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Agreement, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 9.22 shall not apply to any suit instituted by the Trustee or the Note Insurer, to any suit instituted by any Noteholder, or group of Noteholders representing more than 30% of the Voting Interests, or to any suit instituted by any Noteholder for the enforcement of the payment of principal of or interest on any Note on the Final Payment Date.

## SECTION 9.23 WAIVER OF STAY OR EXTENSION LAWS.

The Issuer covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension of law wherever enacted, now or at any time hereafter in force, which may affect the covenants in, or the performance of, this Agreement; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

## SECTION 9.24 SALE OF TRUST ESTATE.

(a) The power to effect any sale (a "Sale") of any portion of the Trust Estate pursuant to Section 9.11 shall not be exhausted by any one or more Sales as to any portion of the Trust Estate remaining unsold, but shall continue unimpaired until the entire Trust Estate shall have been sold or all amounts payable on the Notes and under this Agreement with respect thereto, and all Note Insurer Obligations shall have been paid. The Trustee may from time to time postpone any public Sale by public announcement made at the time and place of such Sale.

(b) To the extent permitted by law, the Trustee shall not in any private Sale sell or otherwise dispose of the Trust Estate, or any portion thereof, unless:

(i) the Controlling Party shall consent to, or direct the Trustee to make such Sale; or

(ii) to the extent that an Insurer Default is then in effect, the proceeds of such Sale would be not less than the sum of all amounts due to the Trustee hereunder and the entire amount which would be distributable to the Note Insurer and the Noteholders, in full payment thereof in accordance with Section 9.14, on the Payment Date next succeeding the date of such Sale, together with any amounts then owing to the Note Insurer.

The purchase by the Trustee of all or any portion of the Trust Estate at a private Sale shall not be deemed a Sale or disposition thereof for purposes of this Section 9.24(b).

(c) Unless the Controlling Party has otherwise consented or directed the Trustee, at any public Sale of all or any portion of the Trust Estate at which a minimum bid equal to or greater than the amount described in paragraph (ii) of subsection (b) of this Section 9.24 has not been established by the Trustee and no Person bids an amount equal to or greater than such amount, the Trustee shall prevent such sale and bid an amount at least \$1.00 more than the highest other bid in order to preserve the Trust Estate.

(d) In connection with a Sale of all or any portion of the Trust Estate:

(i) any of the Noteholders or the Note Insurer may bid for and purchase the property offered for Sale, and upon compliance with the terms of sale may hold, retain and possess and dispose of such property, without further accountability, and may, in paying the purchase money therefor, deliver any of the Notes or claims for interest thereon in lieu of cash up to the amount which shall, upon distribution of the Net Proceeds of such Sale, be payable thereon, and such Notes, in case the amounts so payable thereon shall be less than the amount due thereon, shall be returned to the holders thereof after being appropriately stamped to show such partial payment;

(ii) the Trustee may bid for and acquire the property offered for Sale in connection with any public Sale thereof, and, in lieu of paying cash therefor, may make settlement for the purchase price by crediting the gross Sale price against the sum of (A) the amount which would be distributable to the Noteholders and the Note Insurer as a result of such Sale in accordance with Section 9.14 on the Payment Date next succeeding the date of such Sale and (B) the expenses of the Sale and of any proceedings in connection therewith which are reimbursable to it, without being required to produce the Notes in order to complete any such Sale or in order for the net Sale price to be credited against such Notes, and/or the Note Insurer Obligations, and any property so acquired by the Trustee shall be held and dealt with by it in accordance with the provisions of this Agreement;

(iii) the Trustee shall execute and deliver an appropriate instrument of conveyance transferring its interest in any portion of the Trust Estate in connection with a Sale thereof;

(iv) the Trustee is hereby irrevocably appointed the agent and attorney-in-fact of the Issuer to transfer and convey its interest in any portion of the Trust Estate in connection with a Sale thereof, and to take all action necessary to effect such Sale; and

(v) no purchaser or transferee at such a Sale shall be bound to ascertain the Trustee's authority, inquire into the satisfaction of any conditions precedent or see to the application of any moneys.

(e) Notwithstanding anything in this Agreement to the contrary, if an Event of Default specified in Section 9.08(a) is the Event of Default, or one of the Events of Default, on the basis of which the Notes have been declared due and payable, then the Trustee shall, at the direction of the Controlling Party, sell the Trust Estate without compliance with this Section 9.24.

(f) This Section 9.24(f) only applies during such time as the Rating Agency has rated the financial strength of the Note Insurer below BBB-. If, during such time, an Event of Default has occurred and is continuing, then notwithstanding any provision of this Agreement to the contrary, the Note Insurer hereby agrees that the Noteholders with Voting Interests in excess of 50% of all outstanding Voting Interests shall have the right to direct the Trustee to sell all or substantially all the Trust Estate pursuant to this Agreement and applicable law, whether or not the Note Insurer is the Controlling Party at such time. If the Note Insurer is the Controlling Party, then it shall direct the Trustee to effect such a Sale of all or substantially all of the Trust Estate promptly upon receiving written direction to do so from the Noteholders with Voting Interests in excess of 50% of all outstanding Voting Interests.

#### SECTION 9.25 ACTION ON NOTES.

The Trustee's right to seek and recover judgment under this Agreement shall not be affected by the seeking, obtaining or application of any other relief under or with respect to this Agreement. Neither the Lien of this Agreement nor any rights or remedies of the Trustee, the Note Insurer or the Noteholders shall be impaired by the recovery of any judgment by the Trustee against the Issuer or by the levy of any execution under such judgment upon any portion of the Trust Estate.

#### SECTION 9.26 NO RECOURSE TO OTHER TRUST ESTATES OR OTHER ASSETS OF THE ISSUER.

The Trust Estate granted to the Trustee as security for the Notes serves as security only for the Notes. Holders of the Notes shall have no recourse against the trust estate granted as security for any other series of notes issued by the Issuer, and no judgment against the Issuer for any amount due with respect to the Notes may be enforced against either the trust estate securing any other series or any other assets of the Issuer, nor may any prejudgment lien or other attachment be sought against any such other trust estate or any other assets of the Issuer.

#### SECTION 9.27 LICENSE.

Servicer hereby licenses to each Successor Servicer on a non-exclusive basis, a copy of the Servicer's software currently in use by Servicer for the collection of accounts by Servicer, solely for the limited purpose of collecting the Receivables. The licensee shall have no right to

copy the software or sub-license or assign this license except to another Successor Servicer. The licensee shall not be obligated to pay any royalty or other fee to Servicer for such license.

ARTICLE X  
THE TRUSTEE

SECTION 10.01 DUTIES OF TRUSTEE.

(a) The Trustee, both prior to and after the occurrence of a Servicer Default, undertakes to perform such duties and only such duties as are specifically set forth in this Agreement. The Trustee shall exercise such of the rights and powers vested in it by this Agreement and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs; provided, however, that if the Trustee in its capacity as Backup Servicer assumes the duties of the Servicer pursuant to Section 9.02 or 9.03, the Trustee in performing such duties shall use the degree of skill and attention customarily exercised by a servicer with respect to defaulted consumer receivables that it services for itself or others.

(b) The Trustee, upon receipt of all resolutions, certificates, statements, opinions, reports, documents, orders or other instruments furnished to the Trustee that shall be specifically required to be furnished pursuant to any provision of this Agreement shall examine them to determine whether they conform to the requirements of this Agreement.

(c) No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, its own bad faith or its own willful misfeasance; provided, however, that:

(i) prior to the occurrence of a Servicer Default actually known to a Responsible Officer of the Trustee, and after the curing or waiving of all such Servicer Defaults that may have occurred, the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, no implied rights or obligations shall be read into this Agreement against the Trustee, the permissive right of the Trustee to do things enumerated in this Agreement shall not be construed as a duty and, in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement;

(ii) the Trustee shall not be personally liable for an error of judgment made in good faith by a Responsible Officer of the Trustee, unless it shall be proved that the Trustee was negligent in performing its duties in accordance with the terms of this Agreement; and

(iii) the Trustee shall not be personally liable with respect to any action taken, suffered or omitted to be taken in good faith in accordance with

- (A) the direction or consent of the Note Insurer (to the extent that an Insurer Default is not then in effect), or

- (B) the direction of Noteholders evidencing not less than 25% of the Voting Interests (unless a different percentage is otherwise specifically set forth herein with respect to any applicable action), together with the written consent of the Note Insurer (to the extent that an Insurer Default is not then in effect),

in each case relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement.

(d) The Trustee shall not be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties under this Agreement, or in the exercise of any of its rights or powers, if there shall be reasonable grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it, and none of the provisions contained in this Agreement shall in any event require the Trustee to perform, or be responsible for the manner of performance of, any of the obligations of the Servicer under this Agreement except during such time, if any, as the Trustee in its capacity as Backup Servicer shall be the successor to, and be vested with the rights, duties, powers and privileges of, the Servicer in accordance with the terms of this Agreement.

(e) Except for actions expressly authorized by this Agreement, the Trustee shall take no action reasonably likely to impair the security interests created or existing under any Receivable or to impair the value of any Receivable.

(f) All information obtained by the Trustee regarding the Obligors and the Receivables, whether upon the exercise of its rights under this Agreement or otherwise, shall be maintained by the Trustee in confidence and shall not be disclosed to any other Person, unless such disclosure is required by this Agreement or any applicable law or regulation.

#### SECTION 10.02 TRUSTEE'S CERTIFICATE.

On or as soon as practicable after each date on which the Servicer or Issuer acquires Removed Receivables, the Trustee, upon receipt of written notice of such acquisition, shall submit to the Servicer or the Issuer, as applicable, a Trustee's Certificate (substantially in the form attached hereto as Exhibit B), identifying the acquirer and the Receivables so acquired, executed by the Trustee and completed as to its date and the date of this Agreement, and accompanied by a copy of the Monthly Servicer Report and the Servicer's Remittance Date Certificate for the related Collection Period. The Trustee's Certificate submitted with respect to such Payment Date shall operate, as of such Payment Date, as an assignment without recourse, representation or warranty, to the Issuer or the Servicer, as the case may be, of all the Trustee's right, title and interest in and to such Removed Receivable and to the other property conveyed to the Trust Estate pursuant to Section 2.01 with respect to such Removed Receivable, and all security and documents relating thereto, such assignment being an assignment outright and not for security.

#### SECTION 10.03 TRUSTEE'S RELEASE OF REMOVED RECEIVABLES.

With respect to all Removed Receivables, the Trustee shall, by a Trustee's Certificate (substantially in the form attached hereto as Exhibit B) release, all the Trustee's right, title and

interest in and to each Removed Receivable and the other property included in the Trust Estate pursuant to Section 2.01 with respect to such Removed Receivable, and all security and any documents relating thereto; and the Issuer or the Servicer, as applicable, shall thereupon own each such Removed Receivable, and all such related security and documents, free of any further obligation to the Trustee or the Note Insurer or the Noteholders with respect thereto. If in any enforcement suit or legal proceeding it is held that the Servicer may not enforce a Removed Receivable on the ground that it is not a real party in interest or a holder entitled to enforce such Removed Receivable, the Trustee on behalf of the Note Insurer and the Noteholders shall, at the Servicer's written direction and expense, take such reasonable steps as the Trustee deems necessary to enforce the Removed Receivable, including bringing suit in the Trustee's name or the names of the Note Insurer or of the Noteholders.

SECTION 10.04 CERTAIN MATTERS AFFECTING THE TRUSTEE.

(a) Except as otherwise provided in Section 10.01:

(i) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate, certificate of auditors or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, appraisal, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(ii) the Trustee may consult with counsel and any advice of counsel or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered or omitted by it under this Agreement in good faith and in accordance with such advice of counsel or Opinion of Counsel;

(iii) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement, or to institute, conduct or defend any litigation under this Agreement or in relation to this Agreement, at the request, order or direction of the Note Insurer or any of the Noteholders pursuant to the provisions of this Agreement, unless the Note Insurer or any such Noteholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred therein or thereby (the general obligation of an institutional investor that is investment grade rated being sufficient indemnity); nothing contained in this Agreement shall, however, relieve the Trustee of the obligations, upon the occurrence of a Servicer Default actually known to a Responsible Officer of the Trustee (that shall not have been cured or waived), to exercise such of the rights and powers vested in it by this Agreement, and to use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs;

(iv) the Trustee shall not be personally liable for any action taken, suffered or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement;

(v) prior to the occurrence of a Servicer Default and after the curing or waiving of all Servicer Defaults that may have occurred, the Trustee shall not be bound to make any investigation into the facts of matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, Consent order,

approval, bond or other paper or document, unless requested in writing to do so by the Note Insurer or the Noteholders evidencing not less than 25% of the Voting Interests; provided, however, that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Agreement, the Trustee may require reasonable indemnity against such cost, expense or liability as a condition to so proceeding; the reasonable expense of every such examination shall be paid by the Issuer or, if paid by the Trustee, shall be reimbursed by the Issuer upon demand; and nothing in this clause shall derogate from the obligation of the Servicer to observe any applicable law prohibiting disclosure of information regarding the Obligor; and

(vi) the Trustee may execute any of the trusts or powers under this Agreement or perform any duties under this Agreement either directly or by or through agents or attorneys or a custodian and shall not be liable or responsible for the misconduct or negligence of any of its agents or attorneys or a custodian appointed with due care by the Trustee.

(b) No Noteholder will have any right to institute any proceeding with respect to this Agreement, unless such Noteholder shall have given to the Trustee written notice of default and shall have obtained the prior written consent of the Note Insurer to the institution of such proceeding (in the event that no Insurer Default is in effect at such time) and (i) the Servicer Default arises from the Servicer's failure to remit collections or payments when due or (ii) Noteholders evidencing not less than 25% of the Voting Interests have made written request upon the Trustee to institute such proceeding in its own name as Trustee thereunder, and have offered to the Trustee reasonable indemnity, and the Trustee for 30 days has neglected or refused to institute any such proceedings.

#### SECTION 10.05 LIMITATION ON TRUSTEE'S LIABILITY.

The Trustee makes no representations as to the validity or sufficiency of this Agreement or of the Notes (other than the certificate of authentication thereon, as applicable), or of any Receivable or related document. The Trustee shall have no obligation to perform any of the duties of the Issuer or the Servicer unless explicitly set forth in this Agreement. The Trustee shall at no time have any responsibility or liability for or with respect to the legality, validity and enforceability of any security interest in any Receivable, or the perfection and priority of such a security interest or the maintenance of any such perfection and priority, or for or with respect to the efficacy of the Trust Estate or its ability to generate the payments to be paid to Noteholders and the Note Insurer under this Agreement, including without limitation the existence and contents of any Receivable or any computer file or other record thereof; the validity of the assignment of any Receivable to the Trustee or of any intervening assignment; the completeness of any Receivable; the performance or enforcement of any Receivable; the compliance by the Issuer or the Servicer with any covenant or the breach by the Issuer or the Servicer of any warranty or representation made under this Agreement or in any related document and the accuracy of any such warranty or representation prior to the Trustee's receipt of notice or other discovery of any noncompliance therewith or any breach thereof, any investment of monies by the Issuer or any loss resulting therefrom (it being understood that the Trustee shall remain responsible as Trustee for any property that it may hold as part of the Trust Estate); the acts or omissions of the Issuer, the Servicer or any Obligor; any action of the

Servicer taken in the name of or as the agent of the Trustee; or any action by the Trustee taken at the instruction of the Servicer; provided however, that the foregoing shall not relieve the Trustee of its obligation to perform its duties under this Agreement. Except with respect to a claim based on the failure of the Trustee to perform its duties under this Agreement or based on the Trustee's gross negligence, willful misconduct or bad faith, no recourse shall be had for any claim based on any provision of this Agreement, the Notes or any Receivable or assignment thereof against the institution serving as Trustee in its individual capacity. The Trustee shall not have any personal obligation, liability or duty whatsoever to any Noteholder, the Note Insurer or any other Person with respect to any such claim, and any such claim shall be asserted solely against the Trust Estate or any indemnitor who shall furnish indemnity as provided in this Agreement. The Trustee shall not be accountable for the use or application by the Issuer of the Notes or the proceeds thereof, if any, or for the use or application of any funds paid to or collected by the Servicer in respect of the Receivables. The Trustee shall have no responsibility for filing any financing or continuation statement in any public office at any time or to otherwise perfect or maintain the perfection of any security interest or lien granted to it hereunder (unless the Trustee in its capacity as Backup Servicer shall have become the Successor Servicer) or to prepare or file any Securities and Exchange Commission filing with respect to the Notes or to record this Agreement.

