

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

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**Form 10-Q**

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

For the quarterly period ended March 31, 2004

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 No. 1-10308**

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**Cendant Corporation**

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

**Delaware**

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

**06-0918165**

*(I.R.S. Employer Identification Number)*

**9 West 57<sup>th</sup> Street  
New York, NY**

*(Address of principal executive offices)*

**10019**

*(Zip Code)*

**(212) 413-1800**

*(Registrant's telephone number, including area code)*

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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 past 90 days: Yes  No

Indicate by check mark whether the registrant is an accelerated filer (as defined in the Rule 12b-2 of the Exchange Act): Yes  No

The number of shares outstanding of the registrant's common stock was 1,019,974,240 shares as of March 31, 2004.

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**Cendant Corporation and Subsidiaries**

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## FORWARD-LOOKING STATEMENTS

Forward-looking statements in our public filings or other public statements are subject to known and unknown risks, uncertainties and other factors which may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. These forward-looking statements were based on various factors and were derived utilizing numerous important assumptions and other important factors that could cause actual results to differ materially from those in the forward-looking statements. Forward-looking statements include the information concerning our future financial performance, business strategy, projected plans and objectives. Statements preceded by, followed by or that otherwise include the words "believes", "expects", "anticipates", "intends", "projects", "estimates", "plans", "may increase", "may fluctuate" and similar expressions or future or conditional verbs such as "will", "should", "would", "may" and "could" are generally forward-looking in nature and not historical facts. You should understand that the following important factors and assumptions could affect our future results and could cause actual results to differ materially from those expressed in such forward-looking statements:

- terrorist attacks, such as the September 11, 2001 terrorist attacks on New York City and Washington, D.C., other attacks, acts of war or measures taken by governments in response thereto may negatively affect the travel industry and our financial results and could also result in a disruption in our business;
- the effect of economic or political conditions or any outbreak or escalation of hostilities on the economy on a national, regional or international basis and the impact thereof on our businesses;
- the effects of a decline in travel, due to political instability, adverse economic conditions or otherwise, on our travel related businesses;
- the effects of a decline in the volume or value of U.S. existing home sales, due to adverse economic changes or otherwise, on our real estate related businesses;
- the effects of changes in current interest rates, particularly on our real estate franchise, real estate brokerage and mortgage businesses;
- the final resolution or outcome of our unresolved pending litigation relating to the accounting irregularities announced on April 15, 1998;
- our ability to develop and implement operational, technological and financial systems to manage growing operations and to achieve enhanced earnings or effect cost savings;
- competition in our existing and potential future lines of business and the financial resources of, and products available to, competitors;
- failure to reduce quickly our substantial technology costs and other overhead costs in response to a reduction in revenue, particularly in our computer reservations, global distribution systems, vehicle rental and real estate brokerage businesses;
- our failure to provide fully integrated disaster recovery technology solutions in the event of a disaster;
- our ability to integrate and operate successfully acquired and merged businesses and risks associated with such businesses, the compatibility of the operating systems of the combining companies, and the degree to which our existing administrative and back-office functions and costs and those of the acquired companies are complementary or redundant;
- our ability to obtain financing on acceptable terms to finance our growth strategy and to operate within the limitations imposed by our financing arrangements and to maintain our credit ratings;

- in relation to our management and mortgage programs, (i) the deterioration in the performance of the underlying assets of such programs and (ii) our inability to access the secondary market for mortgage loans or certain of our securitization facilities and to act as servicer thereto, which could occur in the event that our credit ratings are downgraded below investment grade and, in certain circumstances, where we fail to meet certain financial ratios;
- competitive and pricing pressures in the travel industry, including the vehicle rental and global distribution services industries;
- changes in the vehicle manufacturer repurchase arrangements in our Avis and Budget vehicle rental business or changes in the credit quality of such vehicle manufacturers;
- filing of bankruptcy by, or the loss of business of, any of our significant customers, including our airline customers, and the ultimate disposition of UAL Corporation's bankruptcy reorganization; and
- changes in laws and regulations, including changes in accounting standards, global distribution services rules, telemarketing and timeshare sales regulations, mortgage and real estate related regulations, state, federal and international tax laws and privacy policy regulation.

Other factors and assumptions not identified above were also involved in the derivation of these forward-looking statements, and the failure of such other assumptions to be realized as well as other factors may also cause actual results to differ materially from those projected. Most of these factors are difficult to predict accurately and are generally beyond our control.

You should consider the areas of risk described above in connection with any forward-looking statements that may be made by us and our businesses generally. Except for our ongoing obligations to disclose material information under the federal securities laws, we undertake no obligation to release publicly any revisions to any forward-looking statements, to report events or to report the occurrence of unanticipated events unless required by law. For any forward-looking statements contained in any document, we claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995.

**PART I—FINANCIAL INFORMATION**

**Item 1. Financial Statements**

**INDEPENDENT ACCOUNTANTS' REPORT**

To the Board of Directors and Stockholders of  
Cendant Corporation  
New York, New York

We have reviewed the accompanying consolidated condensed balance sheet of Cendant Corporation and subsidiaries (the "Company") as of March 31, 2004, and the related consolidated condensed statements of income and cash flows for the three-month periods ended March 31, 2004 and 2003. These interim financial statements are the responsibility of the Company's management.

We conducted our reviews in accordance with standards established by the American Institute of Certified Public Accountants. A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with auditing standards generally accepted in the United States of America, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to such consolidated condensed interim financial statements for them to be in conformity with accounting principles generally accepted in the United States of America.

We have previously audited, in accordance with auditing standards generally accepted in the United States of America, the consolidated balance sheet of the Company as of December 31, 2003, and the related consolidated statements of income, stockholders' equity, and cash flows for the year then ended (not presented herein); and in our report dated February 25, 2004, we expressed an unqualified opinion (which included an explanatory paragraph with respect to the adoption of the fair value method of accounting for stock-based compensation and the adoption of the consolidation provisions for variable interest entities in 2003, the non-amortization provisions for goodwill and other indefinite-lived intangible assets in 2002, and the modification of the accounting treatment relating to securitization transactions and the accounting for derivative instruments and hedging activities in 2001, as discussed in Note 2 to the consolidated financial statements) on those consolidated financial statements. In our opinion, the information set forth in the accompanying consolidated condensed balance sheet as of December 31, 2003 is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

/s/ Deloitte & Touche LLP  
New York, New York  
May 3, 2004

**Cendant Corporation and Subsidiaries**  
**CONSOLIDATED CONDENSED STATEMENTS OF INCOME**  
(In millions, except per share data)

|   | <b>Three Months Ended<br/>March 31,</b> |               |
|---|---|---------------|
|   | <b>2004</b>                             | <b>2003</b>   |
| <b>Revenues</b>   |   |               |
| Service fees and membership, net                        | \$ 3,099                                | \$ 2,790      |
| Vehicle-related   | 1,334                                   | 1,301         |
| Other   | 44                                      | 37            |
|   | <hr/>                                   | <hr/>         |
| Net revenues  | 4,477                                   | 4,128         |
|   | <hr/>                                   | <hr/>         |
| <b>Expenses</b>   |   |               |
| Operating   | 2,240                                   | 2,046         |
| Vehicle depreciation, lease charges and interest, net   | 614                                     | 597           |
| Marketing and reservation                               | 502                                     | 408           |
| General and administrative                              | 399                                     | 341           |
| Non-program related depreciation and amortization       | 131                                     | 129           |
| Non-program related interest, net:                      |   |               |
| Interest expense, net                                   | 81                                      | 79            |
| Early extinguishment of debt                            | —                                       | 48            |
| Acquisition and integration related costs:              |   |               |
| Amortization of pendings and listings                   | 4                                       | 3             |
| Other   | 3                                       | 7             |
|   | <hr/>                                   | <hr/>         |
| Total expenses  | 3,974                                   | 3,658         |
|   | <hr/>                                   | <hr/>         |
| <b>Income before income taxes and minority interest</b> |   |               |
|   | 503                                     | 470           |
| Provision for income taxes                              | 58                                      | 155           |
| Minority interest, net of tax                           | 4                                       | 6             |
|   | <hr/>                                   | <hr/>         |
| <b>Net income</b>                                       | <b>\$ 441</b>                           | <b>\$ 309</b> |
|   | <hr/>                                   | <hr/>         |
| <b>Net income per share</b>                             |   |               |
| Basic   | \$ 0.43                                 | \$ 0.30       |
| Diluted   | 0.42                                    | 0.30          |

See Notes to Consolidated Condensed Financial Statements.

**Cendant Corporation and Subsidiaries**  
**CONSOLIDATED CONDENSED BALANCE SHEETS**  
(In millions, except share data)

|  | <b>March 31,<br/>2004</b> | <b>December 31,<br/>2003</b> |
|--|---------------------------|------------------------------|
|  |                           |                              |
| <b>Assets</b>  |                           |                              |
| Current assets:  |                           |                              |
| Cash and cash equivalents  | \$ 632                    | \$ 840                       |
| Restricted cash  | 405                       | 448                          |
| Receivables, net   | 1,685                     | 1,671                        |
| Deferred income taxes  | 500                       | 455                          |
| Other current assets   | 1,074                     | 1,064                        |
|  | 4,296                     | 4,478                        |
| Total current assets   |                           |                              |
| Property and equipment, net  | 1,754                     | 1,803                        |
| Deferred income taxes  | 622                       | 668                          |
| Goodwill   | 11,225                    | 11,119                       |
| Other intangibles, net   | 2,438                     | 2,402                        |
| Other non-current assets   | 973                       | 974                          |
|  | 21,308                    | 21,444                       |
| Total assets exclusive of assets under programs  |                           |                              |
| Assets under management and mortgage programs:   |                           |                              |
| Program cash   | 335                       | 542                          |
| Mortgage loans held for sale   | 2,504                     | 2,494                        |
| Relocation receivables   | 663                       | 534                          |
| Vehicle-related, net   | 11,493                    | 10,143                       |
| Timeshare-related, net   | 1,804                     | 1,803                        |
| Mortgage servicing rights, net   | 1,478                     | 1,641                        |
| Derivatives related to mortgage servicing rights   | 71                        | 316                          |
| Other  | 101                       | 120                          |
|  | 18,449                    | 17,593                       |
| Total assets   | \$ 39,757                 | \$ 39,037                    |
| <b>Liabilities and stockholders' equity</b>  |                           |                              |
| Current liabilities:   |                           |                              |
| Accounts payable and other current liabilities   | \$ 4,659                  | \$ 4,688                     |
| Current portion of long-term debt  | 1,209                     | 1,629                        |
| Deferred income  | 850                       | 854                          |
|  | 6,718                     | 7,171                        |
| Total current liabilities  |                           |                              |
| Long-term debt, excluding Upper DECS   | 3,582                     | 3,510                        |
| Upper DECS   | 863                       | 863                          |
| Deferred income  | 325                       | 311                          |
| Other non-current liabilities  | 804                       | 888                          |
|  | 12,292                    | 12,743                       |
| Total liabilities exclusive of liabilities under programs  |                           |                              |
| Liabilities under management and mortgage programs:  |                           |                              |
| Debt   | 9,242                     | 9,141                        |
| Debt due to AESOP Funding II, LLC—related party  | 6,499                     | 5,644                        |
| Derivatives related to mortgage servicing rights   | 19                        | 231                          |
| Deferred income taxes  | 1,068                     | 1,092                        |
|  | 16,828                    | 16,108                       |
| Commitments and contingencies (Note 10)  |                           |                              |
| Stockholders' equity:  |                           |                              |
| Preferred stock, \$.01 par value—authorized 10 million shares; none issued and outstanding                   | —                         | —                            |
| CD common stock, \$.01 par value—authorized 2 billion shares; issued 1,288,080,432 and 1,260,397,204, shares | 13                        | 13                           |
| Additional paid-in capital   | 10,831                    | 10,284                       |
| Retained earnings  | 4,799                     | 4,430                        |
| Accumulated other comprehensive income   | 165                       | 209                          |
| CD treasury stock, at cost—268,106,192 and 251,553,531 shares  | (5,171)                   | (4,750)                      |
|  | 10,637                    | 10,186                       |
| Total stockholders' equity   |                           |                              |
| <b>Total liabilities and stockholders' equity</b>  | \$ 39,757                 | \$ 39,037                    |

See Notes to Consolidated Condensed Financial Statements.