The recitals contained in this Agreement and in the Notes, except the certificates of authentication on the Notes, shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for their correctness or completeness. The Trustee makes no representations as to the validity or condition of any Trust Estate or any part thereof, or as to the title of the Issuer thereto or as to the security afforded thereby or hereby, or as to the validity or genuineness of any securities at any time pledged and deposited with the Trustee hereunder or as to the validity or sufficiency of this Agreement or the Notes. The Trustee shall not be accountable for the use or application by the Issuer of the Notes or the proceeds thereof or of any money paid to the Issuer under any provisions hereof.

The Trustee will not be responsible for any losses incurred in connection with investments in Permitted Investments made in accordance with the terms of this Agreement, other than losses arising out of the Trustee's gross negligence, bad faith or willful misconduct.

#### SECTION 10.06 TRUSTEE MAY OWN NOTES.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes. The Trustee in its individual or any other capacity may deal with the Issuer and the Servicer in banking transactions, with the same rights as it would have if it were not the Trustee.

#### SECTION 10.07 TRUSTEE'S FEES AND EXPENSES.

The Trustee shall be entitled to reasonable compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) for all services rendered by it in the execution of the trusts created by this Agreement and in the exercise and performance of any of the powers and duties of the Trustee under this Agreement, which shall equal the Trustee Fee, paid as provided in Section 4.04, and payment or reimbursement for all reasonable expenses and disbursements (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ) incurred or made by the Trustee in defense of any action brought against it in connection with this Agreement except any such expense or disbursement as may arise

from its gross negligence, willful misfeasance or bad faith or that is the responsibility of Noteholders under this Agreement. Additionally, the Servicer, pursuant to Section 8.02, shall indemnify the Trustee with respect to certain matters.

**SECTION 10.08 INDEMNITY OF TRUSTEE, BACKUP SERVICERS AND SUCCESSOR SERVICER.**

Upon the appointment of a Backup Servicer or a Successor Servicer pursuant to Section 9.02 or 9.03, such Backup Servicer, Successor Servicer and the Trustee and their respective agents and employees shall be indemnified by the Trust Estate and held harmless against any loss, liability, or expense (including reasonable attorney's fees and expenses) arising out of or incurred in connection with the acceptance and performance of the trusts and duties contained in this Agreement to the extent that (i) the Successor Servicer, Backup Servicer or the Trustee, as the case may be, shall not be indemnified for such loss, liability or expense by the Servicer pursuant to Section 9.02 or 9.03; (ii) such loss, liability, or expense shall not have been incurred by reason of the Successor Servicer's, the Backup Servicer's or the Trustee's willful misfeasance, bad faith or gross negligence; and (iii) such loss, liability or expense shall not have been incurred by reason of the Successor Servicer's, the Backup Servicer's or the Trustee's breach of its respective representations and warranties pursuant to Sections 9.02, 9.03, 10.09 and 10.14, respectively.

The Successor Servicer, the Backup Servicer and/or the Trustee shall be entitled to the indemnification provided by this Section only to the extent all amounts due the Servicer, the Note Insurer and all Noteholders pursuant to Section 4.04 have been paid in full and all amounts required to be deposited in the Reserve Account with respect to any Payment Date pursuant to Section 4.05 have been so deposited.

**SECTION 10.09 ELIGIBILITY REQUIREMENTS FOR TRUSTEE.**

Except as otherwise provided in this Agreement, the Trustee under this Agreement shall at all times be a bank having its corporate trust office in the same state (or the District of Columbia or the Commonwealth of Puerto Rico) as the location of the Corporate Trust Office as specified in this Agreement; organized and doing business under the laws of such state (or the District of Columbia or the Commonwealth of Puerto Rico) or the United States; authorized under such laws to exercise corporate trust powers; having a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by federal or state authorities; and shall have the highest available long-term unsecured debt rating by the Required Rating Agencies then providing such a rating or be otherwise acceptable to the Rating Agency and the Controlling Party, as evidenced by a letter to such effect from the Rating Agency (which acceptance may be evidenced in the form of a letter, dated on or shortly before the Closing Date, assigning an initial rating to the Notes) and the Note Insurer (as applicable).

If the Trustee shall publish reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purpose of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 10.10.

## SECTION 10.10 RESIGNATION OR REMOVAL OF TRUSTEE.

(a) The Trustee may at any time resign and be discharged from the trusts created by this Agreement by giving at least 30 days' prior written notice thereof to the Servicer, the Note Insurer and the Noteholders. Upon receiving such notice of resignation, the Servicer shall promptly appoint a successor Trustee acceptable to the Noteholders and the Note Insurer by written instrument, in duplicate, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor Trustee. If no successor Trustee shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(b) If at any time the Trustee shall cease to be eligible in accordance with the provisions of Section 10.09 and shall fail to resign after written request therefor by the Servicer or the Controlling Party, or if at any time the Trustee shall be legally unable to act, or shall be adjudged bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then the Controlling Party may remove the Trustee. If the Trustee is removed under the authority of the immediately preceding sentence, the Servicer shall promptly appoint a successor Trustee acceptable to the Controlling Party, by written instrument, in duplicate, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor Trustee, and pay all fees owed to the outgoing Trustee.

(c) Any resignation or removal of the Trustee and appointment of a successor Trustee pursuant to any of the provisions of this Section shall not become effective until acceptance of appointment by the successor Trustee as provided in Section 10.11. The Servicer shall give the Rating Agency, the Placement Agent, the Note Insurer and the Noteholders notice of any such resignation or removal of the Trustee and appointment and acceptance of a successor Trustee.

## SECTION 10.11 SUCCESSOR TRUSTEE.

Any successor Trustee appointed as provided in Section 10.10 shall execute, acknowledge and deliver to the Servicer and to its predecessor Trustee an instrument accepting such appointment under this Agreement, and thereupon the resignation or removal of the predecessor Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all the rights, powers, duties and obligations of its predecessor under this Agreement, with like effect as if originally named as Trustee. The predecessor Trustee shall deliver to the successor Trustee all documents and statements held by it under this Agreement; and the Servicer, the Note Insurer and the predecessor Trustee shall execute and deliver such instruments and do such other things as may reasonably be required for fully and certainly vesting and confirming in the successor Trustee all such rights, powers, duties and obligations. No successor Trustee shall accept appointment as provided in this Section unless at the time of such acceptance such successor Trustee shall be eligible under the provisions of Section 10.09. Upon acceptance of appointment by a successor Trustee as provided in this Section, the Servicer shall mail notice of the successor of such Trustee under this Agreement to all Noteholders at their addresses as shown in the Note Register and shall give notice by mail to the Rating Agency and the Placement Agent and the Note Insurer. If the Servicer fails to mail such notice within ten (10) days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Servicer.

## SECTION 10.12 MERGER OR CONSOLIDATION OF TRUSTEE.

Any corporation (i) into which the Trustee may be merged or consolidated, (ii) which may result from any merger, conversion, or consolidation to which the Trustee shall be a party or (iii) which may succeed to all or substantially all the corporate trust business of the Trustee, which corporation executes an agreement of assumption to perform every obligation of the Trustee under this Agreement, shall be the successor of the Trustee hereunder, provided such corporation shall be eligible pursuant to Section 10.09, without the execution or filing of any instrument or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. Notice of any such merger shall be given by the Trustee to the Rating Agency, the Placement Agent and the Noteholders and the Note Insurer.

## SECTION 10.13 APPOINTMENT OF CO-TRUSTEE OR SEPARATE TRUSTEE.

Notwithstanding any other provisions of this Agreement, at any time, for the purpose of meeting any legal requirements of any jurisdiction in which any part of the Trust Estate may at the time be located, the Servicer and the Trustee acting jointly shall have the power and shall execute and deliver all instruments to appoint one or more Persons approved by the Trustee to act as co-trustee, jointly with the Trustee or separate trustee or separate trustees, of all or any part of the Trust Estate, and to vest in such Person, in such capacity and for the benefit of the Noteholders and the Note Insurer, such title to the Trust Estate, or any part thereof, and, subject to the other provisions of this Section, such powers, duties, obligations, rights and trusts as the Servicer and the Trustee may consider necessary or desirable. If the Servicer shall not have joined in such appointment within 15 days after the receipt by it of a request so to do, or in the case a Servicer Default shall have occurred and be continuing, the Trustee alone shall have the power to make such appointment. Each co-trustee or separate trustee under this Agreement shall be required to meet the terms of eligibility as a successor trustee pursuant to Section 10.09 but no notice of a successor Trustee pursuant to Section 10.11 and no notice to Noteholders or the Note Insurer of the appointment of any co-trustee or separate trustee shall be required pursuant to Section 10.11.

Each separate trustee and co-trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

(i) all rights, powers, duties and obligations conferred or imposed upon the Trustee shall be conferred upon and exercised or performed by the Trustee and such separate trustee or co-trustee jointly (it being understood that such separate trustee or co-trustee is not authorized to act separately without the Trustee joining in such act), except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed (whether as Trustee under this Agreement or as successor to the Servicer under this Agreement), the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations (including the holding of title to the Trust Estate or any portion thereof in any such jurisdiction) shall be exercised and performed singly by such separate trustee or co-trustee, but solely at the direction of the Trustee;

(ii) no trustee under this Agreement shall be personally liable by reason of any act or omission of any other trustee under this Agreement;

(iii) the Servicer and the Trustee acting jointly (or during the continuation of a Servicer Default, the Trustee alone) may at any time accept the resignation of or remove any separate trustee or co-trustee; and

(iv) the Trustee shall remain primarily liable for the actions of any separate trustees and co-trustee.

Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Agreement and the conditions of this Section. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Trustee or separately, as may be provided therein, subject to all the provisions of this Agreement, including, but not limited to, every provision of this Agreement relating to the conduct of, affecting the liability of, or affording protection to, the Trustee. Each such instrument shall be filed with the Trustee and a copy thereof given to the Servicer.

Any separate trustee or co-trustee may at any time appoint the Trustee its agent or attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Agreement on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successor trustee. Notwithstanding anything to the contrary in this Agreement, the appointment of any separate trustee or co-trustee shall not relieve the Trustee of its obligations and duties under this Agreement.

#### SECTION 10.14 REPRESENTATIONS AND WARRANTIES OF TRUSTEE.

The Trustee hereby makes the following representations and warranties on which the Issuer and the Noteholders are relying:

(i) Organization and Good Standing. The Trustee is a national banking association duly organized, validly existing and in good standing;

(ii) Power and Authority. The Trustee has full power, authority and right to execute, deliver and perform this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement;

(iii) No Violation. The execution, delivery and performance by the Trustee of this Agreement (a) shall not violate any provision of any law governing the banking and trust powers of the Trustee or, to the best of the Trustee's knowledge, any order, writ, judgment, or decree of any court, arbitrator, or governmental authority applicable to the Trustee or any of its assets, (b) shall not violate any provision of the charter or bylaws of the Trustee, and (c) shall not violate any provision of, or constitute, with or without notice or lapse of time, a default under, or result in the creation or imposition of any Lien on any properties included in the Trust Estate pursuant to the provisions of any mortgage, indenture, contract, agreement or other undertaking to which it is a party, which

violation, default or Lien could reasonably be expected to materially and adversely affect the Trustee's performance or ability to perform its duties under this Agreement or the transactions contemplated in this Agreement;

(iv) No Authorization Required. The execution, delivery and performance by the Trustee of this Agreement shall not require the authorization, consent, or approval of, the giving of notice to, the filing or registration with, or the taking of any other action in respect of, any governmental authority or agency regulating the banking and corporate trust activities of the Trustee; and

(v) Duly Executed. This Agreement shall have been duly executed and delivered by the Trustee and shall constitute the legal, valid, and binding agreement of the Trustee, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally or by general principles of equity.

#### SECTION 10.15 TAX RETURNS.

In the event the Trustee shall be required to file tax returns on behalf of the Trust Estate, the Servicer shall prepare or shall cause to be prepared any tax returns required to be filed by the Trust Estate and shall remit such returns to the Trustee for signature at least five days before such returns are due to be filed. The Trustee, upon request, shall furnish the Servicer with all such information known to the Trustee as may be reasonably required in connection with the preparation of all tax returns of the Trust Estate, and shall, upon request, execute such returns.

#### SECTION 10.16 TRUSTEE MAY ENFORCE CLAIMS WITHOUT POSSESSION OF NOTES.

All rights of action and claims under this Agreement or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as Trustee. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses and disbursements of the Trustee, its agents and counsel, be for the ratable benefit of the Note Insurer and the Noteholders in respect of which such judgment has been obtained, in the order of priority specified in Section 4.04(b)(i).

#### SECTION 10.17 SUIT FOR ENFORCEMENT.

If a Servicer Default shall occur and be continuing, the Trustee, in its discretion may, subject to the provisions of Section 10.01, proceed to protect and enforce its rights and the rights of the Note Insurer and the Noteholders under this Agreement by a suit, action or proceeding in equity or at law or otherwise, whether for the specific performance of any covenant or agreement contained in this Agreement or in aid of the execution of any power granted in this Agreement or for the enforcement of any other legal, equitable or other remedy as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of the rights of the Trustee, the Note Insurer or the Noteholders.

## SECTION 10.18 RIGHTS OF NOTEHOLDERS TO DIRECT TRUSTEE.

The Controlling Party shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; provided however, that subject to Section 10.01, the Trustee shall have the right to decline to follow any such direction if the Trustee being advised by counsel determines that the action so directed may not lawfully be taken, or if the Trustee in good faith shall, by a Responsible Officer of the Trustee, determine that the proceedings so directed would be illegal or subject it to personal liability or be unduly prejudicial to the rights of the Note Insurer or Noteholders not parties to such direction; provided, further, however, that nothing in this Agreement shall impair the right of the Trustee to take any action deemed proper by the Trustee and which is not inconsistent with such direction by the Noteholders.

## SECTION 10.19 CONFIDENTIAL INFORMATION.

The Trustee acknowledges that, in the course of meeting its respective duties and obligations under this Agreement, it may obtain Proprietary Information relating to the Servicer or the Issuer. Such Proprietary Information may include, but is not limited to, non-public trade secrets, know how, invention techniques, processes, programs, schematics, source documents, data, and financial information. The Trustee shall at all times, both during the term of this Agreement and for a period of three (3) years after its termination, keep in trust and confidence all such Proprietary Information, and shall not use such Proprietary Information other than in the course of its duties under this Agreement, nor shall the Trustee disclose any such Proprietary, Information without the written consent of the Servicer or the Issuer unless legally required to disclose such information. The Trustee further agrees to immediately return all Proprietary Information (including copies thereof) in its possession, custody, or control upon termination of this Agreement for any reason.

The Trustee shall not disclose, advertise or publish the existence or the terms or conditions of this Agreement without prior written consent of the Servicer or the Issuer. Notwithstanding the foregoing, this Section 10.19 shall not prohibit disclosure of information that is required to be disclosed by the Trustee pursuant to federal or state laws or regulation. Notwithstanding any provision of this Agreement to the contrary, this Section 10.19 shall not prohibit disclosure of information that is required in a judicial, administrative or governmental proceeding to disclose any Proprietary Information, nor shall it prohibit disclosure of information to Coldata, Inc., pursuant to an agreement to which Midland Credit Management, Inc. is a party. In particular the Trustee agrees that it shall not, without the prior consent of the Servicer or the Issuer, disclose the existence of this Agreement or any of the terms herein to any Person other than counsel to the Trustee or an employee or director of the Trustee with a need to know in order to implement this Agreement and only if such employee or director or counsel agrees to maintain the confidentiality of this Agreement. The parties hereto agree that the Servicer and/or the Issuer shall have the right to enforce these nondisclosure provisions by an action for specific performance filed in any court of competent jurisdiction in the State of Kansas or Arizona.

ARTICLE XI  
REDEMPTION

SECTION 11.01 REDEMPTION AT THE OPTION OF THE ISSUER; ELECTION TO REDEEM.

The Issuer shall have the option to redeem the Notes in full on any Payment Date on or after (i) the Payment Date on which the Note Balance is less than 15% of the Original Note Balance or (ii) the day on which the duties of Midland Credit Management, Inc., as Servicer under this Agreement, are terminated pursuant to Section 9.02(a)(ii). The election of the Issuer to redeem the Notes pursuant to this Section shall be evidenced by delivery to the Trustee no later than the last Business Day of the month preceding the month in which the Payment Date as of which such redemption will be effected occurs of an Officer's Certificate of the Issuer stating the Issuer's intention to redeem the Notes and specifying the Redemption Amount therefor. No prepayment premium or penalty is payable with respect to any such redemption.

SECTION 11.02 DEPOSIT OF REDEMPTION AMOUNT.

In the case of any redemption pursuant to Section 11.01, the Issuer shall, on or before the Remittance Date preceding the Payment Date on which such redemption is to be effected, deposit in the Note Payment Account pursuant to Section 4.03 an amount equal to the Redemption Amount and shall thereafter succeed to all interests in and to the Trust Estate subject to Section 2.11. The Redemption Amount shall be paid as provided in Section 4.04(b).

SECTION 11.03 NOTICE OF REDEMPTION BY THE TRUSTEE.

Upon receipt of notice from the Issuer of its election to redeem the Notes pursuant to Section 11.01 and deposit by the Issuer of the Redemption Amount pursuant to Section 11.02, the Trustee shall provide notice of redemption of the Notes by first class mail, postage prepaid, mailed no later than the Business Day following the date on which such deposit was made, to the Note Insurer at its address herein and to each Noteholder at such Noteholder's address as listed in the Note Register. Notice of redemption of Notes shall be given by the Trustee in the name and at the expense of the Issuer, as applicable.

ARTICLE XII  
MISCELLANEOUS PROVISIONS

SECTION 12.01 AMENDMENT.

(a) This Agreement may be amended by the Issuer, the Servicer and the Trustee, without the consent of the Note Insurer or any of the Noteholders, to cure any ambiguity, to correct or supplement any provision in this Agreement which may be inconsistent with any other provision of this Agreement, to add, change or eliminate any other provision of this Agreement with respect to matters or questions arising under this Agreement that shall not be inconsistent with the provisions of this Agreement or to add or provide for any credit enhancement (other than the Policy) provided that any such action shall not, as evidenced by an Officer's Certificate of the Issuer delivered to the Trustee and the Note Insurer by the Issuer, adversely affect in any material respect the interests of the Note Insurer or the Noteholders, provided further, that any such action shall not, as evidenced by an Officer's Certificate of the Issuer delivered to the

Trustee and the Note Insurer by the Issuer, adversely affect in any material respect the interests of the Note Insurer or the Noteholders.

(b) This Agreement may also be amended from time to time by the Issuer, the Servicer and the Trustee, and the Note Insurer, with the consent of Noteholders evidencing not less than 66-2/3% of the Voting Interests (which consent of any Noteholder given pursuant to this Section or pursuant to any other provision of this Agreement shall be conclusive and binding on such Noteholder and on all future holders of such Note and of any Note issued upon the transfer thereof or in exchange thereof or in lieu thereof whether or not notation of such consent is made upon the Note), for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Agreement, or of modifying in any manner the rights of such Noteholders; provided, however, that no such amendment shall (i) except as otherwise provided in Section 12.01(a), reduce in any manner the amount of, or delay the timing of, any payments that shall be required to be made on any Note or deposits of amounts to be so paid or the Required Reserve Amount of the Reserve Account without the consent of each Noteholder (provided that an amendment of the terms of a Servicer Default shall not be deemed to be within the scope of this clause (i)); (ii) change the definition or the manner of calculating the interest accrued on the Notes without the consent of each Noteholder; (iii) reduce the aforesaid percentage of the Voting Interest required to consent to any such amendment, without the consent of each Noteholder; or (iv) adversely affect the rating of the Notes by the Rating Agency without the consent of Noteholders evidencing not less than 66-2/3% of the Voting Interests (but excluding for purposes of such calculation and action all Notes held by the Issuer, the Servicer or any of their affiliates).

(c) Prior to the execution of any amendment or consent thereto pursuant to this Section 12.01, the Trustee shall furnish written notification of the substance of such amendment or consent to the Rating Agency and the Placement Agent.

(d) Promptly after the execution of any amendment or consent thereto pursuant to Section 12.01(b), the Trustee shall furnish written notification of the substance of such amendment or consent to each Noteholder. It shall not be necessary for the consent of Noteholders pursuant to Section 12.01(b) to approve the particular form of any proposed amendment or consent, but it shall be sufficient if such consent shall approve the substance thereof. The manner of obtaining such consents and of evidencing the authorization by Noteholders of the execution thereof shall be subject to such reasonable requirements as the Trustee may prescribe.

(e) Prior to the execution of any amendment to this Agreement, the Trustee shall be entitled to receive and rely upon an Opinion of Counsel stating that the execution of such amendment is authorized or permitted by this Agreement. The Trustee may, but shall not be obligated to, enter into any such amendment which affects the Trustee's own rights, duties or immunities under this Agreement or otherwise.

(f) There will be no change in the identity of the Servicer, the Backup Servicer or the Trustee without the prior written consent of the Controlling Party, subject to the rights of the Backup Servicer and the Trustee to resign in accordance with the provisions of this Agreement.

(g) This Agreement may be amended by the Issuer, the Servicer, the Trustee and the Note Insurer with the consent of the Noteholders to make any change required to minimize the possibility of classification of the Trust as a "publicly traded partnership" within the meaning of Code Section 7704(b), assuming for purposes of the foregoing that the Trust were classified

as a partnership for federal or state income tax purposes and not solely as a security device for such purposes. Further, this Agreement may be amended by the Issuer, the Servicer, the Trustee and the Note Insurer without the consent of the Noteholders to minimize the restrictions on transfers of the Notes described in Section 6.03(h) if the Issuer, in reliance upon an opinion of counsel delivered to the Trustee and the Note Insurer, determines that such amendment would not otherwise result in classification of the trust or render the Trust susceptible to classification as a "publicly traded partnership" within the meaning of Code Section 7704(b) assuming for purposes of the foregoing that the Trust were classified as a partnership for federal or state income tax purposes and not solely as a security device for such purposes.

SECTION 12.02 PROTECTION OF TITLE TO TRUST ESTATE.

(a) Either of the Issuer or the Servicer or both shall execute and file such financing statements and cause to be executed and filed such continuation and other statements, all in such manner and in such places as may be required by law fully to preserve, maintain and protect the interests of the Note Insurer, the Noteholders and the Trustee under this Agreement in the Receivables and in the proceeds thereof. Each of the Issuer and the Servicer shall deliver (or cause to be delivered) to the Trustee file-stamped copies of, or filing receipts for, any document filed as provided, above, as soon as available following such filing.

(b) Neither the Issuer nor the Servicer shall change its name, identity or organizational structure in any manner that would, could or might make any financing statement or continuation statement filed in accordance with paragraph (a) above seriously misleading within the meaning of Section 9-402(7) of the UCC, unless it shall have given the Trustee at least ten (10) days' prior written notice thereof and shall have filed within thirty (30) days after such change appropriate amendments to all such previously filed financing statements or continuation statements.

(c) Each of the Issuer and the Servicer shall give the Trustee at least ten (10) days' prior written notice of any relocation of its principal executive office if, as a result of such relocation, the applicable provisions of the UCC would require the filing of any amendment of any previously filed financing statement or continuation statement or of any new financing statement, and shall within thirty (30) days after such relocation file any such amendment or new financing statement. The Servicer shall at all times maintain each office from which it services Receivables and its principal executive office within the United States.

(d) The Servicer shall maintain accounts and records as to each Receivable accurately and in sufficient detail to permit (i) the reader thereof to know at any time the status of such Receivable, including payments and recoveries made and payments owing (and the nature of each, if applicable) and (ii) reconciliation between payments or recoveries on (or with respect to) each Receivable and the amounts from time to time deposited in the Accounts (or any of them) in respect of such Receivables.

(e) The Servicer shall maintain its computer records so that, from and after the time of transfer, assignment and conveyance under this Agreement of the Receivables to the Trustee, the Servicer's master computer records (including any back-up archives) that refer to any Receivables indicate clearly the interest of the Trustee in such Receivables and that the Receivable is held by the Trustee on behalf of the Note Insurer and the Noteholders. Indication of the Trustee's interest in a Receivable shall be deleted from or modified on the Servicer's computer records when, and only when, the Receivable has been paid in full, acquired or assigned pursuant to this Agreement.

(f) If at any time Issuer or Servicer propose to assign, convey, grant a security interest in, or otherwise transfer any interest in defaulted consumer receivables to any prospective purchaser, lender or other transferee, the Servicer shall give to such prospective acquirer, lender or other transferee computer tapes, records or print-outs (including any restored from back-up archives) that, if they refer in any manner whatsoever to any Receivable, indicate clearly that such Receivable has been transferred, assigned and conveyed and is owned by the Trustee unless such Receivable has been paid in full, acquired or assigned pursuant to this Agreement.

(g) The Servicer shall permit the Trustee and its agents, upon not less than two Business Days' prior written notice and during normal business hours, to inspect, audit and make copies of and abstracts from the Servicer's records regarding any Receivables then or previously included in the Trust Estate. Nothing in this Section shall impair the obligation of the Servicer to observe any applicable law prohibiting disclosure of information regarding the Obligor, and the failure of the Servicer to provide access as provided in this Section as a result of such obligation shall not constitute a breach of this Section.

(h) Upon request, the Servicer shall furnish to the Trustee and/or the Note Insurer, within five Business Days of such request, a list of all Receivables (by account number and name of Obligor) then held as part of the Trust Estate.

(i) The Servicer shall deliver to the Trustee, promptly after the execution and delivery of each amendment to any financing statement, an Opinion of Counsel stating that, in the opinion of such Counsel, either (i) all financing statements and continuation statements have been executed and filed that are necessary fully to preserve and protect the interest of the Trustee in the Receivables, and reciting the details of such filings or referring to prior Opinions of Counsel in which such details are given, or (ii) no such action is necessary to preserve and protect such interest.

#### SECTION 12.03 LIMITATION OF RIGHTS OF NOTEHOLDERS.

(a) The death or incapacity of any Noteholder shall not operate to terminate this Agreement or the Trust Estate, nor entitle its legal representatives or heirs to claim an accounting or to take any action or commence any proceeding in any court for a partition or winding up of the Trust Estate, nor otherwise affect the rights, obligations and liabilities of the parties to this Agreement or any of them.

(b) No Noteholder shall have any right to vote (except as expressly provided in this Agreement) or in any manner otherwise control the operation and management of the Trust Estate, or the obligations of the parties to this Agreement, nor shall anything set forth in this Agreement, or contained in the terms of the Notes, be construed so as to constitute the Noteholders from time to time as partners or members of an association; nor shall any Noteholder be under any liability to any third person by reason of any action pursuant to any provision of this Agreement.

(c) No Noteholder shall have any right by virtue or by availing itself of any provisions of this Agreement to institute any suit, action, or proceeding in equity or at law upon or under or with respect to this Agreement, unless such Noteholder previously shall have given to the Trustee a written notice of default and of the continuance thereof and have obtained the consent of the Note Insurer to the institution of such action, suit or proceeding (to the extent that there shall be no Insurer Default in effect at such time), as hereinbefore provided, and unless

Noteholders evidencing not less than 25% of the Voting Interests shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee under this Agreement and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses, and liabilities to be incurred therein or thereby, and the Trustee, for 30 days after its receipt of such notice, request and offer of indemnity, shall have neglected or refused to institute any such action suit, or proceeding and during such 30-day period, no request or waiver inconsistent with such written request has been given to the Trustee pursuant to this Section or Section 10.04; it being understood and intended, and being expressly covenanted by each Noteholder with every other Noteholder and the Trustee, that no one or more Noteholders shall have any right in any manner whatever by virtue or by availing itself or themselves of any provisions of this Agreement to affect, disturb, or prejudice the rights of the other Noteholders, or to obtain or seek to obtain priority over or preference to any other Noteholder, other than as provided in this Agreement, or to enforce any right under this Agreement, except in the manner provided in this Agreement and for the equal, ratable, and common benefit of all Noteholders. For the protection and enforcement of the provisions of this Section, each and every Noteholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

#### SECTION 12.04 GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York and the obligations, rights and remedies of the parties under this Agreement shall be determined in accordance with such laws.

#### SECTION 12.05 NOTICES.

All demand, notices and communications under this Agreement shall be in writing, and either personally delivered, mailed by certified mail, return receipt requested, or sent by facsimile transmission, and shall be deemed to have been duly given upon receipt (i) in the case of the Issuer or the Servicer, to the agent for service as specified in Section 2.10 of this Agreement, or at such other address as shall be designated by the Issuer or the Servicer in a written notice to the Trustee; (ii) in the case of the Trustee or Backup Servicer, at the Corporate Trust Office; (iii) in the case of the Rating Agency at 25 Broadway, New York, New York 1004, and (iv) in the case of the Note Insurer, at 335 Madison Avenue, 25th Floor, New York, New York 10017 (Fax: (212) 682-5377). Any notice required or permitted to be mailed to a Noteholder shall be given by first class mail, postage prepaid, at the address of such Noteholder as shown in the Note Register. Any notice so mailed within the time prescribed in this Agreement shall be conclusively presumed to have been duly given, whether or not the Noteholder shall receive such notice.

#### SECTION 12.06 SEVERABILITY OF PROVISIONS; COUNTERPARTS.

(a) If any one or more of the covenants, agreements, provisions or terms of this Agreement shall be for any reason whatsoever held invalid or unenforceable in any jurisdiction, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement or the Notes, or the rights of the Noteholders.

(b) This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument.

SECTION 12.07 ASSIGNMENT.

Notwithstanding anything to the contrary contained in this Agreement, except as provided in Sections 7.04 and 8.03 and as provided in the provisions of this Agreement concerning the resignation of the Servicer, this Agreement may not be assigned by the Issuer or the Servicer without the prior written consent of the Note Insurer and Noteholders evidencing not less than 66-2/3% of the Voting Interests.

SECTION 12.08 NO PETITION.

Each of the Servicer and the Trustee and the Note Insurer covenants and agrees that prior to the date which is one year and one day after the termination of this Agreement, it will not institute against, or join any other Person in instituting against, the Issuer any bankruptcy, reorganization arrangement, insolvency or liquidation proceeding or other proceedings under any federal or state bankruptcy or similar law. Notwithstanding the foregoing, nothing herein shall be deemed to prohibit the Trustee from filing proofs of claim or otherwise participating in any such proceeding instituted by another person. This Section 12.08 shall survive the termination of this Agreement or the termination of the Servicer or the Trustee, as the case may be, under this Agreement.

SECTION 12.09 NOTEHOLDER DIRECTION.

Notwithstanding anything to the contrary contained in this Agreement, provided the Trustee has sent out notices to Noteholders in accordance with this Agreement, the Trustee may act as directed by a majority of the outstanding Noteholders (but only to the extent the Noteholders are entitled under this Agreement to so direct the Trustee with respect to such action) responding in writing to the request contained in such notice; provided, however, that Noteholders representing at least 66-2/3% of the outstanding principal balance of the Notes as of the time such notice is sent to Noteholders must have responded to such notice from the Trustee. In addition, the Trustee shall not have any liability to any Noteholder with respect to any action taken pursuant to such notice if the Noteholder does not respond to such notice within the time period set forth in such Notice.

SECTION 12.10 NO SUBSTANTIVE REVIEW OF COMPLIANCE DOCUMENTS.

Other than as specifically set forth in this Agreement, any reports, information or other documents provided to the Trustee are for purposes only of enabling the sending party to comply with its document delivery requirements hereunder and the Trustee's receipt of any such information shall not constitute constructive or actual notice of any information contained therein or determinable from any information contained therein, including the Issuer's or the Servicer's compliance with any of its covenants, representations or warranties hereunder.

## SECTION 12.11 TRADING OF NOTES.

The Servicer shall, to the extent practicable and in an effort to reduce the likelihood of classification of the Trust as "publicly traded partnership" (within the meaning of Code Section 7704(b)), assuming that the Trust were classified as a partnership for federal or state income tax purposes and not solely as a security device for such purposes, take all steps necessary to prevent the trading of Notes on an "established securities market" (within the meaning of United States Treasury Regulations Section 1.7704-1(b)) or other trading of Notes that is comparable, economically, to trading on an "established securities market."

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IN WITNESS WHEREOF, the parties have caused this Indenture and Servicing Agreement to be duly executed by their respective officers as of the day and year first above written.