**Cendant Corporation and Subsidiaries**  
**CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS**  
(In millions)

|   | <b>Three Months Ended<br/>March 31,</b> |               |
|---|---|---------------|
|   | <b>2004</b>                             | <b>2003</b>   |
| <b>Operating Activities</b>   |   |               |
| Net income  | \$ 441                                  | \$ 309        |
| Adjustments to reconcile net income to net cash provided by operating activities exclusive of management and mortgage programs: |   |               |
| Non-program related depreciation and amortization   | 131                                     | 129           |
| Amortization of pendings and listings   | 4                                       | 3             |
| Net change in assets and liabilities, excluding the impact of acquisitions and dispositions:                                    |   |               |
| Receivables   | (183)                                   | (12)          |
| Income taxes and deferred income taxes  | (17)                                    | 131           |
| Accounts payable and other current liabilities  | (22)                                    | (331)         |
| Deferred income   | 10                                      | (39)          |
| Proceeds from termination of fair value hedges  | —                                       | 42            |
| Other   | (22)                                    | 84            |
| <b>Net cash provided by operating activities exclusive of management and mortgage programs</b>                                  | <b>342</b>                              | <b>316</b>    |
| <i>Management and mortgage programs:</i>  |   |               |
| Vehicle depreciation  | 506                                     | 486           |
| Amortization and impairment of mortgage servicing rights  | 264                                     | 197           |
| Net gain on mortgage servicing rights and related derivatives   | (171)                                   | (63)          |
| Origination of timeshare-related assets   | (234)                                   | (278)         |
| Principal collection of investment in timeshare-related assets  | 133                                     | 296           |
| Origination of mortgage loans   | (7,409)                                 | (13,398)      |
| Proceeds on sale of and payments from mortgage loans held for sale  | 7,399                                   | 13,610        |
|   | <b>488</b>                              | <b>850</b>    |
| <b>Net cash provided by operating activities</b>  | <b>830</b>                              | <b>1,166</b>  |
| <b>Investing Activities</b>   |   |               |
| Property and equipment additions  | (104)                                   | (97)          |
| Net assets acquired, net of cash acquired, and acquisition-related payments   | (165)                                   | (81)          |
| Proceeds received on asset sales  | 18                                      | 82            |
| Proceeds from disposition of business, net of transaction-related payments  | 42                                      | —             |
| Other, net  | 45                                      | 53            |
| <b>Net cash used in investing activities exclusive of management and mortgage programs</b>                                      | <b>(164)</b>                            | <b>(43)</b>   |
| <i>Management and mortgage programs:</i>  |   |               |
| (Increase) decrease in program cash   | 207                                     | (17)          |
| Investment in vehicles  | (4,078)                                 | (3,836)       |
| Payments received on investment in vehicles   | 2,265                                   | 3,143         |
| Equity advances on homes under management   | (1,199)                                 | (1,079)       |
| Repayment on advances on homes under management   | 1,218                                   | 1,067         |
| Additions to mortgage servicing rights  | (102)                                   | (231)         |
| Cash received on derivatives related to mortgage servicing rights, net  | 204                                     | 212           |
| Other, net  | 39                                      | 12            |
|   | <b>(1,446)</b>                          | <b>(729)</b>  |
| <b>Net cash used in investing activities</b>  | <b>(1,610)</b>                          | <b>(772)</b>  |
| <b>Financing Activities</b>   |   |               |
| Proceeds from borrowings  | 19                                      | 2,650         |
| Principal payments on borrowings  | (13)                                    | (2,401)       |
| Issuances of common stock   | 207                                     | 32            |
| Repurchases of common stock   | (612)                                   | (152)         |
| Payment of dividends  | (72)                                    | —             |
| Other, net  | 1                                       | (64)          |
| <b>Net cash provided by (used in) financing activities exclusive of management and mortgage programs</b>                        | <b>(470)</b>                            | <b>65</b>     |
| <i>Management and mortgage programs:</i>  |   |               |
| Proceeds from borrowings  | 3,661                                   | 7,086         |
| Principal payments on borrowings  | (2,727)                                 | (6,584)       |
| Net change in short-term borrowings   | 129                                     | (471)         |
| Other, net  | (5)                                     | (13)          |
|   | <b>1,058</b>                            | <b>18</b>     |
| <b>Net cash provided by financing activities</b>  | <b>588</b>                              | <b>83</b>     |
| Effect of changes in exchange rates on cash and cash equivalents  | (16)                                    | (23)          |
| Net increase (decrease) in cash and cash equivalents  | (208)                                   | 454           |
| Cash and cash equivalents, beginning of period  | 840                                     | 126           |
| <b>Cash and cash equivalents, end of period</b>   | <b>\$ 632</b>                           | <b>\$ 580</b> |

See Notes to Consolidated Condensed Financial Statements.





**Cendant Corporation and Subsidiaries**  
**NOTES TO CONSOLIDATED CONDENSED FINANCIAL STATEMENTS**  
**(Unless otherwise noted, all amounts are in millions, except per share amounts)**

**1. Summary of Significant Accounting Policies**

***Basis of Presentation***

Cendant Corporation is a global provider of a wide range of complementary consumer and business services, focusing primarily on travel and real estate services and operating in the following business segments:

- **Real Estate Franchise and Operations**—franchises the real estate brokerage businesses of four residential and one commercial brands, provides real estate brokerage services and facilitates employee relocations.
- **Mortgage Services**—provides home buyers with mortgage services and title, appraisal and closing services.
- **Hospitality Services**—facilitates the sale and development of vacation ownership interests, provides consumer financing to individuals purchasing these interests, facilitates the exchange of vacation ownership interests, operates nine lodging franchise systems and markets vacation rental properties in Europe.
- **Travel Distribution Services**—provides primarily global distribution services for the travel industries and travel agency services.
- **Vehicle Services**—operates and franchises the Company's vehicle rental businesses and provides commercial fleet management and fuel card services.
- **Financial Services**—provides financial institution enhancement products and insurance-based and loyalty solutions, operates and franchises tax preparation services and provides a variety of membership programs.

The accompanying unaudited Consolidated Condensed Financial Statements include the accounts and transactions of Cendant Corporation and its subsidiaries ("Cendant"), as well as entities in which Cendant directly or indirectly has a controlling financial interest (collectively, the "Company"). In presenting the Consolidated Condensed Financial Statements, management makes estimates and assumptions that affect the amounts reported and related disclosures. Estimates, by their nature, are based on judgment and available information. Accordingly, actual results could differ from those estimates. In management's opinion, the Consolidated Condensed Financial Statements contain all normal recurring adjustments necessary for a fair presentation of interim results reported. The results of operations reported for interim periods are not necessarily indicative of the results of operations for the entire year or any subsequent interim period. Certain reclassifications have been made to prior period amounts to conform to the current period presentation. These financial statements should be read in conjunction with the Company's 2003 Annual Report on Form 10-K filed on March 1, 2004.

The Company's Consolidated Condensed Financial Statements present separately the financial data of the Company's management and mortgage programs. These programs are distinct from the Company's other activities since the assets are generally funded through the issuance of debt that is collateralized by such assets. Specifically, in the Company's vehicle rental, fleet management, relocation, mortgage services and vacation ownership businesses, assets under management and mortgage programs are funded through either borrowings under asset-backed funding arrangements or unsecured borrowings at the Company's PHH subsidiary. Such borrowings are classified as debt under management and mortgage programs. The income generated by these assets is used, in part, to repay the principal and interest associated with the debt. Cash inflows and outflows relating to the generation or acquisition of such assets and the principal debt repayment or financing of such assets are classified as activities of the Company's management and mortgage programs. The Company believes it is appropriate to segregate the financial data of its management and mortgage programs because, ultimately, the source of repayment of such debt is the realization of such assets.

***Recently Issued Accounting Pronouncements***

On March 9, 2004, the United States Securities and Exchange Commission ("SEC") issued Staff Accounting Bulletin No. 105—Application of Accounting Principles to Loan Commitments ("SAB 105"). SAB 105 summarizes the views of the SEC staff regarding the application of generally accepted accounting principles to loan commitments accounted for as derivative instruments. The SEC staff believes that in recognizing a loan commitment, entities should not consider expected future cash flows related to the associated servicing of the loan until the servicing asset has been contractually separated from the underlying loan by sale or securitization of the loan with the servicing retained. The provisions of SAB 105 are applicable to all loan commitments accounted for as derivatives and entered into subsequent to March 31, 2004. The adoption of SAB 105 will not have a material impact on the Company's consolidated results of operations or financial position, as the Company's current accounting treatment for such loan commitments is consistent with the provisions of SAB 105.

## 2. Earnings Per Share

The following table sets forth the computation of basic and diluted earnings per share ("EPS").

|   | Three Months Ended<br>March 31, |         |
|---|---------------------------------|---------|
|   | 2004                            | 2003    |
| <i>Net income:</i>                            |                                 |         |
| Net income for basic and diluted EPS          | \$ 441                          | \$ 309  |
| <i>Weighted average shares outstanding:</i>   |                                 |         |
| Basic   | 1,015                           | 1,028   |
| Stock options, warrants and non-vested shares | 34                              | 12      |
| Convertible debt (*)                          | 10                              | —       |
| Diluted                                       | 1,059                           | 1,040   |
| <i>Net income per share:</i>                  |                                 |         |
| Basic   | \$ 0.43                         | \$ 0.30 |
| Diluted                                       | 0.42                            | 0.30    |

(\*) Represents the dilutive impact of the Company's zero coupon senior convertible contingent notes for the period during which the contingency provisions were satisfied (January 1 through February 13, 2004). The impact of the conversion on February 13, 2004 into shares of CD common stock is reflected within basic EPS from the conversion date forward (12 million shares).

The computation of diluted EPS for first quarter 2004 does not reflect the potential issuance of approximately 33.4 and 0.3 million shares of CD common stock in connection with the Company's outstanding 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures and zero coupon convertible debentures, respectively. The computation of diluted EPS for first quarter 2003 did not reflect the potential issuance of approximately 33.4 million, 15.6 million and 22.0 million shares of CD common stock in connection with the Company's then-outstanding 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures, zero coupon convertible debentures and zero coupon senior convertible contingent notes, respectively. The aforementioned contingently convertible securities have been excluded from the computation of diluted EPS as the related contingency provisions had not been satisfied during the respective periods. See Note 8—Long-term Debt and Borrowing Arrangements for more information regarding these contingently convertible debt securities.

The following table summarizes the Company's outstanding common stock equivalents that were antidilutive and therefore excluded from the computation of diluted EPS.

|                | Three Months Ended<br>March 31, |      |
|----------------|---------------------------------|------|
|                | 2004                            | 2003 |
| Options (a)    | 23                              | 153  |
| Warrants (b)   | —                               | 2    |
| Upper DECS (c) | 38                              | 40   |

(a) The decrease in antidilutive options as of March 31, 2004 principally reflects an increase in the average stock price for the three months ended March 31, 2004 (\$22.97) compared with the three months ended March 31, 2003 (\$11.81) and a reduction in the total number of options outstanding. The weighted average exercise price for antidilutive options at March 31, 2004 and 2003 was \$29.89 and \$19.88, respectively.

(b) The weighted average exercise price for antidilutive warrants at March 31, 2003 was \$21.31.

(c) The appreciation price for antidilutive Upper DECS at March 31, 2004 and 2003 was \$28.42.

## 3. Acquisitions

### 2004 Acquisitions

*Trilegiant Loyalty Solutions.* On January 30, 2004, the Company acquired Trilegiant Loyalty Solutions, Inc. ("TLS"), a wholly-owned subsidiary of TRL Group (formerly Trilegiant Corporation), for approximately \$20 million in cash. TLS offers wholesale loyalty enhancement services primarily to credit card issuers. The Company has been consolidating the results of TLS (as a component of TRL Group) since July 1, 2003 pursuant to the application of FASB Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). This acquisition resulted in goodwill (based on the preliminary allocation of the purchase price) of \$7 million, which was assigned to the Company's Financial Services segment, with the balance assigned to identifiable intangible assets having finite lives. None of the goodwill is expected to be deductible for tax purposes.

*Sotheby's International Realty.* On February 17, 2004, the Company acquired the domestic residential real estate brokerage operations of Sotheby's International Realty and obtained the rights to create a Sotheby's International Realty franchise system pursuant to an agreement to license the Sotheby's International Realty brand in exchange for a license fee to Sotheby's Holdings, Inc., the former parent of Sotheby's International Realty. Such license agreement has a 50-year initial term and a 50-year renewal option. The total cash purchase price for these transactions was approximately \$100 million. These transactions resulted in goodwill (based on the preliminary allocation of the purchase price) of \$72 million, all of which is expected to be deductible for tax purposes. Such goodwill was assigned to the Company's Real Estate Franchise and Operations segment.

*First Fleet Corporation.* On February 27, 2004, the Company acquired First Fleet Corporation ("First Fleet"), a national provider of fleet management services to companies that maintain private truck fleets, for \$30 million in cash. This acquisition resulted in goodwill (based on the preliminary allocation of the purchase price) of \$20 million, which was assigned to the Company's Vehicle Services segment. None of the goodwill is expected to be deductible for tax purposes.

*Other.* During 2004, the Company also acquired three other real estate brokerage operations through its wholly-owned subsidiary, NRT Incorporated ("NRT"), for approximately \$3 million in cash, which resulted in goodwill (based on the preliminary allocation of the purchase price) of \$3 million that was assigned to the Company's Real Estate Franchise and Operations segment. The acquisition of real estate brokerages by NRT is a core part of its growth strategy.

#### **Utilization of Purchase Acquisition Liabilities for Exiting Activities**

In connection with the Company's November 2002 acquisition of substantially all of the domestic assets of the vehicle rental business of Budget Group, Inc. ("Budget"), as well as selected international operations, the Company established the following purchase accounting liabilities for costs associated with exiting activities that are currently in progress. These exiting activities were formally committed to by the Company's management in connection with strategic initiatives primarily aimed at creating synergies between the cost structures of the Company and the acquired entity. The recognition of such costs and the corresponding utilization are summarized by category as follows:

|                                       | <b>Personnel<br/>Related</b> | <b>Contract<br/>Termination</b> | <b>Facility<br/>Related</b> | <b>Total</b> |
|---------------------------------------|------------------------------|---------------------------------|-----------------------------|--------------|
| Cost and balance at December 31, 2002 | \$ 35                        | \$ 6                            | \$ 7                        | \$ 48        |
| Cash payments                         | (28)                         | —                               | (4)                         | (32)         |
| Additions                             | 6                            | —                               | 14                          | 20           |
| Balance at December 31, 2003          | 13                           | 6                               | 17                          | 36           |
| Cash payments                         | (5)                          | —                               | (2)                         | (7)          |
| Balance at March 31, 2004             | \$ 8                         | \$ 6                            | \$ 15                       | \$ 29        |

The principal cost reduction opportunity resulting from these exit activities is the relocation of the corporate headquarters of Budget. In connection with this initiative, the Company has relocated selected Budget employees, involuntarily terminated other Budget employees and abandoned certain facilities primarily related to reservation processing and administrative functions. As a result, the Company incurred severance and other personnel costs related to the involuntary termination or relocation of employees, as well as facility-related costs primarily representing future lease payments for abandoned facilities. The adjustments recorded during 2003 represent the finalization of estimates made at the time of acquisition. The Company formally communicated the termination of employment to approximately 1,800 employees, representing a wide range of employee groups, and as of March 31, 2004, the Company had terminated substantially all of these employees. The Company anticipates that the majority of the remaining personnel-related costs will be paid during 2004 and that the majority of the remaining facility-related costs will be paid through 2007. The Company expects to pay a fee of \$6 million in April 2004 to terminate a contractual service agreement upon completing the integration of one of Budget's systems.

#### **Acquisition and Integration Related Costs**

During the first quarter 2004 and 2003, the Company incurred \$7 million and \$10 million, respectively, of acquisition and integration related costs, of which \$4 million and \$3 million, respectively, represented the non-cash amortization of the contractual pendings and listings intangible asset. The remaining costs (\$3 million and \$7 million during the first quarter 2004 and 2003, respectively) primarily related to the integration of Budget's information technology systems with the Company's platform.

#### 4. Intangible Assets

Intangible assets consisted of:

|                                      | As of March 31, 2004  |                          |                     | As of December 31, 2003 |                          |                     |
|--------------------------------------|-----------------------|--------------------------|---------------------|-------------------------|--------------------------|---------------------|
|                                      | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount | Gross Carrying Amount   | Accumulated Amortization | Net Carrying Amount |
| <i>Amortized Intangible Assets</i>   |                       |                          |                     |                         |                          |                     |
| Franchise agreements                 | \$ 1,156              | \$ 348                   | \$ 808              | \$ 1,157                | \$ 339                   | \$ 818              |
| Customer lists                       | 572                   | 162                      | 410                 | 550                     | 152                      | 398                 |
| Pendings and listings                | 18                    | 15                       | 3                   | 22                      | 17                       | 5                   |
| Other                                | 173                   | 45                       | 128                 | 139                     | 42                       | 97                  |
|                                      | <u>\$ 1,919</u>       | <u>\$ 570</u>            | <u>\$ 1,349</u>     | <u>\$ 1,868</u>         | <u>\$ 550</u>            | <u>\$ 1,318</u>     |
| <i>Unamortized Intangible Assets</i> |                       |                          |                     |                         |                          |                     |
| Goodwill                             | \$ 11,225             |                          |                     | \$ 11,119               |                          |                     |
| Trademarks                           | \$ 1,089              |                          |                     | \$ 1,084                |                          |                     |

The changes in the carrying amount of goodwill are as follows:

|                                      | Balance at January 1, 2004 | Goodwill Acquired during 2004 | Adjustments to Goodwill Acquired during 2003 | Foreign Exchange and Other | Balance at March 31, 2004 |
|--------------------------------------|----------------------------|-------------------------------|--|----------------------------|---------------------------|
| Real Estate Franchise and Operations | \$ 2,696                   | \$ 75(a)                      | \$ 1   | \$ 1                       | \$ 2,773                  |
| Mortgage Services                    | 80                         | —                             | —  | —                          | 80                        |
| Hospitality Services                 | 2,514                      | —                             | —  | 4                          | 2,518                     |
| Travel Distribution Services         | 2,555                      | —                             | 1  | (2)                        | 2,554                     |
| Vehicle Services                     | 2,653                      | 20(b)                         | —  | —                          | 2,673                     |
| Financial Services                   | 621                        | 7(c)                          | —  | (1)                        | 627                       |
| Total Company                        | <u>\$ 11,119</u>           | <u>\$ 102</u>                 | <u>\$ 2</u>                                  | <u>\$ 2</u>                | <u>\$ 11,225</u>          |

- (a) Primarily relates to the acquisition of Sotheby's International Realty.  
(b) Primarily relates to the acquisition of First Fleet.  
(c) Primarily relates to the acquisition of TLS.

Amortization expense relating to all intangible assets, excluding mortgage servicing rights (See Note 5—Mortgage Activities), was as follows:

|                       | Three Months Ended March 31, |              |
|-----------------------|------------------------------|--------------|
|                       | 2004                         | 2003         |
| Franchise agreements  | \$ 9                         | \$ 9         |
| Customer lists        | 9                            | 10           |
| Pendings and listings | 4                            | 3            |
| Other                 | 4                            | 3            |
| Total                 | <u>\$ 26</u>                 | <u>\$ 25</u> |

Based on the Company's amortizable intangible assets (excluding mortgage servicing rights) as of March 31, 2004, the Company expects related amortization expense for the remainder of 2004 and the five succeeding fiscal years to approximate \$70 million, \$80 million, \$80 million, \$70 million, \$60 million and \$50 million, respectively.

## 5. Mortgage Activities

The activity in the Company's residential mortgage loan servicing portfolio consisted of:

|                               | Three Months Ended<br>March 31, |                   |
|-------------------------------|---------------------------------|-------------------|
|                               | 2004                            | 2003              |
| Balance, January 1,           | \$ 136,427                      | \$ 114,079        |
| Additions                     | 7,698                           | 13,374            |
| Payoffs/curtailments          | (6,940)                         | (12,107)          |
| Purchases, net                | 839                             | 2,533             |
| <b>Balance, March 31, (*)</b> | <b>\$ 138,024</b>               | <b>\$ 117,879</b> |

(\*) Does not include approximately \$2.3 billion and \$1.8 billion of home equity loans serviced by the Company as of March 31, 2004 and 2003, respectively. The weighted average note rate on all the underlying mortgages within the Company's servicing portfolio was 5.3% and 5.9% as of March 31, 2004 and 2003, respectively.

Approximately \$5.7 billion (approximately 4%) of loans within the Company's servicing portfolio as of March 31, 2004 were sold with recourse. The majority of the loans sold with recourse (approximately \$5.4 billion of the \$5.7 billion) represent sales under a program where the Company retains the credit risk for a limited period of time and only for a specific default event. The retained credit risk represents the unpaid principal balance of the mortgage loans. For these loans, the Company accrues a provision (equal to the fair value of the recourse obligation) for estimated losses. At March 31, 2004, the provision approximated \$10 million. There was no significant activity that caused the Company to utilize this provision during first quarter 2004 or 2003.

The activity in the Company's capitalized mortgage servicing rights ("MSR") asset consisted of:

|                                       | Three Months Ended<br>March 31, |                 |
|---------------------------------------|---------------------------------|-----------------|
|                                       | 2004                            | 2003            |
| Balance, January 1,                   | \$ 2,015                        | \$ 1,883        |
| Additions, net                        | 102                             | 231             |
| Changes in fair value                 | —                               | 12              |
| Amortization                          | (72)                            | (136)           |
| Sales                                 | (1)                             | (5)             |
| Permanent impairment                  | (1)                             | (96)            |
| <b>Balance, March 31,</b>             | <b>2,043</b>                    | <b>1,889</b>    |
| <i>Valuation Allowance</i>            |                                 |                 |
| Balance, January 1,                   | (374)                           | (503)           |
| Additions                             | (192)                           | (61)            |
| Reductions                            | —                               | 1               |
| Permanent impairment                  | 1                               | 96              |
| <b>Balance, March 31,</b>             | <b>(565)</b>                    | <b>(467)</b>    |
| <b>Mortgage Servicing Rights, net</b> | <b>\$ 1,478</b>                 | <b>\$ 1,422</b> |

The MSR asset is subject to substantial interest rate risk, as the mortgage notes underlying the asset permit the borrower to prepay the loan. Therefore, the value of the MSR asset tends to diminish in periods of declining interest rates (as prepayments increase) and increase in periods of rising interest rates (as prepayments decrease). The Company uses a combination of derivative instruments (including option contracts, interest rate swaps and constant maturity floors) and other investment securities to offset expected changes in fair value of its MSR asset that could affect reported earnings. Beginning in 2004, the Company changed its hedge accounting policy by designating the full change in fair value of the MSR asset as its hedged risk. As a result of this change, the Company discontinued hedge accounting until such time as the documentation required to support the assessment of hedge effectiveness on a full fair value basis could be completed. This analysis was not completed during the first quarter of 2004; therefore, all of the derivatives associated with the MSR asset were designated as freestanding during such period.

The net activity in the Company's derivatives related to mortgage servicing rights consisted of:

|                             | Three Months Ended<br>March 31, |        |
|-----------------------------|---------------------------------|--------|
|                             | 2004                            | 2003   |
| Net balance, January 1, (*) | \$ 85                           | \$ 385 |
| Additions, net              | 160                             | 67     |
| Changes in fair value       | 171                             | 51     |
| Sales/proceeds received     | (364)                           | (279)  |
| Net balance, March 31, (*)  | \$ 52                           | \$ 224 |

(\*) At January 1, 2004, the net balance represents the gross asset of \$316 million net of the gross liability of \$231 million. At March 31, 2004, the net balance represents the gross asset of \$71 million net of the gross liability of \$19 million.

The net impact to the Company's Consolidated Condensed Statements of Income resulting from changes in the fair value of the Company's MSR asset and the related derivatives was as follows:

|  | Three Months Ended<br>March 31, |       |
|--|---------------------------------|-------|
|  | 2004                            | 2003  |
| Adjustment of MSR asset under hedge accounting | \$ —                            | \$ 12 |
| Net gain on derivatives related to MSR asset   | 171                             | 51    |
| Net gain                                       | 171                             | 63    |
| Provision for impairment of MSR asset          | (192)                           | (61)  |
| Net impact                                     | \$ (21)                         | \$ 2  |

Based upon the composition of the portfolio as of March 31, 2004 (and other assumptions regarding interest rates and prepayment speeds), the Company expects MSR amortization expense for the remainder of 2004 and the five succeeding fiscal years to approximate \$230 million, \$260 million, \$220 million, \$190 million, \$160 million and \$140 million, respectively. As of March 31, 2004, the MSR portfolio had a weighted average life of approximately 4.9 years.

## 6. Vehicle Rental and Leasing Activities

The components of the Company's vehicle-related assets under management and mortgage programs are as follows:

|   | As of March 31,<br>2004 |                 | As of December 31,<br>2003 |                 |
|---|-------------------------|-----------------|----------------------------|-----------------|
|   | Rental                  | Leasing         | Rental                     | Leasing         |
| Rental vehicles                                 | \$ 7,342                | \$ —            | \$ 6,177                   | \$ —            |
| Vehicles under open-end operating leases        | —                       | 5,944           | —                          | 5,429           |
| Vehicles under closed-end operating leases      | —                       | 167             | —                          | 156             |
| <b>Vehicles held for rental/leasing</b>         | <b>7,342</b>            | <b>6,111</b>    | <b>6,177</b>               | <b>5,585</b>    |
| Vehicles held for sale                          | 18                      | 8               | 58                         | 13              |
|   | 7,360                   | 6,119           | 6,235                      | 5,598           |
| Less: accumulated depreciation                  | (584)                   | (2,489)         | (525)                      | (2,323)         |
| <b>Total investment in vehicles, net</b>        | <b>6,776</b>            | <b>3,630</b>    | <b>5,710</b>               | <b>3,275</b>    |
| Plus: Investment in AESOP Funding II, LLC (*)   | 342                     | —               | 361                        | —               |
| Plus: Receivables under direct financing leases | —                       | 130             | —                          | 129             |
| Plus: Fuel card related receivables             | —                       | 341             | —                          | 282             |
| Plus: Receivables from manufacturers            | 274                     | —               | 386                        | —               |
| <b>Total vehicle-related, net</b>               | <b>\$ 7,392</b>         | <b>\$ 4,101</b> | <b>\$ 6,457</b>            | <b>\$ 3,686</b> |

(\*) Represents the equity issued by AESOP Funding II, LLC to the Company. See Note 9—Debt Under Management and Mortgage Programs and Borrowing Arrangements for more information.