MIDLAND RECEIVABLES 99-1 CORPORATION,  
as Issuer

By: \_\_\_\_\_  
Name: Gregory Meredith  
Title: Secretary

MIDLAND CREDIT MANAGEMENT, INC., as  
Servicer

By: \_\_\_\_\_  
Name: Gregory Meredith  
Title: Secretary

NORWEST BANK MINNESOTA,  
NATIONAL ASSOCIATION,  
not in its individual capacity, but  
solely as Trustee and as Backup Servicer

By: \_\_\_\_\_  
Name: Casey P. Kelly  
Title: Corporate Trust Officer

ASSET GUARANTY INSURANCE COMPANY

By: \_\_\_\_\_  
Name: Scott L. Mangan  
Title: Vice President

## EXHIBIT I

COLLECTION PERIOD ENDING ON  
THE LAST CALENDAR DAY OF:

NET CUMULATIVE COLLECTIONS

Mar-00	\$ 7,264,607
June-00	\$ 14,808,422
Sept-00	\$ 21,531,428
Dec-00	\$ 27,742,861
Mar-01	\$ 33,201,653
June-01	\$ 37,541,901
Sept-01	\$ 40,962,997
Dec-01	\$ 44,029,587
Mar-02	\$ 46,972,444
June-02	\$ 49,506,348
Sept-02	\$ 51,661,463
Dec-02	\$ 53,697,596
Mar-03	\$ 55,526,462

[FINAL VERSION]

## INSURANCE AND REIMBURSEMENT AGREEMENT

THIS INSURANCE AND REIMBURSEMENT AGREEMENT (the "Insurance Agreement") is made as of December 14, 1999 among Asset Guaranty Insurance Company, a stock insurance company incorporated in the State of New York, as note insurer ("AGIC"), Midland Receivables 99-1 Corporation, as issuer (the "Issuer"), Midland Credit Management, Inc., individually ("Midland") and as servicer (together with its successors and assigns in such capacity, including without limitation the backup servicer and any successor servicer appointed pursuant to the Indenture (as defined below), the "Servicer"), and Norwest Bank Minnesota, National Association (individually "Norwest"), as trustee (together with its successors and assigns, in such capacity, the "Trustee") and as backup servicer (in such capacity, the "Backup Servicer").

## PRELIMINARY STATEMENTS

The Issuer is the issuer of the Midland Receivables-Backed Notes, Series 1999-1 (the "Notes") for which a security interest in collateral consisting of all of the Issuer's right, title and interest in, to and under a pool of receivables, including, among other types of receivables, consumer loan receivables generated on credit card accounts, and installment accounts and certain other assets and rights (the "Trust Estate") has been granted to the Trustee for the benefit of the holders of the Notes and AGIC. Such receivables and related assets were assigned to the Issuer pursuant to a Receivables Sale Agreement, dated as of December 14, 1999 between Midland Funding 98-A Corporation (the "Seller"), as seller and the Issuer, as purchaser (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Receivables Sale Agreement").

The Issuer has granted the security interest in the Trust Estate to secure repayment of the Notes (and other related amounts) to the Trustee for the benefit of the holders of the Notes and AGIC pursuant to the Indenture and Servicing Agreement, dated as of December 14, 1999, among the Issuer, the Servicer, AGIC and Norwest, as Trustee and as Backup Servicer (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Indenture"); and

The Notes have been sold to the "Purchasers" parties to that certain Note Purchase Agreement, dated as of December 14, 1999, among such Purchasers and the Issuer (as the same may be amended, restated, supplemented and otherwise modified from time to time, the "Purchase Agreement"); and

AGIC is authorized to transact a financial guaranty insurance business in the State of New York and has agreed, subject to the terms and conditions of this Insurance Agreement, to issue to the Trustee, for the benefit of the holders of the Notes, a financial guaranty insurance policy substantially in the form of Exhibit A hereto (the "Policy"); and

The parties hereto, among other things, desire to specify (i) the conditions precedent to the issuance by AGIC of the Policy, (ii) the obligations of the Issuer, the Servicer, the Backup Servicer and Midland, as applicable, to make payments in respect of premiums, reimbursement obligations and other amounts relating to the Policy, and (iii) certain other obligations in respect of the issuance of the Policy, and to provide for certain other matters related thereto.

NOW, THEREFORE, in consideration of the premises and of the agreements herein contained, AGIC, the Issuer, the Servicer, Midland, the Trustee and the Backup Servicer agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.01 General Definitions. The terms defined in this Article I shall have the meanings provided herein for all purposes of this Insurance Agreement, unless the context clearly requires otherwise, in both singular and plural form, as appropriate. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

"Affiliate" means, as to any specified Person, any other Person controlling or controlled by or under common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" or "controlled" have meanings correlative to the foregoing.

"AGIC" has the meaning assigned to such term in the Preliminary Statements above.

"AGIC Information" has the meaning given to such term under the Indemnification Agreement.

"Backup Servicer" has the meaning assigned to such term in the Preliminary Statements above.

"Closing Date" means December 14, 1999.

"GAAP" means generally accepted accounting principles in effect from time to time in the United States of America.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Indemnification Agreement" means the Indemnification Agreement, dated as of December 14, 1999, among AGIC, the Issuer, the Placement Agent and Midland.

"Indenture" has the meaning assigned to such term in the Preliminary Statements above.

"Insurance Agreement" has the meaning assigned to such term in the Preliminary Statements above.

"Issuer" has the meaning assigned to such term in the Preliminary Statements above.

"Midland" has the meaning assigned to such term in the Preliminary Statements above.

"Notes" has the meaning assigned to such term in the Preliminary Statements above.

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

"Placement Agent" means Rothschild Inc.

"Placement Agent Agreement" means the Placement Agent Agreement dated as of December 1, 1999, among the Issuer, Midland and the Placement Agent.

"Placement Agent Information" means the information relating to the Placement Agent in the Private Placement Memorandum.

"Policy" has the meaning assigned to such term in the Preliminary Statements above.

"Premium" means the premium payable by the Issuer pursuant to the Premium Letter.

"Premium Letter" means the letter agreement between AGIC and the Issuer, dated as of the Closing Date, setting forth the payment arrangement for the premiums in respect of the Policy, and certain other fees, related expenses and other related matters.

"Premium Rate" has the meaning assigned to such term in the Premium Letter.

"Prime Rate" means the fluctuating rate of interest as published from time to time in the New York, New York edition of The Wall Street Journal, under the caption "Money Rates" as the "prime rate", the "Prime Rate" to change when and as such published prime rate changes.

"Private Placement Memorandum" means the final Private Placement Memorandum dated December 14, 1999, relating to the offering of the Notes.

"Purchase Agreement" has the meaning assigned to such term in the Preliminary Statements above.

"Purchaser" has the meaning assigned to such term in the Preliminary Statements above.

"Rating Agency" means Standard & Poor's Rating Services, a division of McGraw-Hill Companies, Inc.

"Receivables Sale Agreement" has the meaning assigned to such term in the Preliminary Statements above.

"Schedule of Receivables" means the schedule of receivables delivered to the Trustee by the Issuer in connection with the Indenture.

"Seller" has the meaning assigned to such term in the Preliminary Statements above.

"Servicer" has the meaning assigned to such term in the Preliminary Statements above.

"Trust Estate" has the meaning assigned to such term in the Preliminary Statements above.

"Trustee" has the meaning assigned to such term in the Preliminary Statements above.

Section 1.02. Generic Terms. All words used herein shall be construed to be of such gender or number as the circumstances require. The words "herein," "hereby," "hereof," "hereto," "hereinbefore" and "hereinafter," and words of similar import, refer to this Insurance Agreement in its entirety and not to any particular paragraph, clause or other subdivision, unless otherwise specified.

## ARTICLE II

## THE POLICY AND REIMBURSEMENT

Section 2.01. Policy. AGIC agrees, subject to the satisfaction of the conditions hereinafter set forth on or prior to the Closing Date, to issue the Policy on the Closing Date.

Section 2.02. Conditions Precedent. The obligation of AGIC to issue the Policy is subject to the satisfaction of the following conditions on or prior to the Closing Date:

(a) The following documents shall have been duly authorized, executed and delivered by each of the parties thereto (other than AGIC) and shall be in full force and effect and in form and substance satisfactory to AGIC, in the exercise of AGIC's sole discretion, and an executed counterpart of each thereof shall have been delivered to AGIC:

- (i) this Insurance Agreement;
- (ii) the Indenture, including the Schedule of Receivables;
- (iii) the Purchase Agreement;
- (iv) the Receivables Sale Agreement, including the Schedule of Receivables thereto;
- (v) the Placement Agent Agreement;
- (vi) the Indemnification Agreement; and
- (vii) the Premium Letter

(items (i) through (vii) being, collectively, the "Transaction Documents").

(b) AGIC shall have received:

(i) copies certified by the Secretary or an Assistant Secretary of each of the Issuer and Midland, dated the Closing Date, of its certificate of incorporation and by-laws and the resolutions of its Board of Directors, as the case may be, or a duly authorized committee thereof authorizing its execution and delivery of the Transaction Documents and of all documents evidencing other corporate or company action and governmental approvals, if any, that are necessary for the consummation of the transactions contemplated in such documents;

(ii) a certificate, dated the Closing Date, of the secretary or an assistant secretary of each of the Issuer, the Trustee, the Backup Servicer and Midland certifying the names and true signatures of its officers authorized to sign such Transaction Documents to which it is a party;

(iii) a certificate, dated the Closing Date, of a Responsible Officer of each of the Issuer and Midland certifying to the effect of the representation and warranty set forth in Section 3.01(e) hereof;

(iv) each of the opinions, letters and certificates described in the closing checklist attached hereto as Exhibit B (other than any such opinion, letter or certificate required to be issued or delivered by AGIC or an agent or employee thereof), in each case (1) dated the Closing Date, (2) in full force and effect at the time of delivery thereof, (3) in form and substance satisfactory to AGIC in the exercise of its sole discretion, and (4) covering such matters as AGIC shall require in the exercise of its sole discretion;

(v) evidence that one or more UCC financing statements covering the security interest of the Trustee created by or pursuant to the Indenture in the Trust Estate and the other property and rights which the Trustee is granted in the Indenture and the proceeds thereof has been executed by the Issuer in favor of the Trustee, and has been duly filed in such place or places which, in the opinion of counsel for the Issuer, Midland and AGIC, are necessary or desirable to perfect such interest;

(vi) [Reserved];

(vii) evidence that one or more UCC financing statements covering the ownership interest of the Issuer in the Receivables and the other related assets assigned pursuant to the Receivables Sale Agreement has been executed by the Seller in favor of the Issuer, and assigned to the Trustee, and has been duly filed in such place or places which, in the opinion of counsel for the Issuer, the Seller and AGIC, are necessary or desirable to perfect such interest;

(viii) evidence that each of the Collection Account, the Reserve Account, and the Note Payment Account have been established in accordance with the terms and conditions of the Indenture;

(ix) certified copies of documents, certificates, instruments, approvals or executed copies thereof that relate to the transactions as contemplated by the Transaction Documents as AGIC may reasonably request; and

(x) a specimen Note.

(c) (i) No statute, rule, regulation or order shall have been enacted, entered or deemed applicable by any government or governmental or administrative agency or court which would make the transactions contemplated by the Transaction Documents illegal or otherwise prevent the consummation thereof, (ii) no material omission or change of fact shall have occurred or come to the attention of any of Midland, the Issuer, the Trustee, the Placement Agent or AGIC that would cause information or documents heretofore supplied to AGIC to be untrue or misleading, (iii) no other material change or omission shall have occurred or come to the attention of any of Midland, the Issuer, the Trustee, the Placement Agent or AGIC that would entitle the Placement Agent to decline to place the Notes, and (iv) no material adverse change shall have occurred in the security for the Notes since the date of the Purchase Agreement.

(d) No suit, action or other proceeding, investigation, or injunction or final judgment relating thereto, shall be threatened or pending before any court or governmental agency in which it is sought to restrain or prohibit or obtain damages or other relief in connection with the consummation of the Transactions, and no investigation that might result in any such suit, action or proceeding shall be pending or threatened.

(e) AGIC shall have received an executed copy of all legal opinions, certificates, accountant's reports and other documents required to be furnished by the Issuer, the Servicer, the Backup Servicer, the Trustee and Midland pursuant to any of the Transaction Documents or pursuant to the requirements of the Rating Agency (if any). Such documents shall be in form and substance satisfactory to AGIC in the exercise of its sole discretion and each such legal opinion or certificate shall be addressed to AGIC, or accompanied by appropriate reliance letters to AGIC.

(f) There shall be on deposit in the Reserve Account a sum of not less than \$1,515,000 in immediately available funds.

(g) Simultaneously with the issuance of the Policy, the Notes shall have been duly executed and authenticated and delivered to the relevant Purchaser pursuant to the Purchase Agreement.

(h) All fees and expenses payable hereunder or pursuant to the Premium Letter to AGIC on or prior to the Closing Date shall have been paid in full by Midland or the Issuer.

Section 2.03. Premium Letter. AGIC shall be entitled to receive the Premium payable under the Premium Letter on each Payment Date, and the timely payment or other performance of all other obligations set forth in the Premium Letter, in each case in accordance with the terms and conditions of the Premium Letter.

Section 2.04. Reimbursement Obligations. (a) In consideration of the issuance of the Policy by AGIC, AGIC shall be entitled to reimbursement by the Issuer from the Trust Estate, pursuant to the terms hereof and the Indenture, for any payment made under the Policy, which reimbursement shall be due and payable to AGIC on the date that any amount is to be paid pursuant to a Notice for Payment (as defined in the Policy). Such reimbursement shall be made in accordance with the terms hereof and of the Indenture, in an amount equal to the sum of all amounts paid or previously paid that remain unpaid under the Policy, together with interest on any and all amounts remaining unpaid (to the extent permitted by law, if in respect of any unpaid amounts representing interest) from the date such amounts became due until paid in full (after as well as before judgment), at a rate of interest equal to the Prime Rate from time to time in effect plus 1.0%.

(b) Anything in Section 2.04(a) to the contrary notwithstanding, AGIC shall be entitled to reimbursement (to the extent such reimbursement and related interest has not previously been paid by payment to AGIC from the Trust Estate) from (i) the Issuer, for payments made under the Policy arising as a result of the Issuer's failure to make any payment or deposit with respect to a Receivable required to be made pursuant to either of Sections 2.05 or 7.02 of the Indenture, together with interest on any and all such amounts remaining unpaid (to

the extent permitted by law, if in respect of any unpaid amounts representing interest) from the date such amounts became due until paid in full (after as well as before judgment), at a rate of interest equal to the Prime Rate from time to time in effect plus 1.0%, and (ii) the Servicer, for payments made under the Policy arising as a result of the Servicer's failure to make any deposit, including without limitation, a deposit required to be made pursuant to Section 3.04 of the Indenture, together with interest on any and all such amounts remaining unpaid (to the extent permitted by law, if in respect of any unpaid amounts representing interest) from the date such amounts became due until paid in full (after as well as before judgment), at a rate of interest equal to the Prime Rate from time to time in effect plus 1.0%.

(c) Interest payable to AGIC under this Insurance Agreement shall be calculated on the basis of a 360-day year for the actual number of days elapsed and with respect to amounts payable pursuant to Sections 2.03 or 2.04(a) or (b) shall be payable in accordance with the Indenture, or to the extent payable pursuant to any other section herein, on demand.

Section 2.05. Assignment and Other Rights upon Payments under the Policy. (a) In consideration of the issuance of the Policy by AGIC, in the case of any payment made by or on behalf of AGIC under the Policy, in addition to and not by way of limitation of, any of the rights and remedies of AGIC hereunder or under the Indenture with respect to such payment, each of the Issuer and the Servicer hereby acknowledges and consents to the assignment by the Trustee, on behalf of the Noteholders, to AGIC in accordance with the terms of the relevant Notice for Payment (as such term is defined in the Policy):

(i) the rights of the Noteholders with respect to the Notes and the Trust Estate, to the extent of any such payment under the Policy; and

(ii) the rights of the Trustee and each Noteholder in the conduct of any Insolvency Proceeding relating to any Preference Event, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

(b) The rights and remedies of AGIC described in clause (a) above are in addition to, and not in limitation of, rights of subrogation and other rights and remedies otherwise available to AGIC in respect of payments under the Policy. The Trustee shall take such action and deliver such instruments as may be reasonably requested or required by AGIC to effectuate the purpose or provisions of this Section 2.05.

Section 2.06. Subrogation; Further Assurances. (a) The interests, rights and remedies of AGIC described in Article II above are in addition to, and not in lieu of, AGIC's equitable rights of subrogation, and AGIC reserves all of such rights. Each of the Issuer and the Servicer agrees to take, or cause to be taken, all actions deemed desirable by AGIC to preserve, enforce, perfect or maintain the perfection in AGIC's favor of such interests, rights and remedies and such equitable rights of subrogation.

(b) For the avoidance of doubt, the parties hereto acknowledge and agree that the receipt of any payment under the Policy shall not constitute (x) a reduction of any unpaid

amounts of principal or interest of Notes outstanding under the Indenture or (y) otherwise discharge any other obligations whatsoever of the Issuer or the Servicer under the Indenture.

(c) Each of the Issuer and the Servicer agrees to promptly and duly take, execute, acknowledge and deliver such further acts, documents, instruments and assurances as AGIC may from time to time reasonably request to more effectively evidence any rights to assignment or subrogation under this Article II, and to protect and perfect all of AGIC's other rights as against the Issuer and the Servicer, as the case may be.

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES

Section 3.01. Representations and Warranties of the Issuer, the Servicer and Midland. Each of the Issuer and Midland both in its individual capacity and as Servicer, represents and warrants to AGIC, severally and not jointly, as of the Closing Date that:

(a) It has the power and authority to execute and deliver each of the Transaction Documents and all other documents and agreements contemplated hereby and thereby to which it is a party, as well as to carry out the terms hereof and thereof.

(b) It has taken all necessary action, including but not limited to all requisite corporate action, to authorize the execution, delivery and performance of the Transaction Documents and all other documents and agreements contemplated hereby and thereby to which it is a party. When executed and delivered by it, each of the Transaction Documents to which it is a party will constitute its legal, valid and binding obligation enforceable in accordance with its terms subject, as to enforcement, to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect affecting the enforcement of creditors rights in general, and except as such enforceability may be limited by general principles of equity (whether considered in a suit at law or in equity) and, except to the extent that rights to indemnification and contribution may be unenforceable as against public policy.

(c) All authorizations, licenses, permits, certificates, franchises, consents, approvals and undertakings which are required to be obtained by it under any applicable law (including, without limitation, state securities or "blue sky" laws) which are material to (i) the conduct of its business, (ii) the ownership, use, operation or maintenance of its properties, (iii) the execution, delivery and performance by it of its obligations to AGIC and the Noteholders under or in connection with the Transaction Documents and (iv) the distribution of the Notes, and the issuance of the Policy have been received, and all such authorizations, licenses, permits, certificates, franchises, consents, approvals and undertakings are in full force and effect.

(d) Its execution, issuance, delivery of, and performance of its obligations under the Transaction Documents and any and all instruments or documents required to be executed or delivered pursuant to or in connection herewith or therewith were and are within its corporate

powers and will not violate any provision of any law, regulation, decree or governmental authorization applicable to it, or its certificate of incorporation or by-laws, and will not violate or cause a default under any material provision of any material contract, agreement, mortgage, indenture or other undertaking to which it is a party or which is binding upon it or any of its property or assets, and will not result in the imposition or creation of any lien, charge, or encumbrance upon any of its properties or assets pursuant to the provisions of any such contract, agreement, mortgage, indenture or undertaking, other than as specifically set forth in any of the Transaction Documents.

(e) Its execution and delivery of the Transaction Documents and the consummation of the transactions contemplated by such agreements were not made (i) in contemplation of its insolvency, (ii) with the intent to hinder, delay or defraud the Issuer, the Servicer, the Seller, Midland or any creditor of the Issuer, the Servicer, the Seller or Midland or (iii) after the commission of any act of insolvency by the Issuer, the Servicer, the Seller or Midland or (iv) without fair consideration. It is not possessed of assets or capital unreasonably small in value in relation to and after giving effect to (a) the Seller's transfer to the Issuer under the Receivables Sale Agreement, (b) the Issuer's grant of a security interest in the Trust Estate and other assets to the Trustee under the Indenture and (c) the consummation of the other transactions contemplated by the aforementioned agreements. It is not insolvent at the time of, and will not be rendered insolvent by virtue of, such transfers and transactions. By consummating the transactions contemplated by the aforementioned agreements, it does not intend to, and does not believe that it will, incur debts beyond its ability to pay such debts as they become due.

(f) There are no legal, governmental or regulatory proceedings or investigations pending to which it is a party or of which any of its property is the subject, which if determined adversely to any of them would individually or in the aggregate have a material adverse effect on its performance of the Transaction Documents or the consummation of the transactions contemplated hereunder or thereunder; and to the best of its knowledge, no such proceedings or investigations are threatened or contemplated by Governmental Authorities or threatened or contemplated by others.

(g) Each of the representations and warranties, as applicable, made by it in each of the Transaction Documents are true and correct in all material respects as of the date made or deemed made.

(h) Each of the Issuer, the Servicer and Midland, severally and not jointly, represents and warrants that, as of the Closing Date, neither the Private Placement Memorandum nor any amendment thereof or supplement thereto (other than the AGIC Information and the Placement Agent Information) contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

#### ARTICLE IV

#### COVENANTS

Section 4.01. Covenants of Midland individually and as Servicer. Midland, individually and as Servicer, hereby covenants and agrees that during the term of this Insurance Agreement:

(a) It shall not terminate (except in accordance with the terms thereof), amend, waive or otherwise modify the provisions of the Transaction Documents or any term or provision thereof, or the performance of any of the terms of any of the foregoing.

(b) It shall furnish to AGIC a copy of each material certificate, report, statement, notice or other written communication furnished by or on behalf of it, to any of the Noteholders, the Trustee or the Rating Agency concurrently therewith, and furnish to AGIC promptly after receipt thereof, a copy of each notice, demand or other communication received by it from any of the Noteholders, the Trustee or the Rating Agency, in each case with respect to any of the Notes or the Transaction Documents.

(c) It shall not fail to own 100% of the issued and outstanding shares of capital stock of the Issuer and the Seller.

(d) It shall comply with each of the covenants, as applicable, made by it in each of the Transaction Documents.

Section 4.02. Affirmative Covenants of the Issuer. The Issuer hereby covenants and agrees that during the term of this Insurance Agreement:

(a) It will furnish to AGIC the following financial information regarding the Issuer:

(i) as soon as available, but in any event within 90 days after the end of each fiscal year, a copy of its balance sheets as at the end of such year and the related statements of income and retained earnings and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, reported on by Ernst & Young or other independent certified public accountants of nationally recognized standing;

(ii) as soon as available, but in any event not later than 45 days after the end of each quarterly period of each of its fiscal years, a copy of its unaudited balance sheet as at the end of such quarter and the related unaudited statements of income and retained earnings and of cash flows for such period and the portion of the fiscal year through the end of such period, setting forth in each case in comparative form the figures for the previous year, certified by an authorized officer of the Servicer as being fairly stated in all respects when considered in relation to its financial statements (subject to normal year-end audit adjustments); and

(iii) From time to time, such other financial data relating to the Receivables as AGIC shall reasonably request;

all such financial statements to be complete and correct in all material respects and to be prepared in detail and in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods.

(b) It shall include in any offering document for the Notes only information concerning AGIC that is supplied or consented to in writing by AGIC expressly for inclusion therein.

(c) It shall provide to AGIC such other information as AGIC may reasonably require.

(d) It shall comply with each of the covenants made by it in each of the Transaction Documents.

Section 4.03. Negative Covenants of the Issuer. The Issuer hereby covenants and agrees that during the term of this Insurance Agreement:

(a) It shall not engage at any time in any business or business activity other than such activities expressly set forth in its certificate of incorporation delivered to AGIC on or prior to the Closing Date.

(b) It shall not consent to amend its certificate of incorporation or by-laws without the prior written consent of AGIC.

(c) It shall not, without the prior written consent of AGIC, consolidate with or merge into any other entity or convey, transfer or lease its properties and assets substantially as an entirety to any entity, or permit any entity to merge into the Issuer or convey, transfer or lease its properties and assets substantially as an entirety to the Issuer;

(d) It shall not:

(i) Fail to do all things necessary to maintain its existence separate and apart from Midland and any other Person, including, without limitation, holding regular meetings of its shareholders and Board of Directors and maintaining appropriate company books and records (including a current minute book);

(ii) Suffer any limitation on the authority of its own officers and directors to conduct its business and affairs in accordance with their independent business judgment or authorize or suffer any Person other than its own officers and directors to act on its behalf with respect to matters (other than matters customarily delegated to others under powers of attorney) for which a corporation's own officers and directors would customarily be responsible;

(iii) Fail to (A) maintain or cause to be maintained by an agent of the Issuer under the Issuer's control physical possession of all its books and records, (B) maintain capitalization reasonably adequate for the conduct of its business, (C) account for and manage all its liabilities separately from those of any other Person, including payment by it of all payroll, administrative expenses and taxes, if any, from its own assets, (D) segregate and identify separately all of its assets from those of any other Person as provided in the Indenture, (E) to the extent any such payments are made, pay its employees, officers and agents for services performed for the Issuer or (F) maintain a separately identifiable office space (which space may be located in the office building of Midland or an Affiliate);

(iv) Except as may be provided in the Indenture (or similar agreements relating to other securitizations pursuant to which the Issuer has similar rights and obligations to those set forth in the Transaction Documents) commingle its funds with those of Midland or any Affiliate thereof or use its funds for other than the Issuer's uses; or

(v) Fail to adhere to each of the factual assumptions concerning entity separateness made by Squire, Sanders and Dempsey L.L.P., counsel for the Issuer in its legal opinion concerning non-consolidation delivered under Section 2.02(b)(iv) hereunder;

(e) It shall not include in any offering document for the Notes any information concerning AGIC other than information that is supplied or consented to in writing by AGIC expressly for inclusion therein.

## ARTICLE V

### FURTHER AGREEMENTS

Section 5.01. Obligations Absolute. The obligations of the Issuer, the Servicer and Midland pursuant to this Insurance Agreement are absolute and unconditional and will be paid or performed strictly in accordance with the respective terms hereof, irrespective of:

(a) any lack of validity or enforceability of, or any amendment or other modifications of, or waiver with respect to, the Indenture, the Policy or the Indemnification Agreement;

(b) any amendment or waiver of, or consent to departure from the Indenture, the Policy or the Indemnification Agreement;

(c) the existence of any claim, set off, defense or other rights it may have at any time against the Trustee, any beneficiary or any transferee of the Policy (or any persons or entities for whom the Trustee, any such beneficiary or any such transferee may be acting), AGIC or any other person or entity whether in connection with the Policy, the Transaction Documents or any unrelated transactions;

(d) any statement or any other document presented under the Policy (including any Notice for Payment) proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;

(e) the inaccuracy or alleged inaccuracy of any Monthly Servicer Report or Notice for Payment upon which any drawing under the Policy is based;

(f) payment by AGIC under the Policy against presentation of a draft or certificate which does not comply with the terms of the relevant Policy, provided that such payment shall not have constituted gross negligence or willful misconduct of AGIC;

(g) the bankruptcy or insolvency of AGIC, the Issuer, any other party or the Trust Estate;

(h) any default or alleged default of AGIC under the Policy (other than any payment default by AGIC under the Policy);

(i) any defense based upon the failure of the Issuer or the Trust Estate to receive all or part of the proceeds of the sale of the Notes or of the Servicer to receive any or all of the servicing fee or other compensation required under the Indenture or otherwise, or any nonapplication or misapplication of the proceeds of any drawing upon the Policy; and

(j) any other circumstance or happening whatsoever, provided that the same shall not have constituted gross negligence or willful misconduct of AGIC.

Section 5.02. Reinsurance. AGIC shall have the right to give participation in its rights under this Insurance Agreement and to enter into contracts of reinsurance with respect to the Policy, provided that AGIC agrees that any such disposition will not alter or affect in any way whatsoever AGIC's direct obligations hereunder and under the Policy, and provided further that any reinsurer or participant will not have any rights against the Trust Estate, the Issuer, the Servicer, Midland, any Noteholders, or the Trustee and that the Trust Estate, the Issuer, the Servicer, Midland, the Noteholders, or the Trustee shall have no obligation to have any communication or relationship whatsoever with any reinsurer or participate in order to enforce the obligations of AGIC hereunder and under the Policy. None of the Issuer, the Servicer or Midland may assign its obligations under this Insurance Agreement without the prior written consent of AGIC, such consent not to be unreasonably withheld.

Section 5.03. Liability of AGIC. Each of the Issuer, the Servicer and Midland agree that neither AGIC, nor any of its officers, directors or employees shall be liable or responsible for (except to the extent of its own gross negligence or willful misconduct): (a) the use which may be made of the Policy by or for any acts or omissions of another Person in connection therewith or (b) the validity, sufficiency, accuracy or genuineness of any documents delivered to AGIC, or of any endorsement(s) thereon, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, AGIC may accept documents that appear on their face to be in order, without responsibility for further investigation.

Section 5.04. Successor Servicer. Any Successor Servicer, including the Backup Servicer, by accepting its appointment pursuant to the Indenture, (a) shall agree to be bound by the terms, covenants and conditions contained herein applicable to the Servicer and subject to the duties and obligations of the Servicer hereunder (other than the covenants set forth in Sections 4.01(a) and (c)), (b) as of the date of its acceptance, shall be deemed to have made with respect to itself the representations and warranties made by the Servicer in this Insurance Agreement to the extent applicable (other than the representations and warranties set forth in Sections 3.01(c)(iv), (e) and (h)), and (c) shall agree to indemnify and hold harmless AGIC from and against any and all claims, damages, losses, liabilities, costs or expenses whatsoever which AGIC may incur (or which may be claimed against AGIC) by reason of the negligence or willful misconduct of the Successor Servicer in exercising its powers and carrying out its obligations as

Servicer under the Indenture. No such appointment shall make the successor Servicer responsible with respect to any liabilities of the outgoing Servicer incurred prior to such appointment or for any acts, omissions or misrepresentations of such outgoing Servicer.

Section 5.05. Fees and Expenses. (a) The Issuer agrees to pay all reasonable costs and expenses (including, without limitation, reasonable fees and expenses of legal counsel and accountants) incurred by AGIC in connection with the negotiation, preparation, execution and delivery of the Private Placement Memorandum, the Transaction Documents and all other documents, instruments and agreements delivered with respect thereto, and all Rating Agency fees incurred by AGIC in connection with the initial issuance of the Notes, in all cases in accordance with the terms of, and subject to the limitations set forth in, the Premium Letter. AGIC's attorney's fees and expenses incurred in connection with the negotiation, preparation, execution and delivery of the Private Placement Memorandum, the Transaction Documents and all other documents, instruments and agreements delivered with respect thereto shall be payable (i) on the Closing Date upon the presentation of an invoice for any such fees, costs and expenses and (ii) at any time thereafter, promptly upon presentation of an invoice for any such fees, costs and expenses.

(b) Midland agrees to pay all reasonable costs and expenses (including, without limitation, reasonable fees and expenses of legal counsel and accountants) incurred by AGIC in connection with the amendment, modification, waiver or any similar action and/or the enforcement against the Issuer, the Servicer or Midland, as the case may be, of AGIC's rights against any of them under this Insurance Agreement, the Policy, the Indenture, the Indemnification Agreement or any of the other Transaction Documents.

## ARTICLE VI

### REMEDIES

Section 6.01. Remedies. Upon the occurrence of an Event of Default or a Servicer Default under the Indenture, AGIC shall have the rights and remedies available to the "Note Insurer" under the Indenture.

## ARTICLE VII

### MISCELLANEOUS PROVISIONS

Section 7.01. Amendments, Etc. No amendment or waiver of any provision of this Insurance Agreement, nor consent to any departure therefrom, shall in any event be effective unless in writing and signed by all of the parties hereto, with written notice thereof to the Rating Agency; provided that any waiver so granted shall extend only to the specific event of occurrence so waived and not to any other similar event or occurrence which occurs subsequent to the date of such waiver.