The components of vehicle depreciation, lease charges and interest, net are summarized below:

|                                | Three Months Ended March 31, |               |               |               |
|--------------------------------|------------------------------|---------------|---------------|---------------|
|                                | 2004                         |               | 2003          |               |
|                                | Rental                       | Leasing       | Rental        | Leasing       |
| Depreciation expense           | \$ 227                       | \$ 279        | \$ 216        | \$ 270        |
| Interest expense, net (*)      | 63                           | 24            | 56            | 23            |
| Lease charges                  | 15                           | —             | 20            | —             |
| Loss on sales of vehicles, net | 6                            | —             | 12            | —             |
|                                | <u>\$ 311</u>                | <u>\$ 303</u> | <u>\$ 304</u> | <u>\$ 293</u> |

(\*) Vehicle rental amounts are net of vehicle interest income of \$1 million and \$3 million during first quarter 2004 and 2003, respectively. Fleet leasing amounts are net of vehicle interest income of \$1 million during both first quarter 2004 and 2003.

## 7. Accounts Payable and Other Current Liabilities

Accounts payable and other current liabilities consisted of:

|                                     | As of<br>March 31,<br>2004 | As of<br>December 31,<br>2003 |
|-------------------------------------|----------------------------|-------------------------------|
| Accounts payable                    | \$ 1,443                   | \$ 1,166                      |
| Accrued payroll and related         | 544                        | 676                           |
| Acquisition and integration-related | 311                        | 334                           |
| Income taxes payable                | 521                        | 588                           |
| Other                               | 1,840                      | 1,924                         |
|                                     | <u>\$ 4,659</u>            | <u>\$ 4,688</u>               |

## 8. Long-term Debt and Borrowing Arrangements

Long-term debt consisted of:

|   | Maturity<br>Date | As of<br>March 31,<br>2004 | As of<br>December 31,<br>2003 |
|---|------------------|----------------------------|-------------------------------|
| <b>Term notes:</b>  |                  |                            |                               |
| 6 <sup>7</sup> / <sub>8</sub> % notes                         | August 2006      | \$ 849                     | \$ 849                        |
| 6 <sup>1</sup> / <sub>4</sub> % notes                         | January 2008     | 797                        | 797                           |
| 11% senior subordinated notes (a)                             | May 2009         | 329                        | 333                           |
| 6 <sup>1</sup> / <sub>4</sub> % notes                         | March 2010       | 348                        | 348                           |
| 7 <sup>3</sup> / <sub>8</sub> % notes                         | January 2013     | 1,190                      | 1,190                         |
| 7 <sup>1</sup> / <sub>8</sub> % notes                         | March 2015       | 250                        | 250                           |
| <b>Contingently convertible debt securities:</b>              |                  |                            |                               |
| Zero coupon senior convertible contingent notes (b)           | n/a              | —                          | 430                           |
| Zero coupon convertible debentures                            | May 2004(*)      | 7                          | 7                             |
| 3 <sup>7</sup> / <sub>8</sub> % convertible senior debentures | November 2004(*) | 804                        | 804                           |
| <b>Other:</b>   |                  |                            |                               |
| Net hedging gains (c)   |                  | 99                         | 31                            |
| Other   |                  | 118                        | 100                           |
| Total long-term debt, excluding Upper DECS                    |                  | 4,791                      | 5,139                         |
| Less: current portion (d)                                     |                  | 1,209                      | 1,629                         |
| <b>Long-term debt, excluding Upper DECS</b>                   |                  | <u>3,582</u>               | <u>3,510</u>                  |
| Upper DECS  |                  | 863                        | 863                           |
| <b>Long-term debt, including Upper DECS</b>                   |                  | <u>\$ 4,445</u>            | <u>\$ 4,373</u>               |

(\*) Indicates earliest mandatory redemption date.

- (a) During first quarter 2004, the Company announced its intention to redeem these notes at 105.5% of principal outstanding (their then-current carrying value) plus accrued and unpaid interest through the redemption date. The Company plans to fund the redemption on May 3, 2004.
- (b) During first quarter 2004, the Company announced its intention to redeem these notes on February 13, 2004. As a result, holders had the right to convert their notes into shares of CD common stock. Virtually all holders elected to convert their notes. Accordingly, the Company issued approximately 22 million shares in exchange for approximately \$430 million in notes (carrying

- value) during February 2004 (see Note 11—Stockholders' Equity).
- (c) As of March 31, 2004, the balance represents \$190 million of realized gains resulting from the termination of fair value interest rate hedges, which will be amortized by the Company as a reduction to future interest expense. Such gains are partially offset by \$91 million of mark-to-market adjustments on other fair value interest rate hedges. As of December 31, 2003, the balance represents \$201 million of realized gains resulting from the termination of fair value interest rate hedges, which are partially offset by \$170 million of mark-to-market adjustments on other fair value interest rate hedges.
- (d) The balance as of March 31, 2004 includes the \$329 million 11% senior subordinated notes, the \$7 million zero coupon convertible debentures and the \$804 million 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures. The balance as of December 31, 2003 includes the \$333 million 11% notes, the \$430 million zero coupon senior convertible contingent notes, the \$7 million zero coupon convertible debentures and the \$804 million 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures.

**Remarketing of Upper DECS.** The Company's Upper DECS securities are comprised of two components—senior notes maturing in August 2006 and a forward purchase contract requiring holders to purchase shares of CD common stock in August 2004 (based upon the price of such common stock on March 31, 2004, approximately 38 million shares would be purchased). In second quarter 2004, the \$862.5 million principal amount of senior notes bearing interest at an annual rate of 6.75% and forming a portion of the Upper DECS will be remarketed and, upon a successful remarketing, the interest rate will be reset. The notes, which are currently pledged to the Company as collateral for the forward purchase contracts, will continue to be due in August 2006. The Company will not receive any proceeds from the remarketing. Rather, the proceeds generated from the remarketing will be utilized to purchase a portfolio of U.S. Treasury securities, which will be pledged to the Company as collateral for the forward purchase contracts. The Company intends to participate in the remarketing as a bidder for up to \$762.5 million principal amount of notes, although it is not obligated to do so. If the Company is successful in the bidding process, the Company plans to purchase and retire up to \$762.5 million of the notes. If the remarketing in second quarter 2004 is not successful, a second remarketing will occur in third quarter 2004. If the second remarketing fails, the notes would be retired (without any payment of cash by the Company) in August 2004 in satisfaction of the related forward purchase contracts.

Aggregate maturities of debt (excluding the Upper DECS) based upon maturity or earliest mandatory redemption dates are as follows:

|                              | <b>As of<br/>March 31,<br/>2004</b> |
|------------------------------|-------------------------------------|
| Within 1 year <sup>(a)</sup> | \$ 1,209                            |
| Between 1 and 2 years        | 23                                  |
| Between 2 and 3 years        | 907                                 |
| Between 3 and 4 years        | 821                                 |
| Between 4 and 5 years        | 2                                   |
| Thereafter                   | 1,829                               |
|                              | <hr/> <b>\$ 4,791</b> <hr/>         |

- (a) Includes \$804 million related to the 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures, which may be converted into shares of CD common stock rather than be redeemed in cash if the price of such stock exceeds the stipulated thresholds or upon the Company's exercise of its call provisions.

As of March 31, 2004, there were no outstanding borrowings under the Company's \$2.9 billion revolving credit facility; however, letters of credit of \$1.4 billion were issued and outstanding. These letters of credit were issued primarily to support the Company's vehicle rental businesses. Accordingly, as of March 31, 2004, the Company had approximately \$1.5 billion of availability under this facility (including \$393 million of availability to issue additional letters of credit). As of March 31, 2004, the Company also had \$400 million of availability for public debt or equity issuances under a shelf registration statement.

At March 31, 2004, the Company was in compliance with all restrictive and financial covenants of its material debt instruments and credit facilities.

## 9. Debt Under Management and Mortgage Programs and Borrowing Arrangements

Debt under management and mortgage programs (including related party debt due to AESOP Funding II, LLC) consisted of:

|  | As of<br>March 31,<br>2004 | As of<br>December 31,<br>2003 |
|--|----------------------------|-------------------------------|
| <b>Asset-Backed Debt:</b>                                |                            |                               |
| Vehicle rental program                                   |                            |                               |
| AESOP Funding II, LLC <sup>(a)</sup>                     | \$ 6,499                   | \$ 5,644                      |
| Other  | 600                        | 651                           |
| Vehicle management program <sup>(b)</sup>                | 3,333                      | 3,118                         |
| Mortgage program   |                            |                               |
| Bishop's Gate Residential Mortgage Trust <sup>(c)</sup>  | 1,301                      | 1,651                         |
| Other  | —                          | —                             |
| Timeshare program  |                            |                               |
| Sierra Receivables Funding Entities                      | 795                        | 774                           |
| Other  | 355                        | 335                           |
| Relocation program                                       |                            |                               |
| Apple Ridge Funding LLC                                  | 400                        | 400                           |
| Other  | —                          | —                             |
|  | 13,283                     | 12,573                        |
| <b>Unsecured Debt:</b>                                   |                            |                               |
| Term notes   | 1,955                      | 1,916                         |
| Commercial paper   | 345                        | 164                           |
| Other  | 158                        | 132                           |
|  | 2,458                      | 2,212                         |
| <b>Total debt under management and mortgage programs</b> | <b>\$ 15,741</b>           | <b>\$ 14,785</b>              |

(a) The change in the balance at March 31, 2004 principally reflects the issuance of term notes at various interest rates to support the acquisition of vehicles used in the Company's vehicle rental business.

(b) The change in the balance at March 31, 2004 principally reflects debt assumed in connection with the Company's acquisition of First Fleet.

(c) The change in the balance at March 31, 2004 reflects the January 2004 repayment of \$350 million of medium-term notes.

The following table provides the contractual maturities for debt under management and mortgage programs (including related party debt due to AESOP Funding II, LLC) at March 31, 2004 (except for notes issued under the Company's vehicle management and Sierra timeshare programs, where the underlying indentures require payments based on cash inflows relating to the corresponding assets under management and mortgage programs and for which estimates of repayments have been used):

|                       | Asset-Backed | Unsecured | Total     |
|-----------------------|--------------|-----------|-----------|
| Within 1 year         | \$ 2,780     | \$ 558    | \$ 3,338  |
| Between 1 and 2 years | 3,363        | 186       | 3,549     |
| Between 2 and 3 years | 2,793        | 1         | 2,794     |
| Between 3 and 4 years | 2,236        | 618       | 2,854     |
| Between 4 and 5 years | 1,431        | 6         | 1,437     |
| Thereafter            | 680          | 1,089     | 1,769     |
|                       | \$ 13,283    | \$ 2,458  | \$ 15,741 |

As of March 31, 2004, available funding under the Company's asset-backed debt programs and committed credit facilities (including related party debt due to AESOP Funding II, LLC) related to the Company's management and mortgage programs consisted of:

|   | <b>Total<br/>Capacity</b> | <b>Outstanding<br/>Borrowings</b> | <b>Available<br/>Capacity</b> |
|---|---------------------------|-----------------------------------|-------------------------------|
| <i>Asset-Backed Funding Arrangements</i> <sup>(a)</sup> |                           |                                   |                               |
| Vehicle rental program                                  |                           |                                   |                               |
| AESOP Funding II, LLC <sup>(b)</sup>                    | \$ 6,904                  | \$ 6,499                          | \$ 405                        |
| Other <sup>(c)</sup>                                    | 1,055                     | 600                               | 455                           |
| Vehicle management program <sup>(d)</sup>               | 3,972                     | 3,333                             | 639                           |
| Mortgage program  |                           |                                   |                               |
| Bishop's Gate Residential Mortgage Trust <sup>(e)</sup> | 2,801                     | 1,301                             | 1,500                         |
| Other   | 300                       | —                                 | 300                           |
| Timeshare program                                       |                           |                                   |                               |
| Sierra Receivables Funding Entities <sup>(f)</sup>      | 1,163                     | 795                               | 368                           |
| Other <sup>(g)</sup>                                    | 502                       | 355                               | 147                           |
| Relocation program                                      |                           |                                   |                               |
| Apple Ridge Funding LLC <sup>(h)</sup>                  | 500                       | 400                               | 100                           |
| Other   | 100                       | —                                 | 100                           |
|   | <u>17,297</u>             | <u>13,283</u>                     | <u>4,014</u>                  |
| <i>Committed Credit Facilities</i> <sup>(i)</sup>       |                           |                                   |                               |
| Maturing in February 2005                               | 1,250                     | —                                 | 1,250                         |
|   | <u>\$ 18,547</u>          | <u>\$ 13,283</u>                  | <u>\$ 5,264</u>               |

(a) Capacity is subject to maintaining sufficient assets to collateralize debt.