Section 7.02. Notices. Except to the extent otherwise expressly provided herein, all notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (and if sent by mail, certified or registered, return receipt requested) or facsimile transmission and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or three (3) Business Days after being deposited in the mail, postage prepaid, or, in the case of facsimile transmission, when sent, addressed as follows or to such other address or facsimile number as set forth in a written notice delivered by a party to each other party hereto:

If to Midland or the Servicer:

Midland Credit Management, Inc.  
500 West First Street  
Hutchinson, Kansas 67504  
Attention: Gregory C. Meridith, Secretary  
Telephone: (800) 759-0327  
Facsimile: (316) 663-1123

With a copy to:

Squire, Sanders & Dempsey L.L.P.  
Two Renaissance Square  
40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
Attention: Timothy Moser  
Telephone: (602) 744-6222  
Facsimile: (602) 253-8129

If to the Issuer:

Midland Receivables 99-1 Corporation  
3219 Inverness Road  
Hutchinson, Kansas 67502  
Attention: Secretary

With a copy to:

Squire, Sanders & Dempsey L.L.P.  
Two Renaissance Square  
40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
Attention: Timothy Moser  
Telephone: (602) 744-6222  
Facsimile: (602) 253-8129

If to AGIC:

Asset Guaranty Insurance Company  
335 Madison Avenue  
New York, NY 10017

Attention: Chief Risk Officer  
 Telephone: (212) 983-5859  
 Facsimile: (212) 682-5377

If to the Backup Servicer:

Norwest Bank Minnesota, National Association  
 Sixth Street and Marquette Avenue,  
 MAC N9311-161  
 Minneapolis, Minnesota 55479  
 Attention: Corporate Trust Services/Asset-Backed Administration  
 Telephone: (612) 667-8058  
 Facsimile: (612) 667-3539

Section 7.03. No Waiver; Remedies and Severability. No failure on the part of AGIC 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 such right 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. The parties further agree that the holding by any court of competent jurisdiction that any remedy pursued by AGIC hereunder is unavailable or unenforceable shall not affect in any way the ability of AGIC to pursue any other remedy available to it. In the event any provision of this Insurance Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, the parties hereto agree that such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.04. Payments. (a) All payments to AGIC hereunder shall be made in lawful currency of the United States and in immediately available funds and except for payments required to be made pursuant to Sections 2.04 hereof, shall be made prior to 2:00 p.m. (New York City time) on the date such payment is due by wire transfer to:

Chase Manhattan Bank  
 ABA#:  
 Account #:  
 Credit: Asset Guaranty Insurance Company  
 Re: Policy No.: FANI-0207-00014-NY

or to such other office or account as AGIC may direct. Payments received by AGIC after 2:00 p.m. (New York City time) shall be deemed to have been received on the next succeeding Business Day, and such extension of time shall be included in computing interest, commissions or fees, if any, in connection with such payment.

(b) Whenever any payment under this Insurance Agreement shall be stated to be due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such cases be included in computing interest, commissions or fees, if any, in connection with such payment.

(c) Unless otherwise specified herein, AGIC shall be entitled to interest on all amounts owed to AGIC under this Insurance Agreement, together with interest on any and all amounts

remaining unpaid (to the extent permitted by law, if in respect of any unpaid amounts representing interest) from the date such amounts become due until paid in full (after as well as before judgment), at a rate of interest equal to the Prime Rate from time to time in effect plus 1.0%.

SECTION 7.05. GOVERNING LAW AND JURY TRIAL WAIVER. THIS INSURANCE AGREEMENT SHALL BE CONSTRUED, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INSURANCE AGREEMENT, THE POLICY OR ANY TRANSACTION CONTEMPLATED HEREBY, THEREBY OR BY THE INDENTURE AND FOR ANY COUNTERCLAIM THEREIN.

Section 7.06. Counterparts. This Insurance Agreement may be executed in counterparts by the parties hereto, and each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument.

Section 7.07. Paragraph Headings, Etc. The headings of paragraphs contained in this Insurance Agreement are provided for convenience only. They form in no part of this Insurance Agreement and shall not affect its construction or interpretation.

Section 7.08. No Petition. None of Midland, the Servicer, the Backup Servicer or AGIC will institute against, or join any other Person in instituting against, the Issuer or the Trust Estate any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding, or other proceeding under any federal or state bankruptcy or similar law, for one year and one day after satisfaction of all of the Issuer's payment obligations under the Notes, the Premium Letter and the Reimbursement Obligations. The provisions of this Section 7.08 shall survive the termination of this Insurance Agreement.

[Insurance Agreement - signature page]

IN WITNESS WHEREOF, the parties hereto have executed this Insurance Agreement, all as of the day and year first above mentioned.

ASSET GUARANTY INSURANCE COMPANY

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

MIDLAND RECEIVABLES 99-1 CORPORATION

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

MIDLAND CREDIT MANAGEMENT, INC.,  
individually and as Servicer

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

NORWEST BANK MINNESOTA, NATIONAL  
ASSOCIATION, not in its individual capacity,  
but solely as Trustee and as Backup Servicer

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

FIRST AMENDMENT TO  
INDENTURE AND SERVICING AGREEMENT  
(MIDLAND RECEIVABLES-BACKED NOTES, SERIES 1999-1)

This FIRST AMENDMENT TO INDENTURE AND SERVICING AGREEMENT, dated as of September 22, 2000 (this "Amendment"), is executed by and among MIDLAND RECEIVABLES 99-1 CORPORATION, as issuer (the "Issuer"), WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION, fka Norwest Bank Minnesota, National Association, as trustee (in such capacity, the "Trustee"), and as backup Servicer (in such capacity, the "Backup Servicer"), MIDLAND CREDIT MANAGEMENT, INC., as servicer (the "Servicer"), ASSET GUARANTY INSURANCE COMPANY, as note insurer (the "Note Insurer"), PFL LIFE INSURANCE COMPANY, LIFE INVESTORS INSURANCE COMPANY OF AMERICA, RELIANCE STANDARD LIFE INSURANCE COMPANY AND N M ROTHSCHILD & SONS (AUSTRALIA) LIMITED (the "Noteholders").

RECITALS

A. The Issuer, the Trustee, the Backup Servicer, the Servicer and the Note Insurer are parties to an Indenture and Servicing Agreement dated as of December 14, 1999 (as amended, supplemented or otherwise modified, the "Indenture and Servicing Agreement") relating to the Midland Receivables-Backed Notes, Series 1999-1; and

B. The Issuer, the Servicer, the Trustee, the Backup Servicer, the Note Insurer and the Noteholders agree that certain amendments to the Indenture and Servicing Agreement are necessary and in the best interests of each party; and

C. The Noteholders are the only holders of the Notes issued by the Issuer pursuant to the Indenture and Servicing Agreement on the date hereof; and

D. Section 12.01 of the Indenture and Servicing Agreement permits amendment of the Indenture and Servicing Agreement on the terms and subject to the conditions provided therein.

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

SECTION 1. AMENDMENTS. Subject to the terms and conditions set forth herein, the Indenture and Servicing Agreement is hereby amended as follows:

(a) Section 1.01 is amended by adding the following definitions:

"Bankrupt Sale Net Proceeds" means the portion of Net Proceeds arising from the sale of Bankrupt Sales Receivables pursuant to Section 3.13(a).

(b) Section 1.01 is amended by adding the following definition:

"Bankrupt Sale Receivable" means any Receivable the Obligor of which is subject to (i) a petition filed by or against the Obligor, (ii) a decree or order for relief entered by a court or agency or supervisory authority having jurisdiction in respect of the Obligor, or (iii) the appointment of a trustee in bankruptcy, conservator or receiver for the Obligor in any bankruptcy, insolvency, readjustment of debt or similar proceeding.

(c) Section 1.01 is amended by replacing the current definition of "Liquidity" with the following definition:

"Liquidity" shall mean unrestricted cash and/or availability under one or more committed working capital facilities the provider of each of which (A) has (i) a short-term rating of at least A-1 from S&P or P-1 from Moody's and (ii) a long term rating of at least A from S&P or A2 from Moody's, or (B) is CTW Funding, LLC ("CTW") or such other provider reasonably acceptable to the Controlling Party, the terms and conditions of each of which (including, without limitation, the conditions precedent to funding) are in all material respects no less favorable to the Servicer than the terms and conditions which are customary in the market for committed commercial lending facilities, or such other terms and conditions reasonably acceptable to the Controlling Party, and the remaining term of each of which is at least 6 months or such lesser period of time acceptable to the Controlling Party; provided, that, with respect to the revolving facility provided by CTW pursuant to the Credit and Security Agreement, dated September 22, 2000, as it may be amended, the undrawn commitment thereunder will be counted as Liquidity through its term.

(d) Section 1.01 is amended by replacing the definition of "Net Proceeds" it with the following definition:

"Net Proceeds" means, with respect to a Receivable, all monies representing collected available funds, net of checks returned for insufficient funds, received or otherwise recovered by the Servicer or Permitted Third Parties on or with respect to a Receivable or from or for the account of the related Obligor on such Receivable including, without limitation in connection with a sale thereof pursuant to Section 3.13. Third-Party Fees and Third-Party Costs incurred by Permitted Third Parties and paid in connection with collecting or enforcing a Receivable will be deducted from collections on any Receivable by either the applicable Permitted Third-Party or by the Servicer on their behalf and will not constitute Net Proceeds. Notwithstanding the foregoing, proceeds from the sale of accounts pursuant to Section 3.13(b) and Net Seller Recoveries shall not be Net Proceeds for purposes of

computing the Servicing Fee or the cumulative amount of Net Proceeds for purposes of Section 9.01(h) and Exhibit 9.01(h).

(e) Section 1.01 is amended by replacing the current definition of "Note Rate" with the following definition:

"Note Rate" means 10% per annum, calculated on the basis of a 360-day year consisting of twelve (12) 30-day months.

(f) Section 1.01 is amended by adding the following definition of "Permitted Third Party":

"Permitted Third Party" means (i) any member of the National Attorney Network, (ii) any member of American Alliance of Creditor Attorneys; and (iii) any other Person that the Controlling Party has agreed in writing to be a Permitted Third Party.

(g) Article 1.01 is amended by adding the following definition of "Net Seller Recoveries":

"Net Seller Recoveries" means any and all monies, property, rights or interests, including, without limitation, any accounts or receivables directly or indirectly received by the Issuer on or after September 22, 2000 from BankOne, Corporation First USA Bank, N.A., MBNA America Bank, N.A., or Chase Manhattan Bank USA, N.A., or any affiliate of any of the foregoing (collectively, the "Receivable Sellers") resulting from claims that the Issuer or Midland may have or had against any of the Receivable Sellers or that Note Insurer or the Issuer may have or had as a third-party beneficiary against any of the Receivable Sellers arising from or relating to the previous purchase of Receivables by Midland from the Receivable Sellers that are or were part of the Trust Estate, net of (i) third-party expenses which, in the aggregate, do not exceed \$75,000 without the consent of the Note Issuer, and (ii) attorney fees and attorney costs incurred by Midland or the Issuer in connection with the receipt of such monies, property, rights or interests.

(h) Section 1.01 is amended by adding the following definition of "Re-Write Note":

"Re-Write Note " has the meaning set forth in Section 3.15.

(i) Section 1.01 is amended by replacing the current definition of "Servicing Fee" with the following definition:

"Servicing Fee" means the fee payable to the Servicer, calculated pursuant to Section 3.05, for services rendered during the related time period, which shall be equal to (i) 35% of all Net Proceeds received during the related time period for services rendered

during such time period that are not (A) Bankrupt Sale Net Proceeds, or (B) Net Proceeds arising from a sale of Receivables pursuant to Section 3.13(b), and (ii) 25% of all Bankrupt Sale Net Proceeds, received during the related time period. The term "Servicing Fee" shall also mean the additional amounts payable to a Successor Servicer for servicing pursuant to Section 9.03, but only to the extent such amounts do not exceed the amount calculated in accordance with the preceding sentence; all amounts in excess thereof are herein called the "Additional Servicing Fee." The Servicer shall also receive as a "Servicing Fee" \$20,000 from the proceeds of the first sale of Receivables pursuant to Section 3.13(a) occurring after September 22, 2000.

(j) Section 1.01 is amended by adding the following definition of "Third-Party Costs":

"Third-Party Costs" means all out-of-pocket costs and expenses incurred by a Permitted Third Party in connection with collection actions or proceedings related to the enforcement or collection of any Receivable.

(k) Article 2.01 is hereby amended by adding the following subsection (e) thereto which shall read as follows:

(e) Midland and the Issuer acknowledge and agree that any Net Seller Recovery (i) is included as part of the "Contributed Assets," as defined in the Contribution Agreement, and (ii) is, and shall be, property of the Issuer free of any right, claim or interest of Midland, and (iii) is, and shall be, part of the Trust Estate. Issuer shall immediately advise in writing the Trustee and the Controlling Party of the receipt of the Issuer of any Net Seller Recovery and the Issuer shall (i) within one (1) Business Day of receipt deposit all money received in respect thereof to the Collection Account, and (ii) shall execute, deliver and file any and all financing statements, and deliver such documents and records to the Trustee as the Controlling Party may reasonably request to perfect or continue perfection of the Trustee's Security Interest in such Net Seller Recovery. Any Receivables received as part of any Net Seller Recovery shall become a Receivable subject to this Indenture and shall be serviced by the Servicer pursuant hereto.

(l) Section 2.04(i) is amended by deleting the provision in its entirety and replacing it with the following provision:

(i) UCC Status. No Receivable is secured by "real property" or "fixtures" or, except for Re-Write Notes, evidenced by an "instrument" under, and as defined in, the UCC.

(m) Section 3.03(a)(iv) is amended by deleting the provision in its entirety and replacing it with the following provision:

(iv) No Instruments. Except for Re-Write Notes, or in connection with the Servicer's enforcement or collection of the Receivables, the Servicer shall take no action to cause any Receivables to be evidenced by any instruments (as defined in the UCC) and if any Receivable is so evidenced, except for Re-Write Notes, such Receivable shall be assigned to the Servicer as provided in Section 3.04.

(n) Section 3.03(b) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(b) The Servicer shall not purchase any Receivables under or in connection with a Consumer Account if after giving effect to the purchase of such Receivables and the funding of such purchase the Servicer would have less than \$2,000,000 of Liquidity.

(o) Section 3.05 is amended by:

(i) deleting the first sentence in its entirety and replacing it with the following sentence:

As compensation for the performance of its obligations hereunder, the Servicer shall be entitled to receive the Servicing Fee as provided in Section 4.02 and Section 4.04.

and

(ii) deleting the first parenthetical in the second (2nd) sentence in its entirety and replacing it with the following parenthetical:

(other than Third-Party Fees, Third-Party Costs and those specified in the following proviso)

(p) Article III is amended by deleting the current Section 3.13 and replacing it with the following:

(a) The Servicer, as agent of the Trustee and the Issuer, may, without the consent of any Person, sell Bankrupt Sale Receivables in arm's length transactions with third parties who are not Affiliates of the Issuer or the Servicer in a manner consistent with the procedures set forth in Exhibit 3.13(a). The Net Proceeds of all sales of Bankrupt Sale Receivables must be in immediately available funds.

(b) The Servicer, as agent of the Trustee and the Issues, may sell any Receivable in arm's length transactions with third parties who are not Affiliates of the Issuer or the Servicer upon receipt of the prior written consent from the Controlling Party. The Servicer shall deliver to the Controlling Party no later than five (5) Business

Days preceding the date of such proposed sale, an Officer's Certificate in the form of Exhibit 3.13(b). The Controlling Party shall within five (5) Business Days of receipt of the foregoing notice advise the Servicer and the Trustee of its consent or withholding consent to the proposed sale. The Net Proceeds of all sales of such Receivables must be in immediately available funds.

Exhibit 3.13(a) and Exhibit 3.13(b) to the Amendment are hereby deemed attached to the Indenture.

(q) Article III is amended by adding the following Section 3.15 entitled "Re-Write Program":

Section 3.15. Re-Write Program. In furtherance of the collection of the Receivables, the Servicer may accept, on behalf of the Issuer and subject to the Trustee's security interest, a promissory note in replacement of any Receivable (a "Re-Write Note"). The Re-Write Note shall be in compliance with all applicable laws and, upon execution by the Obligor, the Servicer shall, within ten (10) days of such execution, deliver each Re-Write Note to the Trustee. The Trustee shall hold the Re-Write Note for the sole purpose of perfecting the Trustee's security interest in the Re-Write Note. If the Servicer ever needs possession of the Re-Write Note for amendment, enforcement or return to the Obligor upon final payment, it shall provide the Trustee with written request for the applicable Re-Write Note. Upon receipt of such a request, the Trustee shall promptly provide the Servicer with the requested Re-Write Note. Unless the Re-Write Note is paid in full or a lesser amount is accepted by the Servicer in its reasonable judgment in full satisfaction of the amounts owing thereunder, the Servicer shall promptly return the Re-Write Note to the Trustee when the Servicer no longer has immediate need for the possession thereof.

(r) Section 4.02 is amended by deleting the first sentence in its entirety and replacing it with the following sentence:

For Net Proceeds received on and after August 1, 2000, if the amount on deposit in the Collection Account is sufficient to pay the Trustee Fee (reasonably estimated by the Servicer) payable on the next two (2) occurring Payment Dates, then beginning on September 22, 2000 and on each Friday thereafter, the Servicer shall submit to the Trustee and Note Insurer a notice of calculation of (i) the Servicing Fee for the period beginning with the immediately-preceding Friday through the immediately-preceding Thursday, plus (ii) accrued and unpaid Servicing Fee for any time beginning on or after August 1, 2000, and upon receipt of such notice, the Trustee shall send to the Servicer via wire transfer the owing Servicing Fee as computed on such notice.

(s) Section 4.03(a) is amended by deleting the word "and" which immediately proceeds "(ii)", deleting the period at the end of such subsection and adding the following provision at the end of the subsection:

; and (iii) the Servicer shall remit on each Determination Date the positive amount, if any, by which (A) the payments to the Servicer of the Servicing Fee for the immediately preceding Collection Period pursuant to Section 4.02 exceeded (B) the amount of the Servicing Fee that should be paid to the Servicer for such Collection Period.

(t) Section 4.04(a) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(a) On each Determination Date, the Servicer shall calculate (i) the amount of funds on deposit in each of the Accounts and the amount of Available Funds, and (ii) as applicable, the Trustee Fee, the Backup Servicing Fee, the Servicing Fee calculated with reference to the related Collection Period, the amounts paid to the Servicer on a weekly basis as payment of the Servicing Fee during the related Collection Period, a reconciliation of the Collections from the applicable Collection Period which were used to pay the Servicing Fee for the previous Collection Period pursuant to Section 4.02, the Additional Servicing Fee, the Interest Distributable Amount, the Required Reserve Amount, the Reserve Fund Reimbursement Amount, the aggregate Principal Distributable Amount, the unpaid Note Balance before and after giving effect to any Principal Distributable Amount, the Prepayment Amount, the Release Payment, the Facility Fee, and the amount payable by the Note Insurer pursuant to the Policy, which amounts shall be set forth in the Monthly Servicer Report for the related Payment Date. The Servicer shall send the Monthly Servicer Report to the Trustee and the Note Insurer by 11:00 a.m. New York, New York time on each such Determination Date.

(u) Section 4.04(b)(ii) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(ii) to the Servicer, from the Available Funds in the Collection Account, (A) the amount, if any, by which (i) the Servicing Fee calculated for the related Collection Period exceeds, (ii) the aggregate amount previously retained by the Servicer on a weekly basis for payment of the Servicing Fee for the related Collection Period pursuant to Section 4.02, plus (B) all accrued and unpaid Servicing Fees, if any, for prior Collection Periods (plus an amount equal to any Transition Fees then owing to the Successor Servicer, if any);

(v) Section 8.06(c) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(c) The Backup Servicer shall assume its duties as Successor Servicer in accordance with Sections 9.02 and 9.03 except upon determination that the Backup Servicer is legally unable to perform the duties of the Servicer under this Agreement as provided in Section 9.03; and neither the Backup Servicer nor the Trustee shall be held liable for any costs, claims, damages or liabilities incurred by any Person arising as a result of the Backup Servicer's failure to perform its duties as Successor Servicer to the extent such performance is prevented by applicable law or court order.

(w) Section 8.07(b) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(b) Outside Parties. Servicer will not engage outside parties for the collection of Receivables on any basis except Permitted Third Parties.

(x) Section 9.01(f) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(f) for the period of time during which Midland acts as Servicer, Midland's consolidated Stockholder's Equity as required to be shown on its consolidated financial statements is less than the amount set forth on Exhibit 9.01(f) attached hereto for the applicable period;

Exhibit 9.01(f) attached to this Amendment is hereby deemed attached to the Indenture.

(y) Section 9.01(h) is amended by deleting the current section in its entirety and replacing it with the following provision:

(h) commencing with the January 2001 Collection Period, and at the end of each Collection Period thereafter, both (i) the cumulative amount of Net Proceeds in respect of all Receivables for such Collection Period and the two preceding Collection Periods is less than the amount specified in Exhibit 9.01(h) for such period of three Collection Periods, and (ii) the cumulative amount of Net Proceeds in respect of all Receivables for such Collection Period and all preceding Collection Periods from and after the January 2001 Collection Period is less than the amount specified in Exhibit 9.01(h) for such Collection Periods (the lesser of any such deficiency in (i) and (ii) is a "Cumulative Collections Deficiency"); provided, however, that a Cumulative Collections Deficiency shall not be a Servicer Default if the Issuer deposits an amount equal to the Cumulative Collections Deficiency to the Reserve Account within ten (10) calendar days of the end of the Collection Period during which the Cumulative Collections Deficiency occurred.

Exhibit 9.01(h) attached to this Amendment is hereby deemed attached to the Indenture.

(z) Section 9.01(m) is amended by deleting the current provision in its entirety and replacing it with the following provision:

(m) the Servicer fails to have at any time at least \$2,000,000 of Liquidity; or

(aa) Section 9.02(a) is amended by deleting the current first two (2) sentences thereof and replacing them with the following provision:

The rights and obligations of the Servicer shall terminate upon the earlier of (i) the occurrence and continuation of a Servicer Default or (ii) the last day of each Collection Period, unless the Servicer had been appointed by the Controlling Party on or prior to the first day of such Collection Period for next occurring Collection Period. If a Servicer Default shall occur and be continuing, so long as such Servicer Default has not been cured or waived pursuant to Section 9.05, the Trustee shall, upon the direction of the Controlling Party, by notice then given in writing to the Servicer and the Note Insurer terminate immediately, all (but not less than all) of the rights and obligations of the Servicer, as Servicer under this Agreement and the other Transaction Documents, and in and to the Receivables and proceeds thereof. If the Controlling Party does not appoint the Servicer to a successive Collection Period by the first day of the immediately preceding Collection Period, at the end of the Collection Period through which the Servicer has previously been appointed, all (but not less than all) of the rights and obligations of the Servicer, as Servicer under this Agreement and the other Transaction Documents, and in and to the Receivables and proceeds thereof shall be deemed to have automatically terminated, except for accrued and unpaid Servicer Fees. Notwithstanding such termination any Permitted Third Party shall be allowed to continue to service any Receivable serviced by them at the time of such Termination, and collect and receive the related Third Party Costs and Third Party Fees.

(bb) Exhibit A to the Indenture and Servicing Agreement is amended by deleting the current Exhibit A in its entirety and replacing it with Exhibit A attached hereto. The Servicer shall also provide a weekly report to the Trustee and the Note Insurer on the date the weekly Servicer Fee is due setting forth (i) the collections for the prior week and for the then current Collection Period; (ii) the Liquidity of the Servicer and (iii) the computation of the Servicing Fee for such week.

(bb) On the Payment Date occurring on November 15, 2000, and prior to making any distributions pursuant to Section 4.04(b), the Trustee shall pay from Available Funds to Mayer Brown & Platt \$10,000.00 in payment of services rendered in representing the Noteholders in connection with this Amendment.

SECTION 2. CROSS-ASSIGNMENT. Article XII is amended by adding the following as a new Section 12.12.

Section 12.12 Cross Assignment. Notwithstanding any provision in this Indenture and Servicing Agreement, the Issuer shall not receive any distributions pursuant to Section 4.04(b)(x)(E), Section 4.05(b) and Section 4.05(d) (collectively, the "99-1 Distributions") during any period of time that any amount remains payable to the Noteholders, the Trustee, the Servicer, the Back-up Servicer or the Note Insurer and any such amounts shall be deposited to or remain on deposit in the Reserve Account, as applicable. Upon payment in full of all amounts to the Noteholders, the Trustee, the Servicer, the Back-up Servicer, and the Note Insurer, the Trustee shall pay (i) all amounts otherwise payable to the Issuer to the "Trustee" for deposit under the "Indenture and Servicing Agreement" and the other "Transaction Documents" to the "Reserve Account" as such terms are defined in and pursuant to that certain Indenture and Servicing Agreement dated as of March 31, 1999, among Midland Funding 98-A Corporation, as "Issuer" ("Funding 98-A"); Wells Fargo Minnesota Bank N.A., fka Norwest Bank Minnesota, National Association, as Trustee and Back-Up Servicer; Midland Credit Management, Inc., as Servicer; and Asset Guaranty Insurance Company, as Note Insurer (the "99-A Indenture") provided that if at such time all amounts payable under the 99-A Indenture and the "Transaction Documents" related thereto, as defined in the 99-A Indenture have been paid to the "Noteholders," the "Trustee," the "Servicer," the "Back-up Servicer" and the "Note Insurer" as each are defined in and pursuant to the 99-A Indenture, then amounts payable to the Issuer shall be so paid to the Issuer pursuant to this Indenture and Servicing Agreement. Any amounts received by the Trustee from the "Trustee" under the 99-A Indenture shall be deposited by the Trustee into the Reserve Account, shall for all purposes become part of the Reserve Account, and shall be held, invested, and disbursed by the Trustee pursuant to the Indenture and Servicing Agreement. The Issuer is willing to agree to the terms of this Section 12.12 in consideration of (i) the amendments made to the terms of the First Amendment hereto, dated as of September 22, 2000; and (ii) the similar cross-assignment by Funding 99-A in that certain Third Amendment to Indenture and Servicing Agreement regarding the 99-A Indenture of even date therewith, and further agrees that the "Trustee" under the 99-A Indenture and the "Note Insurer" thereunder are entitled to enforce the Issuer's rights to have the Trustee make the cross-assignment of funds to the "Trustee" of the 99-A Indenture required pursuant to this Section 12.12. The Issuer shall execute any documents and take any action requested by the Note Insurer to evidence or give effect to the foregoing cross-assignment.

SECTION 3. EFFECTIVENESS. This amendment provided for by this Amendment shall become effective as of the date hereof upon the occurrence of each of the following events:

- (a) the Trustee, the Seller, the Servicer, the Note Insurer and the Noteholders shall have received counterparts of this Amendment, duly executed by the parties hereto;

- (b) the Issuer shall have executed and filed a UCC-1 Financing Statement in the States of Delaware and California, to perfect the security interest granted to the Note Insurer pursuant to Section 2 of this Amendment;
- (c) the Trustee shall have furnished the Rating Agency and the Placement Agent with written notification of the substance of this Amendment; and
- (d) the Servicer shall have closed and has available the revolving credit facility provided by CTW Funding, LLC referenced in Section (d) above.

After this Amendment becomes effective, all amendments herein will be effective for and after the October 2000 Collection Period.

SECTION 4. EFFECTIVENESS. This amendment provided for by this Amendment shall become effective as of the date hereof upon the occurrence of each of the following events:

- (a) the Trustee, the Seller, the Servicer and the Note Insurer shall have received counterparts of this Amendment, duly executed by the parties hereto; and
- (b) the Trustee shall have furnished the Rating Agency and the Placement Agent with written notification of the substance of this Amendment.

SECTION 5. REPRESENTATIONS. Each party hereto hereby represents and warrants that this Amendment has been duly executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms except as the enforceability hereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights and remedies in general.

SECTION 6. REFERENCE. On and after the effective date of this Amendment, each reference in the Indenture and Servicing Agreement to "this Agreement", "hereunder", "herein" or words of like import referring to the Indenture and Servicing Agreement, and each reference in the other Transaction Documents to the "Indenture and Servicing Agreement", "thereunder", "thereof", or words of like import referring to the Indenture and Servicing Agreement shall mean and be a reference to the Indenture and Servicing Agreement as amended by this Amendment.

SECTION 7. COUNTERPARTS; EFFECTIVENESS; FULL FORCE AND EFFECT. This Amendment may be executed by one or more of the parties to this Amendment on any number of separate counterparts (including by facsimile transmission), and all of said counterparts taken together all shall be deemed to constitute one and the same instrument. A copy of this Amendment signed by all the parties shall be lodged with the Trustee. Except as expressly set forth herein, the terms, provisions and conditions of the Indenture and Servicing Agreement and the other Transaction Documents shall remain in full force and effect and in all other respects are hereby ratified and confirmed.

**SECTION 8. REPRESENTATIONS, ENFORCEABILITY AND NO WAIVER.**

(a) Each Issuer and the Servicer hereby reaffirm all covenants, representations and warranties made by it in Indenture and Servicing Agreement, and (ii) agree that all such covenants, representations and warranties shall be deemed to have been re-made as of the date of this Amendment.

(b) Each Issuer and the Servicer hereby represent and warrant that this Amendment constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

(c) The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of any of the parties hereto under the Indenture and Servicing Agreement or any other Transaction Document or any other document, instrument or agreement executed in connection therewith.

**SECTION 9. MISCELLANEOUS.** The Amendment is not evidence of any position by the Note Insurer, affirmative or negative, as to whether any action by the Noteholders, or any other party, is required in addition to the execution of the Amendment by the Note Insurer. No representation is made by the Note Insurer as to the necessity or the satisfaction of any additional action or condition under the Indenture and Servicing Agreement with respect to this Amendment. This Amendment does not modify the obligations of the Note Insurer under the Policy as defined in the Indenture and Servicing Agreement. Except as specifically provided in this Agreement, the terms and conditions of the Indenture and Servicing Agreement shall remain in full force and effect. Except as specifically provided in this Amendment, none of the Trustee's, Note Insurer's or the Noteholders' rights, interests or remedies pursuant to the Indenture and Servicing Agreement shall be reduced or limited in any way by this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original, and each of which shall constitute one in the same Agreement. Time is of the essence of this Agreement.

**SECTION 10. HEADINGS.** Section and subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

**SECTION 11. GOVERNING LAW.** THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES UNDER THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

**SECTION 12. DEFINED TERMS.** Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Indenture and Servicing Agreement.

**SECTION 13. NO OTHER AGREEMENTS.** All of the parties to this Agreement hereby acknowledge and agree that there no other Agreements by or among any of them with respect to the amendments to the Indenture and Servicing Agreement other than as set forth in this Amendment.

(BALANCE OF PAGE INTENTIONALLY LEFT BLANK)

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

MIDLAND RECEIVABLE 99-1 CORPORATION, as Issuer

By: \_\_\_\_\_  
Name: Carl C. Gregory III  
Title: President

MIDLAND CREDIT MANAGEMENT, INC., as Servicer

By: \_\_\_\_\_  
Name: Carl C. Gregory III  
Title: President

WELLS FARGO BANK MINNESOTA, NATIONAL ASSOCIATION, fka NORWEST BANK MINNESOTA, NATIONAL ASSOCIATION, not in its individual capacity, but solely as Trustee and as Backup Servicer

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

ASSET GUARANTY INSURANCE COMPANY

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

PFL LIFE INSURANCE COMPANY

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

LIFE INVESTORS INSURANCE COMPANY OF AMERICA

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

RELIANCE STANDARD LIFE INSURANCE COMPANY

By: \_\_\_\_\_  
Louis C. Lucido, Chief Investment Officer

N M ROTHSCHILD & SONS (AUSTRALIA) LIMITED

By: \_\_\_\_\_  
Bruce R. Arnold, Head of Debt Capital  
Markets

EXHIBIT A

MONTHLY SERVICER REPORT

[ATTACHED]

MONTHLY SERVICER REPORT OF  
MIDLAND CREDIT MANAGEMENT, INC.  
FOR  
MIDLAND RECEIVABLES-BACKED NOTES  
SERIES 1999-1

Pursuant to the Indenture and Servicing Agreement, dated as of January 18, 2000 (the "Indenture and Servicing Agreement"), among Midland Receivables 99-1 Corp., as Issuer (the "Issuer"), Midland Credit Management, Inc., as servicer (the "Servicer"), Norwest Bank Minnesota, N.A., as trustee (in such capacity, the "Trustee") and as Backup Servicer, and Asset Guaranty Insurance Company, as Note Insurer (the "Note Insurer"), the Servicer submits the following information for the relevant Dates set forth below with respect to the Midland Receivables-Backed Notes, Series 1999-1. Capitalized terms used in this certificate have the meanings set forth in the Indenture and Servicing Agreement.