(b) The outstanding debt is primarily collateralized by approximately \$6.5 billion of underlying vehicles and related receivables.

(c) The outstanding debt is primarily collateralized by \$726 million of underlying vehicles.

(d) The outstanding debt is primarily collateralized by approximately \$3.7 billion of leased vehicles and \$207 million of program cash.

(e) The outstanding debt is collateralized by approximately \$1.3 billion of underlying mortgage loans and \$28 million of program cash.

(f) The outstanding debt is collateralized by approximately \$1.0 billion of underlying timeshare receivables and \$70 million of program cash.

(g) The outstanding debt is collateralized by \$554 million of timeshare-related assets.

(h) The outstanding debt is collateralized by \$502 million of underlying relocation receivables and \$14 million of program cash.

(i) These committed credit facilities were entered into by and are for the exclusive use of PHH Corporation ("PHH"), a subsidiary of the Company.

As of March 31, 2004, the Company also had \$874 million of availability for public debt issuances under a shelf registration statement at its PHH subsidiary.

At March 31, 2004, the Company was in compliance with all restrictive and financial covenants of its material debt instruments and credit facilities related to management and mortgage programs.

## 10. Commitments and Contingencies

The June 1999 disposition of the Company's fleet businesses was structured as a tax-free reorganization and, accordingly, no tax provision was recorded on a majority of the gain. However, pursuant to an interpretive ruling, the Internal Revenue Service ("IRS") has subsequently taken the position that similarly structured transactions do not qualify as tax-free reorganizations under the Internal Revenue Code Section 368(a)(1)(A). If upon final determination, the transaction is not considered a tax-free reorganization, the Company may have to record a tax charge of up to \$270 million, depending upon certain factors. Any cash payments that would be made in connection with this charge are not expected to be significant, as the Company would use its net operating losses as an offset to the charge. Notwithstanding the IRS interpretive ruling, the Company believes that, based upon analysis of current tax law, its position would prevail, if challenged.

The Company is involved in litigation asserting claims associated with accounting irregularities discovered in 1998 at former CUC business units outside of the principal common stockholder class action litigation. While the Company has an accrued liability of approximately \$90 million recorded on its Consolidated Condensed Balance Sheet as of March 31, 2004 for these claims based upon its best estimates, it does not believe that it is feasible to predict or determine the final outcome or resolution of these unresolved proceedings. An adverse outcome from such unresolved proceedings could be material with respect to earnings in any given reporting period. However, the Company does not believe that the impact of such unresolved proceedings should result in a material liability to the Company in relation to its consolidated financial position or liquidity.

The Company is involved in other pending litigation, which, in the opinion of management, should not have a material adverse effect on the Company's consolidated financial position, results of operations or cash flows.

## 11. Stockholders' Equity

### **Dividend Payment**

During first quarter 2004, the Company paid a quarterly cash dividend of \$0.07 per share (\$72 million in the aggregate) to stockholders of record on February 23, 2004.

### **Share Repurchases**

During first quarter 2004, the Company used \$405 million of available cash and \$207 million of proceeds primarily received in connection with option exercises to repurchase approximately \$612 million (approximately 27 million shares) of CD common stock under its common stock repurchase program. During first quarter 2003, the Company used \$120 million of available cash and \$32 million of proceeds primarily received in connection with option exercises to repurchase \$152 million (approximately 12.7 million shares) of CD common stock under its common stock repurchase program.

### **Share Issuances**

As previously discussed in Note 8—Long-term Debt and Borrowing Arrangements, during first quarter 2004, the Company announced its intention to redeem its \$430 million outstanding zero coupon senior convertible contingent notes for cash. As a result, holders had the right to convert their notes into shares of CD common stock. Virtually all holders elected to convert their notes. Accordingly, the Company issued approximately 22 million shares in exchange for approximately \$430 million in notes (carrying value) during February 2004. As of March 31, 2004, the Company had used \$405 million of available cash (as discussed above) that otherwise would have been used to redeem these notes to repurchase a corresponding number of shares in the open market.

### **Comprehensive Income**

The components of comprehensive income are summarized as follows:

|  | <b>Three Months Ended<br/>March 31,</b> |             |
|--|---|-------------|
|  | <b>2004</b>                             | <b>2003</b> |
| Net income   | \$ 441                                  | \$ 309      |
| Other comprehensive income (loss):                     |   |             |
| Currency translation adjustments                       | (6)                                     | 18          |
| Unrealized gains (losses), net of tax                  |   |             |
| Cash flow hedges                                       | (14)                                    | 2           |
| Available-for-sale securities                          | (4)                                     | (2)         |
| Reclassification of realized holding gains, net of tax | (20)                                    | —           |
| Total comprehensive income                             | \$ 397                                  | \$ 327      |

The after-tax components of accumulated other comprehensive income are as follows:

|                          | <b>Currency<br/>Translation<br/>Adjustments</b> | <b>Unrealized<br/>Losses on Cash<br/>Flow Hedges</b> | <b>Unrealized<br/>Gains on<br/>Available-for-<br/>Sale Securities</b> | <b>Minimum<br/>Pension<br/>Liability<br/>Adjustment</b> | <b>Accumulated<br/>Other<br/>Comprehensive<br/>Income</b> |
|--------------------------|---|--|---|---|---|
| Balance, January 1, 2004 | \$ 224  | \$ (3)   | \$ 46   | \$ (58)   | \$ 209  |
| Current period change    | (6)   | (14)   | (24)  | —   | (44)  |
| Balance, March 31, 2004  | \$ 218  | \$ (17)  | \$ 22   | \$ (58)   | \$ 165  |

All components of accumulated other comprehensive income are net of tax except for currency translation adjustments, which exclude income taxes related to indefinite investments in foreign subsidiaries.

## 12. Stock-Based Compensation

On January 1, 2003, the Company began applying the fair value method of accounting provisions of Statement of Financial Accounting Standards No. 123, "Accounting for Stock-Based Compensation." Accordingly, first quarter 2004 results reflect pretax stock-based compensation expense of approximately \$6 million principally in connection with restricted stock units granted to employees. As of March 31, 2004, approximately 6.2 million restricted stock units, with a weighted average grant price of \$14.02, were outstanding. The related deferred compensation balance, which is recorded as a reduction to additional paid-in-capital on the Consolidated Condensed Balance Sheets, approximated \$67 million and \$73 million at March 31, 2004 and December 31, 2003, respectively. This deferred compensation balance will be amortized to expense over the remaining vesting period of the restricted stock units.

The following table illustrates the effect on net income and earnings per share as if the fair value based method had been applied by the Company to all employee stock awards granted (including those granted prior to January 1, 2003 for which the Company has not recorded compensation expense):

|  | <b>Three Months Ended<br/>March 31,</b> |               |
|--|---|---------------|
|  | <b>2004</b>                             | <b>2003</b>   |
| Reported net income  | \$ 441                                  | \$ 309        |
| Add back: Stock-based employee compensation expense included in reported net income, net of tax <sup>(a)</sup>                               | 3                                       | —             |
| Less: Total stock-based employee compensation expense determined under the fair value based method for all awards, net of tax <sup>(b)</sup> | (4)                                     | (10)          |
| <b>Pro forma net income</b>  | <b>\$ 440</b>                           | <b>\$ 299</b> |
| <i>Net income per share:</i>   |   |               |
| <i>Reported</i>  |   |               |
| Basic  | \$ 0.43                                 | \$ 0.30       |
| Diluted  | 0.42                                    | 0.30          |
| <i>Pro Forma</i>   |   |               |
| Basic  | \$ 0.43                                 | \$ 0.29       |
| Diluted  | 0.42                                    | 0.29          |

(a) During first quarter 2003, the Company did not recognize any compensation expense for employee stock awards as there were no such awards granted during the quarter.

(b) Pro forma compensation expense reflected for grants awarded prior to January 1, 2003 is not indicative of future compensation expense that would be recorded by the Company, as future expense will vary based upon factors such as the type of award granted by the Company and the then-current fair market value of such award.

### 13. TRL Group, Inc. (formerly Trilegiant Corporation)

On January 30, 2004, Trilegiant Corporation changed its legal name to TRL Group, Inc. ("TRL Group").

Prior to January 30, 2004, TRL Group operated membership-based clubs and programs and other incentive-based loyalty programs through an outsourcing arrangement with Cendant whereby Cendant licensed TRL Group the right to market products to new members utilizing certain assets of Cendant's individual membership business. Accordingly, Cendant collected membership fees from, and was obligated to provide services to, members of its individual membership business that existed as of July 2, 2001, including their renewals, and TRL Group provided fulfillment services for these members in exchange for a servicing fee paid by Cendant. Furthermore, TRL Group collected the membership fees from, and was obligated to provide membership benefits to, any members who joined the membership-based clubs and programs and all other incentive programs subsequent to July 2, 2001 and recognized the related revenue and expenses. Accordingly, similar to Cendant's franchise businesses, Cendant received a royalty from TRL Group on all revenue generated by TRL Group's new members. The assets licensed to TRL Group included various tradenames, trademarks, logos, service marks and other intellectual property relating to its membership business.

During 2003, Cendant performed a strategic review of the TRL Group membership business, Cendant's existing membership business and Cendant's loyalty/insurance marketing business, which provides enhancement packages for financial institutions and marketing for accidental death and dismemberment insurance and certain other insurance products. Upon completion of such review, Cendant concluded that it could achieve certain revenue and expense synergies by combining its loyalty/insurance marketing business with the new-member marketing performed by TRL Group. Additionally, as a result of the adoption of FIN 46, the Company has been consolidating the results of TRL Group since July 1, 2003 even though it did not have managerial control of the entity. Therefore, in an effort to achieve the revenue and expense synergies identified in Cendant's strategic review and to obtain managerial control over an entity whose results were being consolidated, Cendant and TRL Group agreed to amend their contractual relationship by terminating the contractual rights, intellectual property license and third party administrator arrangements that Cendant had previously entered into with TRL Group in 2001.

In connection with this new relationship, Cendant (i) terminated leases of Cendant assets by TRL Group, (ii) terminated the original third party administration agreement, (iii) entered into a new third party administration agreement whereby Cendant will perform fulfillment services for TRL Group, (iv) leased certain TRL Group fixed assets from TRL Group, (v) offered employment to substantially all of TRL Group's employees and (vi) entered into other incidental agreements. These contracts were negotiated on an arm's-length basis and have terms that Cendant's management believes are reasonable from an economic standpoint and consistent with what management would expect from similar arrangements with other non-affiliated parties. None of these agreements had an impact on the Company's Consolidated Condensed

Financial Statements as the Company continues to consolidate TRL Group subsequent to this transaction. In connection with the TRL Group transaction, the parties agreed to liquidate and dissolve TRL Group in an orderly fashion when and if the number of TRL Group members decreases below 1.3 million, provided that such dissolution may not occur prior to January 2007.

Cendant paid \$13 million in cash on January 30, 2004 for the contract termination, regained exclusive access to the various tradenames, trademarks, logos, service marks and other intellectual property that it had previously licensed to TRL Group for its use in marketing to new members and now has managerial control of TRL Group through its majority representation on the TRL Group board of directors. TRL Group will continue to service and collect membership fees from their members that it marketed to through January 29, 2004, including their renewals. Cendant will provide fulfillment services (including collecting cash, paying commissions, processing refunds, providing membership services and benefits and maintaining specified service level standards) for TRL Group's members in exchange for a servicing fee. TRL Group will no longer have the ability to market to new members; rather, Cendant will begin to market to new members under the Trilegiant tradename. Immediately following consummation of this transaction, Cendant owned approximately 43% of TRL Group on a fully diluted basis and as of March 31, 2004, Cendant's equity ownership interest in TRL Group approximated 44% on a fully diluted basis.

Although the Company did not begin to consolidate the account balances and transactions of TRL Group until July 1, 2003 (pursuant to the adoption of FIN 46), the Company's Consolidated Condensed Statement of Income for first quarter 2003 does reflect the activity between Cendant and TRL Group pursuant to the terms of the outsourcing arrangement. Accordingly, the Company recorded revenues of \$17 million (representing royalties and licensing and leasing fees) and expenses of \$39 million (relating to fulfillment services and the amortization of the marketing advance made in 2001) during first quarter 2003.

During first quarter 2004 (a period during which TRL Group is consolidated), TRL Group contributed revenues and expenses of \$124 million and \$103 million, respectively (on a stand-alone basis before eliminations of intercompany entries in consolidation). Cendant's maximum exposure to loss as of March 31, 2004 as a result of its involvement with TRL Group was substantially limited to the advances and loans made to TRL Group, as well as any receivables due from TRL Group (collectively aggregating \$151 million as of March 31, 2004), as such amounts may not be recoverable if TRL Group were to cease operations. The creditors of TRL Group have no recourse to Cendant's credit and the assets of TRL Group are not available to pay Cendant's obligations. Cendant is not obligated or contingently liable for any debt incurred by TRL Group.

On January 30, 2004, TRL Group had net deferred tax assets of approximately \$121 million, which were mainly comprised of net operating loss carryforwards expiring in years 2021, 2022 and 2023. These deferred tax assets were fully reserved for by TRL Group through a valuation allowance, as TRL Group had not been able to demonstrate future profitability due to the large marketing expenditures incurred (new member marketing has historically been TRL Group's single largest expenditure). However, given the fact that TRL Group will no longer incur marketing expenses (as they no longer have the ability to market to new members as a result of this transaction), TRL Group now believes that it is more likely than not that it will generate sufficient taxable income (as it will continue to recognize revenue from TRL Group's existing membership base in the form of renewals and the lapsing of the refund privilege period) to utilize its net operating loss carryforwards within the statutory periods. Accordingly, TRL Group reversed the entire valuation allowance of \$121 million in January 2004, which resulted in a reduction to the Company's consolidated tax provision during first quarter 2004 of \$121 million, with a corresponding increase in consolidated net income. The \$13 million cash payment the Company made to TRL Group was also recorded by the Company as a component of its provision for income taxes line item on the Consolidated Condensed Statement of Income for first quarter 2004 and partially offsets the \$121 million reversal of TRL Group's valuation allowance.

#### **14. Segment Information**

Management evaluates the operating results of each of its reportable segments based upon revenue and "EBITDA," which is defined as net income before non-program related depreciation and amortization, non-program related interest, amortization of pendings and listings, income taxes and minority interest. On January 1, 2004, the Company changed its segment reporting structure to enable greater transparency into its results of operations. The Company's Real Estate Franchise and Operations segment includes its real estate brokerage, real estate franchise and relocation businesses and the Company's Mortgage Services segment includes its mortgage and settlement services businesses. These two segments were previously combined and reported as the former Real Estate Services segment. See Note 1 — Summary of Significant Accounting Policies for more detail concerning these segments. The first quarter 2003 information presented below has been revised to reflect this change. The Company's presentation of EBITDA may not be comparable to similarly-titled measures used by other companies.



Presented below are the revenue and EBITDA for each of the Company's reportable segments and the reconciliation of EBITDA to income before income taxes and minority interest.

**Three Months Ended March 31,**

|   | 2004     |        | 2003     |        |
|---|----------|--------|----------|--------|
|   | Revenues | EBITDA | Revenues | EBITDA |
| Real Estate Franchise and Operations                    | \$ 1,156 | \$ 129 | \$ 985   | \$ 113 |
| Mortgage Services                                       | 238      | 8      | 370      | 113    |
| Hospitality Services                                    | 681      | 168    | 580      | 144    |
| Travel Distribution Services                            | 452      | 124    | 416      | 128    |
| Vehicle Services  | 1,394    | 100    | 1,357    | 50     |
| Financial Services                                      | 526      | 177    | 389      | 165    |
|   |          |        |          |        |
| Total Reportable Segments                               | 4,447    | 706    | 4,097    | 713    |
| Corporate and Other (*)                                 | 30       | 13     | 31       | 16     |
|   |          |        |          |        |
| Total Company   | \$ 4,477 | \$ 719 | \$ 4,128 | \$ 729 |
|   |          |        |          |        |
| <b>Reconciliation:</b>                                  |          |        |          |        |
| EBITDA  |          | \$ 719 |          | \$ 729 |
| Less: Non-program related depreciation and amortization |          | 131    |          | 129    |
| Non-program related interest expense, net               |          | 81     |          | 79     |
| Early extinguishment of debt                            |          | —      |          | 48     |
| Amortization of pendings and listings                   |          | 4      |          | 3      |
|   |          |        |          |        |
| Income before income taxes and minority interest        |          | \$ 503 |          | \$ 470 |
|   |          |        |          |        |

(\*) Includes the results of operations of certain non-strategic businesses, unallocated corporate overhead and the elimination of transactions between segments. Additionally, 2004 includes a \$33 million gain on the sale of Homestore, Inc. common stock and 2003 includes a \$30 million gain on the sale of Entertainment Publications, Inc. common stock. As of March 31, 2004, the Company owned approximately 9.3 million shares of Homestore, Inc. common stock, which approximated a 7.7% ownership interest.

## 15. Subsequent Events

### **Redemption of Minority Interest in Two Flags Joint Venture LLC**

On April 1, 2004, the Company exercised its right to purchase Marriott International, Inc.'s ("Marriott") interest in Two Flags Joint Venture LLC ("Two Flags") for approximately \$200 million and will pay such amount in cash no later than third quarter 2004, together with interest at 10% per annum from the April 1, 2004 exercise date through and including the payment date. As a result, the Company now owns 100% of Two Flags and has exclusive rights to the domestic Ramada and Days Inn trademarks and the related license agreements.

### **Redemption of 11% Senior Subordinated Notes**

On May 3, 2004, the Company redeemed its outstanding 11% senior subordinated notes for \$345 million in cash.

### **Call Spread Options**

The Company plans to redeem its 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures in November 2004. In connection with such redemption, holders may elect to convert their debentures into 41.58 shares of CD common stock (33.4 million shares in the aggregate). The Company estimates that, as of November 27, 2004 (the date on which the debentures become redeemable at the Company's option), this conversion rate will be equivalent to a conversion price of approximately \$24.50 per share. In order to offset a portion of the dilution that would occur if the holders of the debentures elect to convert their debentures in connection with the Company's anticipated redemption thereof in November 2004, the Company purchased call spread options on April 30, 2004 covering 16.3 million of the 33.4 million shares issuable upon conversion. The call spread options have a lower strike price of \$24.50 and a higher strike price of \$28.50. The call spread options will settle in November and December 2004 either by modified physical settlement, net cash settlement or net share settlement, at the Company's election. Modified physical settlement would result in the Company receiving a maximum of approximately 16.3 million shares, to the extent the CD common stock price is above \$24.50, plus to the extent that the share price is in excess of \$28.50, the Company would pay an amount equal to the difference between the market price and \$28.50. Net cash settlement of the call spread options would result in the Company receiving an amount ranging from zero (if the price of CD common stock is at or below \$24.50) to a maximum of \$65.3 million (if the price of CD common stock is at or above \$28.50). Net share settlement would result in the Company receiving up to approximately 2.3 million shares of CD common stock. The call spread options, costing \$23 million, will be accounted for as a capital transaction and included as a component of stockholders' equity.

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## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion should be read in conjunction with our Consolidated Condensed Financial Statements and accompanying Notes thereto included elsewhere herein and with our 2003 Annual Report on Form 10-K filed with the Commission on March 1, 2004. Unless otherwise noted, all dollar amounts are in millions.

We are one of the foremost providers of travel and real estate services in the world. Our businesses provide consumer and business services primarily in the travel and real estate services industries, which are intended to complement one another and create cross-marketing opportunities both within and among our six following business segments.

- **Real Estate Franchise and Operations**—franchises the real estate brokerage businesses of our four residential and one commercial brands, provides real estate brokerage services under our real estate brands and facilitates employee relocations;
- **Mortgage Services**—provides home buyers with mortgage services and title, appraisal and closing services;
- **Hospitality Services**—facilitates the sale and development of vacation ownership interests, provides consumer financing to individuals purchasing these interests, facilitates the exchange of vacation ownership interests, franchises our nine lodging brands and markets vacation rental properties in Europe;
- **Travel Distribution Services**—provides primarily global distribution services for the travel industries and travel agency services;
- **Vehicle Services**—operates and franchises our vehicle rental brands and provides commercial fleet management and fuel card services;
- **Financial Services**—provides financial institution enhancement products and insurance-based and loyalty solutions, operates and franchises tax preparation offices and provides a variety of membership programs.

Our management team is committed to building long-term value through operational excellence and we are steadfast in our commitment to deploy our cash to increase shareholder value. To this end, in first quarter 2004, we reduced our outstanding corporate indebtedness by \$348 million. Our plan is to further reduce outstanding corporate indebtedness during 2004 using call provisions wherever possible rather than paying a significant premium to repurchase our debt in the open market. Additionally, in first quarter 2004, we paid our first-ever dividend of 7 cents per share and on April 20, 2004, our Board of Directors declared a cash dividend of 7 cents per share payable June 15, 2004 to stockholders of record on May 24, 2004. We expect to pay at least a 7 cents per share cash dividend for each of the remaining quarters during 2004. While no assurances can be given, we expect to increase this dividend over time as our earnings and cash flows grow.

We also filed a registration statement with the Securities and Exchange Commission in first quarter 2004 for the sale of 100% of our ownership interest in Jackson Hewitt Tax Service Inc. in a planned initial public offering expected to take place in second quarter 2004.

### RESULTS OF OPERATIONS—FIRST QUARTER 2004 VS. FIRST QUARTER 2003

Our consolidated results comprised the following:

|  | Three Months Ended March 31, |          |        |
|--|------------------------------|----------|--------|
|  | 2004                         | 2003     | Change |
| Net revenues                                     | \$ 4,477                     | \$ 4,128 | \$ 349 |
| Total expenses                                   | 3,974                        | 3,658    | 316    |
| Income before income taxes and minority interest | 503                          | 470      | 33     |
| Provision for income taxes                       | 58                           | 155      | (97)   |
| Minority interest, net of tax                    | 4                            | 6        | (2)    |
| Net income                                       | \$ 441                       | \$ 309   | \$ 132 |

Net revenues for first quarter 2004 increased \$349 million (8%) primarily due to growth in our real estate brokerage and timeshare sales and marketing businesses, which also contributed to the increase in total expenses in order to support higher homesale transactions and vacation ownership sales activities. The consolidation of TRL Group, Inc. (formerly Trilegiant Corporation) on July 1, 2003 also contributed to the increase in revenues and expenses, as TRL Group results are included in first quarter 2004 but not first quarter 2003. These increases were partially offset by a decline in both revenues generated and expenses incurred by our mortgage business, as expected. Additionally, total expenses benefited by less interest expense in first quarter 2004, which principally reflected the absence of \$48 million of losses incurred during first quarter 2003 in connection with our early repurchase/redemption activity during such period. Our overall effective tax rate was 12% and 33% for first quarter 2004 and 2003, respectively. The effective tax rate for first quarter 2004 was lower primarily due to the reversal of a valuation allowance for deferred taxes by TRL Group (see Note 13 to our Consolidated Condensed Financial Statements). As a result of the above-mentioned items, net income increased \$132 million (43%).

Discussed below are the results of operations for each of our reportable segments. Management evaluates the operating results of each of our reportable segments based upon revenue and "EBITDA," which is defined as net income before non-program related depreciation and amortization, non-program related interest, amortization of pendings and listings, income taxes and minority interest. On January 1, 2004, we changed our segment reporting structure to enable greater transparency into our results of operations. Our Real Estate Franchise and Operations segment includes our real estate brokerage, real estate franchise and relocation businesses and our Mortgage Services segment includes our mortgage and settlement services businesses. These two segments were previously combined and reported as the former Real Estate Services segment. The first quarter 2003 information presented below has been revised to reflect this change. Our presentation of EBITDA may not be comparable to similarly-titled measures used by other companies.

|  | Revenues  |                 |          | EBITDA        |               |            |
|--|---|-----------------|----------|---------------|---------------|------------|
|  | 2004  | 2003            | % Change | 2004          | 2003          | % Change   |
| Real Estate Franchise and Operations                                       | \$ 1,156  | \$ 985          | 17%      | \$ 129        | \$ 113        | 14%        |
| Mortgage Services  | 238   | 370             | (36)     | 8             | 113           | (93)       |
| Hospitality Services   | 681   | 580             | 17       | 168           | 144           | 17         |
| Travel Distribution Services   | 452   | 416             | 9        | 124           | 128           | (3)        |
| Vehicle Services   | 1,394   | 1,357           | 3        | 100           | 50            | 100        |
| Financial Services   | 526   | 389             | 35       | 177           | 165           | 7          |
| <b>Total Reportable Segments</b>   | <b>4,447</b>                                      | <b>4,097</b>    | <b>9</b> | <b>706</b>    | <b>713</b>    | <b>(1)</b> |
| Corporate and Other <sup>(a)</sup>   | 30  | 31              | *        | 13            | 16            | *          |
| <b>Total Company</b>   | <b>\$ 4,477</b>                                   | <b>\$ 4,128</b> | <b>8</b> | <b>\$ 719</b> | <b>\$ 729</b> |            |
| <i>Reconciliation to income before income taxes and minority interest:</i> |   |                 |          |               |               |            |
| EBITDA   |   |                 |          | \$ 719        | \$ 729        |            |
| Less:  | Non-program related depreciation and amortization |                 |          | 131           | 129           |            |
|  | Non-program related interest expense, net         |                 |          | 81            | 79            |            |
|  | Early extinguishment of debt                      |                 |          | —             | 48            |            |
|  | Amortization of pendings and listings             |                 |          | 4             | 3             |            |
| <b>Income before income taxes and minority interest</b>                    |   |                 |          | <b>\$ 503</b> | <b>\$ 470</b> |            |

\* Not meaningful.