Collection Period covered by this Report:

\_\_\_\_\_ through \_\_\_\_\_

Determination Date of this Report:

\_\_\_\_\_

Payment Date for this Report:

\_\_\_\_\_

A. AVAILABLE FUNDS:

Amount of funds on deposit and the Available Funds for this Collection Period:

Collections for the Month	\$	-----
Refunds From Issuers	\$	-----
Bankrupt Sale Proceeds	\$	-----
Non-Bankrupt Sale Proceeds	\$	-----
less Permitted Third Party Fees and Costs	\$	-----
Earnings on Collection Account during the period	\$	-----
Note Payment Account at end of Current Month	\$	-----
Earnings on Note Payment Account during the period	\$	-----
Reserve Account at end of Current Month	\$	-----
Earnings on Reserve Account during the period	\$	-----
Deposit by Servicer of excess Servicing Fee paid during prior Collection Period	\$	-----
Total Available Funds plus Reserve Account	\$	-----

## B. TRUSTEE FEE:

(i) the total Trustee Fee accrued with respect to the current Payment Date - computed on ending note balance of preceding Payment Date	\$	-----
(ii) the total accrued and past due Trustee Fee with respect to prior Payment Dates	\$	-----
(iii) the total amount of Trustee Fees from (i) and (ii) to be paid on the next Payment Date	\$	-----
(iv) Trustee's out-of-pocket expenses	\$	-----
(v) the total amount of accrued and unpaid Trustee Fees and expenses to be carried forward	\$	-----
(vi) Remaining Available Funds plus Reserve Account	\$	-----

## C. SERVICING FEE:

(i) the total Servicing Fee accrued with respect to the current Payment Date (excluding Servicing Fee on Bankrupt Sale Proceeds)	\$	-----
(ii) Servicing fee on Bankrupt Sale Proceeds accrued with respect to the current Payment	\$	-----
(iii) less Weekly Servicing Fee previously retained	\$	-----
(iv) the total accrued and past due Servicing Fee(s) owed from prior Payment Dates	\$	-----
(v) less Acquisition Payment due for the period (See H(i))	\$	----- **
(vi) Refunds to Debtors Paid by Servicer	\$	-----
(vii) the total amount of Servicer Fee(s) from (i) and (ii) to be paid on the next Payment Date	\$	-----
(viii) the total amount of all Servicer Fee(s) to be carried forward to a subsequent Payment Date	\$	-----
(ix) Remaining Available Funds plus Reserve Account	\$	-----
In the event of a Servicer Default during the reporting period, Calculate the amount of Transition Fees owed	\$	-----

## D. BACKUP SERVICER FEE:

- (i) the total Backup Servicer Fee accrued with respect to the current Payment Date computed on ending note balance of preceding Payment Date \$ -----
- (ii) the total amount of accrued and past due Backup Servicer Fee(s) with respect to prior Payment Dates \$ -----
- (iii) the total amount of all Backup Servicer Fee(s) from (i) and (ii) to be paid on the next Payment Date \$ -----
- (iv) the total amount of accrued and unpaid Backup Servicer Fee(s) to be carried forward to the next Payment Date \$ -----
- (v) Remaining Available Funds plus Reserve Account \$ -----

## E. INTEREST DISTRIBUTABLE AMOUNT:

- (i) Interest Distributable Amount for the current Payment Date computed on note balance on last day of immediately preceding Collection Period \$ -----
- (ii) the total Interest Carryover Shortfall with respect to Prior Payment Date \$ -----
- (iii) the total Interest Distributable Amount and Interest Carryover Shortfall from (i) and (ii) to be paid on the next Payment Date \$ -----
- (iv) the total amount required from the Reserve Account to pay (iii) due to deficiencies in Available funds \$ -----
- (v) the total amount required from the Note Insurer to pay (iii) due to deficiencies in the Reserve Account and Available Funds \$ -----
- (vi) the total amount of accrued and unpaid Interest Distributable Amount(s) and Interest Carryover Shortfall to be carried forward to the next Payment Date \$ -----
- (ix) Remaining Available Funds plus Reserve Account -----

F. NOTE INSURER PAYMENTS:

- (i) Note Insurer Base Premium accrued with respect to the current Payment Date computed on Average Daily Balance \$ -----
- (ii) the total Note Insurer Obligations payable on the current Payment Date (if any) \$ -----
- (iii) the total amount of all Note Insurer Premiums and Note Insurer Obligations from (i) and (ii) to be paid on the next Payment Date \$ -----
- (iv) the total amount of accrued and unpaid Note Insurer Base Premium(s) and Note Insurer Obligations to be carried forward to the next Payment Date \$ -----
- (v) Cumulative Note Insurer Additional Premium accrued and unpaid with respect to the prior Payment Date computed on Average Daily Balance \$ -----
- (vi) Cumulative Note Insurer Additional Premium accrued and unpaid with respect to the current Payment Date computed on Average Daily Balance \$ -----
- (vii) Remaining Available Funds plus Reserve Account \$ -----

G. ACQUISITION PAYMENT:

Are there any Removed Receivables for the reporting period?  
 Yes ----- No -----

(if "NO" proceed to section "J") (if "YES" complete attached Schedule I)

(i) the total Acquisition Payment due for the current Payment Date  
 See Line C (iii) \*\* \*\* Netted with Service Fee at line C(iii)  
 -----

H. NOTE BALANCE PAYMENT:

- (i) Remaining Available Funds plus Reserve Account \$ -----
- (ii) less Reserve Account balance end of Current Period \$ -----
- (iii) amount available for note balance payments \$ -----
- (iv) Note Balance at End of Month: \$ -----
- (v) Note Balance payment for the current Payment Date: \$ -----

I. NOTE BALANCE AFTER PRINCIPAL PAYMENT \$ -----

## J. RESERVE ACCOUNT:

(i) Beginning Balance of Reserve Account	\$	-----
(ii) Earnings on Reserve Account for current month	\$	-----
(iii) Deposit by Issuer of Cumulative Collections Deficiency	\$	-----
(iv) the total Reserve Fund Reimbursement Amount due for the current Payment Date -- Payable to Issuer	\$	-----
(v) the Ending Balance of the Reserve Account after payment to Issuer	\$	-----

## K. CUMULATIVE COLLECTIONS &amp; LIQUIDITY

(i) Cumulative Net Collections for current and prior two Collection Periods (beginning Nov00)	\$	-----
(ii) Required three month Cumulative Collections	\$	-----
(iii) Cumulative Collections Deficiency (additional deposit to reserve account)	\$	-----
(iv) Liquidity as of the end of the current Collection Period	\$	-----

## MIDLAND CREDIT MANAGEMENT, INC.

Date \_\_\_\_\_ BY: \_\_\_\_\_  
 Vice President

## WIRING INSTRUCTIONS FOR ISSUER:

Wells Fargo Bank, ABA Routing Number 121000248  
 For Credit To: Midland Credit Management, Inc.  
 Account No.: 4758372635

## WIRING INSTRUCTIONS FOR SERVICER:

Wells Fargo Bank, ABA Routing Number 121000248  
 For Credit To: Midland Credit Management, Inc.  
 Account No.: 4758372635

## SCHEDULE I

See Servicer's Remittance Date Certificate pursuant to Section 3.04 identifying all Removed Receivables including name, MCM #, address, acquisition price, acquisition date, charge-off balance, Net-Proceeds collected of all accounts removed during the reporting period.

## Additional Information:

Last day of preceding Collection Period, Note Balance  
 Preceding Payment Date Ending Note Balance  
 Average Daily Balance of Preceding Collection Period

Monthly Note Rate, Interest Distributable	0.80250000%
Monthly rate, Trustee Fee	0.00416667%
Note insurer base premium rate, monthly	0.06250000%
Note insurer additional premium rate, monthly	0.27083333%
Monthly rate, Backup Servicer	0.01541667%

## EXHIBIT 3.13(a)

## BANKRUPT ACCOUNT SALE PROCEDURES

1. Receivable must be Bankrupt Sale Receivables.
2. Price must be 7.5% of the face amount or greater.
3. Seller only to represent and warrant the following:

1. The Seller is duly organized, existing and in good standing as a corporation under the laws of the State of Delaware; the Seller's execution, delivery and performance of the Agreement are within the Seller's corporate powers and have been duly authorized by all necessary action; this Agreement is the legal, valid and binding obligation of the Seller enforceable against the Seller in accordance with its terms except that enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting enforcement of creditors' rights generally and by general equity principles; and the Agreement is not in conflict with the terms of the Seller's charter or bylaws, or of any material indenture, agreement or undertaking to which the Seller is bound.

2. The Seller has marketable title to the Receivables free and clear of any liens or encumbrances (i) by or through it, or (ii) based on actions or failure to act of Seller.

3. Except for the filing of the UCC Financing Statement and any approval that has been obtained or notice that has been given, no approval or other action by, or notice to or filing with, any [Debtor], any governmental authority or any other entity is required to be obtained by the Seller in conjunction with the transaction contemplated by the Agreement.

4. Performance of the Agreement by the Seller will not violate any order of any court or governmental body having competent jurisdiction or any law or regulation that applies to the Seller.

5. No action, suit or proceeding against the Seller before any court, administrative agency or arbitrator, individually or collectively would reasonably be expected to materially and adversely affect the Buyer. Upon reasonable request, the Seller will review any action, suit or proceeding against the Seller with the Buyer to confirm the accuracy of this representation.

6. The Seller is knowledgeable, sophisticated and experienced in making, and is qualified to make, decisions like the decision involved in the sale of the Accounts, the Seller has made its own review of the Accounts and the Seller understands the terms and conditions of the sale of the Accounts.

7. The Seller has not employed any investment banker, broker or finder in connection with the transaction contemplated by the Agreement who might be entitled to a fee or commission upon consummation of such transaction.

8. The location of the Seller's chief place of business and chief executive office is \_\_\_\_\_.

9. Each Account is an account or a general intangible, as such term is defined in Article 9 of the UCC; [and no Account is evidenced by an instrument, as such term is defined in Section 9-106 of the UCC].

EXHIBIT 3.13(b)

NOTICE OF PROPOSED SALE OF NON-BANKRUPT ACCOUNTS

This NOTICE OF PROPOSED SALE is given by MIDLAND CREDIT MANAGEMENT, INC., as servicer (the "Servicer"), pursuant to Section 3.13(b) of that certain Indenture and Servicing Agreement, dated as of December 14, 1999, as amended, supplemented or otherwise modified (the "Indenture"), among Servicer, MIDLAND RECEIVABLE 99-1 CORPORATION, as Issuer, WELLS FARGO BANK OF MINNESOTA, NATIONAL ASSOCIATION, FKA NORWEST BANK MINNESOTA, A NATIONAL ASSOCIATION, as Trustee and Back-up Servicer, and ASSET GUARANTY INSURANCE COMPANY, as Note Insurer. All capitalized terms that are not defined herein shall have the meaning assigned to such terms in the Indenture.

1. The Servicer proposes to sell Receivables (the "Sale Receivables") pursuant to Section 3.13(b) of the Indenture.

2. The pool identification number of the Sale Receivables and the date of MCM's purchase for each of the Sale Receivables is as set forth on Exhibit A attached hereto.

3. Attached as Exhibit B to this Notice of Proposed Sale is a true and complete copy of the offering information distributed to the prospective purchaser of the Sale Receivables.

4. The sale price for the Sale Receivables is \$\_\_\_\_\_.

5. The proposed date for the sale is \_\_\_\_\_.

6. The original purchase price paid by Midland Credit Management, Inc. for the Sale Receivables was \$\_\_\_\_\_.

7. The terms and conditions of the sale are as set forth on Exhibit C attached hereto.

8. The only representations to be made by the Issuer in connection with the sale is as set forth on Exhibit D attached hereto.

Executed this \_\_\_\_ day of \_\_\_\_\_.

MIDLAND CREDIT MANAGEMENT, INC.

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

## EXHIBIT 9.01(f)

## NET WORTH TABLE

From and After	Amount
September 31, 2000	\$ 13,600,000
December 31, 2000	12,900,000
March 31, 2001	11,700,000
June 31, 2001	10,000,000
September 31, 2001	7,300,000

## EXHIBIT 9.01(h)

## CUMULATIVE NET COLLECTIONS

COLLECTION PERIOD	AMOUNT	3-MONTH CUMULATIVE COLLECTIONS	TOTAL COLLECTIONS
January 2001	\$1,374,180	--	\$ 1,374,180
February 2001	\$1,348,830	--	\$ 2,723,010
March 2001	\$1,331,734	\$4,054,744	\$ 4,054,744
April 2001	\$1,317,393	\$3,997,957	\$ 5,372,137
May 2001	\$1,308,641	\$3,957,768	\$ 6,680,778
June 2001	\$1,289,438	\$3,915,472	\$ 7,970,216
July 2001	\$1,280,912	\$3,878,991	\$ 9,251,128
August 2001	\$1,266,442	\$3,836,792	\$10,517,570
September 2001	\$1,251,621	\$3,798,975	\$11,769,191
October 2001	\$1,239,954	\$3,758,017	\$13,009,145
November 2001	\$1,227,995	\$3,719,570	\$14,237,140
December 2001	\$1,215,772	\$3,683,721	\$15,452,912
January 2002	\$1,203,190	\$3,646,957	\$16,656,102
February 2002	\$1,190,081	\$3,609,043	\$17,846,183
March 2002	\$1,179,410	\$3,572,681	\$19,025,593
April 2002	\$1,161,907	\$3,531,398	\$20,187,500
May 2002	\$1,137,925	\$3,479,242	\$21,325,425
June 2002	\$1,115,322	\$3,415,154	\$22,440,747
July 2002	\$1,103,914	\$3,357,161	\$23,544,661
August 2002	\$1,113,929	\$3,333,165	\$24,658,590
September 2002	\$1,110,595	\$3,328,438	\$25,769,185
October 2002	\$ 549,286	\$2,773,810	\$26,318,471
November 2002	\$ 508,388	\$2,168,269	\$26,826,859
December 2002	\$ 467,372	\$1,525,046	\$27,294,231
January 2003	\$ 426,244	\$1,402,004	\$27,720,475
February 2003	\$ 385,010	\$1,278,626	\$28,105,485
March 2003	\$ 343,677	\$1,154,931	\$28,449,162
April 2003	\$ 302,249	\$1,030,936	\$28,751,411
May 2003	\$ 260,733	\$ 906,659	\$29,012,144
June 2003	\$ 220,480	\$ 783,462	\$29,232,624
July 2003	\$ 182,908	\$ 664,121	\$29,415,532
August 2003	\$ 146,771	\$ 550,159	\$29,562,303
September 2003	\$ 113,848	\$ 443,527	\$29,676,151
October 2003	\$ 83,006	\$ 343,625	\$29,759,157
November 2003	\$ 57,239	\$ 254,093	\$29,816,396
December 2003	\$ 35,187	\$ 175,432	\$29,851,583
January 2004	\$ 18,561	\$ 110,987	\$29,870,144
February 2004	\$ 7,176	\$ 60,924	\$29,877,320

March 2004	\$	198	\$	25,935	\$29,877,518
April 2004	\$	0	\$	7,374	\$29,877,518
May 2004	\$	0	\$	198	\$29,877,518

## EXHIBIT 9.01(H) (CONTINUED)

## CUMULATIVE NET COLLECTIONS

COLLECTION PERIOD	AMOUNT	3-MONTH CUMULATIVE COLLECTIONS	TOTAL COLLECTIONS
June 2004	\$0	\$0	\$29,877,518
July 2004	\$0	\$0	\$29,877,518
August 2004	\$0	\$0	\$29,877,518

This schedule contains summary income statement information for the nine month period ended September 30, 2000 and balance sheet information as of September 30, 2000 extracted from the condensed consolidated financial statements included in the accompanying form 10-Q of MCM Capital Group, Inc. for the nine month period ended September 30, 2000 and is qualified in its entirety by reference to such Form 10-Q.

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9-MOS	DEC-31-2000	JAN-01-2000	SEP-30-2000
			2,714
		34,973	
		30,545	
		0	
		0	
		0	10,628
		2,688	
		82,572	
	6,189		
			58,417
	0		
			0
			76
			15,439
82,572			0
		28,102	
			0
		27,410	
		1,437	
		19,500	
		6,040	
		(26,285)	
		7,464	
	(18,821)		
		0	
		0	
			0
		(18,821)	
		(2.55)	
		(2.55)	