(a) Includes the results of operations of certain non-strategic businesses, unallocated corporate overhead and the elimination of transactions between segments. Additionally, 2004 includes a \$33 million gain on the sale of Homestore, Inc. common stock and 2003 includes a \$30 million gain on the sale of Entertainment Publications, Inc. common stock.

### **Real Estate Franchise and Operations**

Revenues and EBITDA increased \$171 million (17%) and \$16 million (14%), respectively, in first quarter 2004 compared with first quarter 2003, primarily reflecting revenue growth at our real estate brokerage operations and increased royalties and marketing fund revenues from our real estate franchise brands.

NRT, our real estate brokerage subsidiary, made acquisitions of various real estate brokerage businesses during 2003 and 2004, the operating results of which have been included from their acquisition dates forward. NRT's significant acquisitions contributed \$20 million of incremental revenues and an EBITDA loss of \$3 million to first quarter 2004 operating results. Excluding the impact of these acquisitions, NRT generated incremental revenues of \$143 million in first quarter 2004, a 19% increase over first quarter 2003. This increase was substantially comprised of higher commission income earned on homesale transactions, which was driven by both an 18% increase in the average price of homes sold and a 2% increase in the number of homesale transactions. Commission expenses paid to real estate agents increased \$97 million as a result of the incremental revenues earned on homesale transactions as well as a higher average commission rate paid to real estate agents in first quarter 2004 due to variances in the geographic mix of homesale transactions. Our real estate brokerage operations are typically weakest and operate at a loss in the early part of the calendar year and progressively strengthen through the second and third quarters.

In our real estate franchise business, we generated incremental royalties and marketing fund revenues of \$19 million in first quarter 2004, an increase of 14% over first quarter 2003, which was primarily driven by a 12% increase in the average price of homes sold and a 7% increase in the number of homesale transactions. Royalty increases in the real estate franchise business are recognized with little or no corresponding increase in expenses due to the significant operating leverage within our franchise operations. Included within the \$19 million of incremental revenues generated by our real estate franchise business is \$10 million of revenue received from NRT that is eliminated in consolidation within the same segment and, therefore, has no impact on this segment's revenues or EBITDA.

Marketing, operating and administrative expenses (apart from the NRT acquisitions and real estate agent commission expenses, both of which are separately disclosed above) increased approximately \$35 million principally reflecting an increase in variable expenses associated with homesale revenue, which grew quarter-over-quarter, as discussed above.

### **Mortgage Services**

As expected, revenues and EBITDA declined significantly in first quarter 2004 due to a slow-down in refinancing activity compared with first quarter 2003. Revenues and EBITDA decreased \$132 million (36%) and \$105 million (93%), respectively, in first quarter 2004 compared with first quarter 2003.

Revenues from mortgage loan production declined \$171 million (58%) in first quarter 2004 compared with first quarter 2003 substantially due to a significant quarter-over-quarter reduction in refinancing levels, as well as lower margins on loan sales. This decline was partially offset by a \$48 million increase in revenues from mortgage servicing activities. Refinancing activity is especially sensitive to the timing and magnitude of interest rate changes. Refinancing volumes typically increase when interest rates are falling (such as in the last half of 2002 and the first half of 2003) and slow when interest rates rise (such as in last half of 2003 into first quarter 2004). Furthermore, there is a timing difference between when a borrower makes an application to refinance their loan and when we recognize revenues upon closing or securitization of that loan. Borrower refinance applications are based on the relative interest rates and are an early indicator of loan closings and securitizations. Mortgage interest rates were generally declining through fourth quarter 2002 into first quarter 2003, which drove applications throughout the same period. This resulted in more loan closings and securitizations in first quarter 2003. However, interest rates were generally higher in fourth quarter 2003 and the early part of first quarter 2004; thus we did not experience the same carryover into first quarter 2004 as we experienced in first quarter 2003. This factor, along with increased competitive pricing pressures, caused revenue from mortgage loan production to decrease.

The decline in revenues from mortgage loan production was the result of a 48% reduction in the volume of loans that we sold and a 28% reduction in the volume of loans closed within our fee based mortgage origination operations. We sold \$6.6 billion of mortgage loans in first quarter 2004 compared with \$12.7 billion in first quarter 2003, which resulted in a reduction of \$153 million (71%) in production revenues. In addition, revenues from our fee-based mortgage-origination activity declined \$18 million (23%) as compared with first quarter 2003. Production revenue on fee-based loans is generated at the time of closing, whereas originated mortgage loans held for sale generate revenue at the time we sell the loans (generally within 60 days after closing). Accordingly, our production revenue in any given period is driven by a mix of mortgage loans closed and mortgage loans sold. Total mortgage loans closed declined \$6.6 billion (37%) to \$11.3 billion in first quarter 2004, comprised of a \$5.0 billion (41%) reduction in closed loans to be securitized (sold by us) and a \$1.6 billion (28%) reduction in closed loans that were fee-based. Although we experienced a decline in total mortgage refinancing activity, purchase mortgage closings increased \$695 million (11%) to \$6.8 billion in first quarter 2004.

Net revenues from servicing mortgage loans increased \$48 million primarily due to \$108 million of incremental derivative gains, partially offset by an increase of \$67 million in amortization expense and provision for impairment related to our MSR asset, which reflects a change in our hedge accounting policy. This change in policy resulted in the discontinuation of hedge accounting whereby the reduction in the fair value of the MSR asset was recorded as additional provision for impairment during first quarter 2004, rather than an adjustment to the basis of the MSR asset under hedge accounting. This change in hedge accounting policy had no effect on revenues or EBITDA. See Note 5 to our Consolidated Condensed Financial Statements for a more detailed discussion regarding this change in hedge accounting policy. The incremental gains from derivative activities resulted from our strategies to protect earnings in the event there was a decline in the value of our MSR asset, which is predominately caused by fluctuations in interest rates, which tends to impact borrower prepayment activity. In addition, fees received for servicing existing loans in the portfolio increased \$12 million (11%) driven by a 15% period-over-period increase in the average servicing portfolio, which rose to \$133.2 billion in first quarter 2004.

Revenues within our settlement services business declined \$16 million in first quarter 2004 compared with first quarter 2003. Title, appraisal and other closing fees all decreased due to lower volumes, consistent with the decline in mortgage refinancing volume in first quarter 2004.

Operating expenses within this segment declined \$26 million in first quarter 2004 due to a lesser amount of direct costs incurred in connection with the decline in mortgage loan production.

Although no assurances can be given, we continue to expect that the comparison of our Mortgage Services segment results will improve in relation to first quarter comparisons.

### **Hospitality Services**

Revenues and EBITDA increased \$101 million (17%) and \$24 million (17%), respectively, in first quarter 2004 compared with first quarter 2003 due to strong operating results across all our Hospitality Services businesses, particularly in our timeshare-related operations.

Sales of vacation ownership interests ("VOIs") in our timeshare resorts increased \$56 million in first quarter 2004, a 25% increase over first quarter 2003. This increase was primarily driven by a 13% increase in VOI close rates (sales divided by tours) and a higher volume of upgrade sales in first quarter 2004. Net interest income generated from financing extended to VOI buyers decreased \$11 million as the favorable impact of a 21% increase in the loan portfolio was more than offset by a reduction in gains, which were formerly recognized on the securitization of timeshare receivables, until an amendment was made to our largest timeshare receivable securitization structures during third quarter 2003 which resulted in the consolidation of such structures.

Timeshare exchange and subscription fee revenues within our timeshare exchange business increased \$11 million (10%) during first quarter 2004. Such growth was primarily driven by a 2% increase in the average number of worldwide subscribers, a 6% increase in the average subscription price per member and a 3% increase in the volume of exchange transactions. Timeshare points and rental transaction revenue grew \$11 million (57%), driven primarily by a 35% increase in transaction volume and a higher average price on rental transactions.

Royalties and marketing and reservation fund revenues within our lodging franchise operations increased \$2 million (2%) in first quarter 2004. EBITDA was also favorable in first quarter 2004 due to a \$10 million reserve recorded in first quarter 2003 related to the doubtful collectibility of certain franchisee receivables. Revenues at our international vacation rental companies increased \$10 million, principally due to the favorable impact to revenues of foreign currency exchange rates in Europe. The impact of foreign exchange rates on revenues was principally offset in EBITDA by the unfavorable impact of exchange rates on expenses.

Operating and administrative expenses within this segment increased approximately \$70 million in first quarter 2004, principally reflecting higher variable costs incurred to support the increase in timeshare sales and exchange volumes, as discussed above.

### **Travel Distribution Services**

Revenues increased \$36 million (9%) while EBITDA declined \$4 million (3%) in first quarter 2004 compared with first quarter 2003. Our Travel Distribution Services segment derives revenue primarily from fees paid by travel suppliers and travel agencies for electronic global distribution and computer reservation services ("GDS") provided by our Galileo subsidiary and from fees and commissions for retail travel services.

Galileo worldwide air booking fees grew \$24 million (8%) primarily due to increases in international GDS air booking volumes and the effective yield on international air bookings. International air booking fees increased \$28 million (14%) during first quarter 2004 while domestic air booking fees declined \$4 million (4%). International air booking volumes increased 6% to 45.9 million in first quarter 2004, while domestic air booking volumes increased 2% to 23.0 million bookings. International air bookings represented approximately two-thirds of our total air bookings during first quarter 2004 and 2003. The international air booking effective yield increased by 7% due, in part, to a change in our pricing methodology, which is intended to better align our pricing with the cost structure of the transactions and the value created for the airlines. In addition, the international yield reflects a full quarter impact in first quarter 2004 of a base booking fee price increase that was made effective in March 2003. There were no such base booking fee increases subsequent to March 2003. International yield was also positively impacted by a higher percentage of premium booking transactions relative to total booking transactions. The yield on domestic air bookings declined 6% reflecting the impact of our discount program with major U.S. carriers. In addition, Galileo subscriber fees decreased \$6 million primarily due to travel agencies leasing less computer equipment from us in first quarter 2004 compared with first quarter 2003.

In 2003, we completed the acquisitions of Trip Network, which operates the online travel services business of CheapTickets.com, and two smaller travel services companies. The acquisition of the online operations of CheapTickets.com contributed revenues of \$15 million and an EBITDA loss of \$5 million in first quarter 2004 with no corresponding contribution in first quarter 2003 because it was prior to the acquisition. The acquisitions of the two travel services companies also contributed incremental revenues and EBITDA of \$11 million and \$2 million, respectively, in first quarter 2004. The results of our CheapTickets online travel business reflect our investment in marketing that business, which we believe represents a significant opportunity for future growth.

Our online gross bookings grew 17% in first quarter 2004 compared with first quarter 2003 commensurate with our strategic focus on increasing our penetration of online channels. The growth in the online business also reflects increased merchant model hotel bookings. The merchant model of travel distribution is one whereby we, as a travel distributor, obtain access to content from travel suppliers at a predetermined price and sell the content, either individually or in a package, to travelers at

retail prices that we determine with no risk of inventory loss to us. Consistent with the shift in our offline travel agency bookings to the online channel, revenues from our offline travel agency business declined \$6 million in first quarter 2004. Excluding the impact of the aforementioned acquisitions, EBITDA during first quarter 2004 included \$19 million of incremental expenses, which reflected increased commission expenses on higher Galileo booking volumes and higher incentive costs payable to travel agents using Galileo's GDS system. In addition, the EBITDA comparison in first quarter 2004 was unfavorably impacted by the absence of an \$8 million contract termination settlement that benefited EBITDA during first quarter 2003. The increases in expenses were partially offset by ongoing cost containment efforts including a \$10 million reduction in network communication costs and a \$6 million net reduction in salary and benefit-related expenses, which included the favorable impact in first quarter 2004 from benefit plan amendments that occurred in 2003.

Although no assurances can be given, we continue to expect that the comparisons of our Travel Distribution Services segment results will be favorable for the remainder of 2004.

#### **Vehicle Services**

Revenues and EBITDA increased \$37 million (3%) and \$50 million (100%), respectively, in first quarter 2004 compared with first quarter 2003.

Revenue generated by Cendant Car Rental Group (comprised of Avis car rental and Budget car and truck rental operations) increased \$20 million (2%). Avis car rental revenues increased \$42 million (7%) in first quarter 2004 compared with first quarter 2003, primarily due to a 5% increase in time and mileage revenue per rental day ("T&M per day") and a 2% increase in the total number of days an Avis car was rented. Budget car and truck rental revenues declined \$6 million and \$16 million, respectively, in first quarter 2004 compared with first quarter 2003, principally due to a 5% decline in rental day volume. The reduction in rental days at Budget is consistent with our decision to focus on profitability by reducing the number of higher risk rentals and closing unprofitable locations. In addition, the average Budget truck fleet was reduced by 24% quarter-over-quarter, reflecting our concentration on higher utilization of newer and more efficient trucks in achieving a more profitable business. The revenue changes for Avis and Budget are inclusive of favorable foreign currency exchange rates aggregating \$20 million, which was principally offset in EBITDA by the unfavorable impact of foreign currency exchange rates on expenses.

Total Cendant Car Rental Group expenses decreased by approximately \$40 million quarter-over-quarter, resulting from operating efficiencies realized in connection with the successful integration of Budget, which included the consolidation of certain service facilities and corporate-related functions. As of March 31, 2004, the integration of Budget was substantially complete. Although no assurances can be given, we expect the Budget integration to continue to result in year-over-year cost savings and positively impact EBITDA comparisons for the remaining quarterly periods in 2004.

Wright Express, our fuel card services subsidiary, recognized incremental revenues of \$6 million (16%) in first quarter 2004 compared with the prior year period. The organic growth was driven by a combination of the addition of new customers and an increase in usage of Wright Express' proprietary fuel card product.

In first quarter 2004, we completed the acquisition of First Fleet Corporation, a national provider of fleet management services to companies that maintain private truck fleets. The operating results of First Fleet were included from the acquisition date forward and contributed incremental revenues of \$7 million with a minimal EBITDA impact in first quarter 2004.

#### **Financial Services**

Revenues and EBITDA increased \$137 million (35%) and \$12 million (7%), respectively, in first quarter 2004 compared with first quarter 2003. As previously discussed, effective July 1, 2003, we consolidated TRL Group pursuant to the provisions of FASB Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). TRL Group (on a stand-alone basis before elimination of intercompany expenses, as described below) contributed revenues of \$124 million and EBITDA of \$23 million during first quarter 2004. Apart from the consolidation of TRL Group, revenues for the Financial Services segment increased \$13 million and EBITDA declined \$11 million in first quarter 2004 compared with first quarter 2003.

As expected, the membership base retained by us in connection with the original outsourcing of our individual membership business to TRL Group in July 2001 continued to decline; however, the unfavorable impact of reduced revenues on EBITDA from the attrition of such members was mitigated by a net reduction in expenses from not having to service such members. Our smaller membership base resulted in a net revenue reduction of \$29 million (net of \$6 million of increased royalty income from TRL Group in first quarter 2004), which was partially offset in EBITDA by a reduction of \$19 million in membership operating and marketing expenses. We eliminated \$13 million of intercompany revenues and expenses within this segment in first quarter 2004, primarily comprised of royalty payments from TRL Group to Cendant. During first quarter 2003, no such payments were eliminated because it was prior to the FIN 46 consolidation of TRL Group.

On January 30, 2004, we amended our contractual relationship with TRL Group, Inc. (formerly Trilegiant Corporation) and began marketing to new members using the Trilegiant tradename (see Note 13 to our Consolidated Condensed Financial Statements for a more detailed discussion regarding this transaction). Therefore, in future periods, our membership base will begin to grow again as we realize the benefits from our marketing efforts to solicit new members. From January 30, 2004 through March 31, 2004, we incurred marketing expenses of \$33 million to solicit new members for which we expect to realize revenues in future periods.

Our Jackson Hewitt Tax Service business generated incremental revenue of \$36 million in first quarter 2004, a 27% increase over first quarter 2003. Such increase was comprised of \$14 million of higher franchise royalties, \$7 million of higher tax preparation revenues from our company-owned tax service operations and \$15 million of incremental revenues from our financial product programs and other tax-related services. The increase in royalties and tax preparation fees was principally driven by an 11% increase in total system tax return volume and an 8% increase in the average price per tax return. Royalties generated in our franchise operations are typically recognized with nominal increases in operating and administrative expenses due to significant operating leverage. Marketing and advertising expenses to support the Jackson Hewitt tradename, which are based on royalties generated from our franchisees' operations, increased \$7 million in first quarter 2004. In addition, growth in our company-owned tax service operations, which generates lower profit margins than the franchise operations, resulted in an increase to expenses of \$6 million.

Revenues at our international membership business increased \$14 million in first quarter 2004 principally due to the favorable impact of foreign currency exchange rates on revenues, which was primarily offset in EBITDA by the unfavorable impact of foreign currency exchange rates on expenses.

## FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES

We present separately the financial data of our management and mortgage programs. These programs are distinct from our other activities as the assets are generally funded through the issuance of debt that is collateralized by such assets. Specifically, in our vehicle rental, fleet management, relocation, mortgage services and vacation ownership businesses, assets under management and mortgage programs are funded through either borrowings under asset-backed funding arrangements or unsecured borrowings at our PHH subsidiary. Such borrowings are classified as debt under management and mortgage programs. The income generated by these assets is used, in part, to repay the principal and interest associated with the debt. Cash inflows and outflows relating to the generation or acquisition of such assets and the principal debt repayment or financing of such assets are classified as activities of our management and mortgage programs. We believe it is appropriate to segregate the financial data of our management and mortgage programs because, ultimately, the source of repayment of such debt is the realization of such assets.

### FINANCIAL CONDITION

|   | March 31,<br>2004 | December 31,<br>2003 | Change   |
|---|-------------------|----------------------|----------|
| Total assets exclusive of assets under management and mortgage programs           | \$ 21,308         | \$ 21,444            | \$ (136) |
| Total liabilities exclusive of liabilities under management and mortgage programs | 12,292            | 12,743               | (451)    |
| Assets under management and mortgage programs                                     | 18,449            | 17,593               | 856      |
| Liabilities under management and mortgage programs                                | 16,828            | 16,108               | 720      |
| Stockholders' equity  | 10,637            | 10,186               | 451      |

Total assets exclusive of assets under management and mortgage programs decreased primarily due to a decrease of \$208 million in cash and cash equivalents (see "Liquidity and Capital Resources—Cash Flows" for a detailed discussion), which was partially offset by \$106 million of additions to goodwill primarily resulting from the acquisition of Sotheby's International Realty (see Note 3 to our Consolidated Condensed Financial Statements).

Total liabilities exclusive of liabilities under management and mortgage programs decreased primarily due to the conversion of our \$430 million zero coupon senior convertible contingent notes into shares of CD common stock during the quarter (see Note 11 to our Consolidated Condensed Financial Statements for a detailed discussion).

Assets under management and mortgage programs increased primarily due to (i) approximately \$1.1 billion of net additions to our vehicle rental fleet in preparation for projected increases in demand, particularly seasonal needs, and (ii) \$308 million of net additions to our vehicle leasing fleet principally associated with our acquisition of First Fleet Corporation in February 2004. Such increases were partially offset by (i) a decrease of \$245 million in our derivative assets related to our MSR asset, which primarily resulted from strategies to protect earnings from a decline in value of the MSR asset, (ii) a decrease of \$207

million in program cash related principally to the repayment of \$350 million of debt issued by Bishop's Gate Residential Mortgage Trust, partially offset by the receipt of cash by Bishop's Gate on the sale of previously originated mortgage loans and (iii) a decrease of \$163 million in the value of our MSR asset due to amortization and impairment recorded during the quarter, notwithstanding additions to the MSR asset during the quarter.

Liabilities under management and mortgage programs increased primarily due to (i) additional borrowings of \$855 million from AESOP Funding II, LLC to support the growth in our vehicle rental fleet described above and (ii) \$266 million of lease obligations assumed in connection with our acquisition of First Fleet Corporation (for which there is a corresponding asset recorded within assets under management and mortgage programs and on which our exposure is limited). Such increases were partially offset by the repayment of \$350 million of debt issued by Bishop's Gate, as discussed above. See "Liquidity and Capital Resources—Financial Obligations—Debt Under Management and Mortgage Programs" for a detailed account of the change in our debt related to management and mortgage programs.

Stockholders' equity increased primarily due to (i) \$441 million of net income generated during first quarter 2004, (ii) \$282 million related to the exercise of employee stock options (including \$46 million of tax benefit) and (iii) the conversion of our zero coupon senior convertible contingent notes into approximately 22 million shares of CD common stock, which increased additional paid-in capital by \$456 million (including \$26 million of deferred tax liabilities that were reversed upon conversion). Such increases were partially offset by (i) our repurchase of \$621 million (approximately 27 million shares) of CD common stock and (ii) a \$72 million dividend payment.

## LIQUIDITY AND CAPITAL RESOURCES

Our principal sources of liquidity are cash on hand and our ability to generate cash through operations and financing activities, as well as available funding arrangements and committed credit facilities, each of which is discussed below.

### CASH FLOWS

At March 31, 2004, we had \$632 million of cash on hand, a decrease of \$208 million from \$840 million at December 31, 2003. The following table summarizes such decrease:

|   | Three Months Ended March 31, |          |          |
|---|------------------------------|----------|----------|
|   | 2004                         | 2003     | Change   |
| Cash provided by (used in):             |                              |          |          |
| Operating activities                    | \$ 830                       | \$ 1,166 | \$ (336) |
| Investing activities                    | (1,610)                      | (772)    | (838)    |
| Financing activities                    | 588                          | 83       | 505      |
| Effects of exchange rate changes        | (16)                         | (23)     | 7        |
| Net change in cash and cash equivalents | \$ (208)                     | \$ 454   | \$ (662) |

During first quarter 2004, we generated \$336 million less cash from operating activities as compared with the same period in 2003. This change principally reflects the activities of our management and mortgage programs, which produced less cash inflows in first quarter 2004, partially offset by stronger operating results. Cash flows related to our management and mortgage programs may fluctuate significantly from period to period due to the timing of the underlying management and mortgage program transactions (i.e., timing of mortgage loan origination versus sale). During first quarter 2004, our mortgage operations generated cash, while our timeshare operations utilized cash to grow its operations.

During first quarter 2004, we used \$838 million more cash in investing activities as compared with the same period in 2003. This change principally reflects the activities of our management and mortgage programs, which produced a greater cash outflow in first quarter 2004. During first quarter 2004, our relocation and mortgage businesses generated cash, while our vehicle services businesses utilized cash primarily to grow the car rental fleet in preparation for projected increases in demand, particularly seasonal needs. Capital expenditures in first quarter 2004 were \$104 million compared with \$97 million in first quarter 2003. We continue to anticipate aggregate capital expenditures for 2004 to be in the range of \$525 million to \$575 million.

During first quarter 2004, we generated \$505 million more cash from financing activities as compared with first quarter 2003. Such change principally reflects additional borrowings under management and mortgage programs of approximately \$1.0 billion principally to support the acquisition of vehicles used in our vehicle rental operations, as described above. Such increase was partially offset by (i) a decrease of \$243 million in cash used to reduce corporate indebtedness, (ii) the \$72 million dividend payment to our common stockholders and (iii) an increase of \$285 million in share repurchases (net of proceeds received on the issuance of common stock). See "Liquidity and Capital Resources—Financial Obligations" for a detailed discussion of financing activities during first quarter 2004.



Throughout 2004, we intend to continue to reduce corporate indebtedness and repurchase outstanding shares of our common stock. In May 2004, we utilized \$345 million of cash to redeem our outstanding 11% senior subordinated notes. We currently expect to use cash to redeem our zero coupon convertible debentures and 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures on or subsequent to their call dates (May 2004 and November 2004, respectively); however, holders of these instruments may convert them into shares of our common stock if the price of such stock exceeds the stipulated thresholds (which were not met as of April 30, 2004) or upon the exercise of our call provisions. In connection with our anticipated redemption of the 3<sup>7</sup>/<sub>8</sub>% convertible senior debentures, we purchased call spread options covering 16.3 million of the 33.4 million shares issuable upon a holder's election to convert these debentures into shares of CD common stock (see Note 15 to our Consolidated Condensed Financial Statements for more detail).

We also expect to use an additional \$215 million of cash to pay dividends in 2004 and we will make a cash payment of approximately \$200 million to Marriott International, Inc. no later than third quarter 2004 in connection with our April 2004 redemption of Marriott's interest in Two Flags Joint Venture LLC (see Note 15 to our Consolidated Condensed Financial Statements). Finally, in second quarter 2004, we intend to participate in the remarketing of the senior notes that form a portion of our outstanding Upper DECS and may use available lines of credit and/or cash on hand to repurchase and retire up to \$762.5 million of these notes if we are successful in the bidding process. We will not receive any proceeds from the remarketing. Any indebtedness incurred as a result of our efforts to repurchase and retire these notes would be repaid during third quarter 2004 upon receipt of the proceeds from the issuance of shares of CD common stock pursuant to the forward contracts which are also part of the Upper DECS. See Note 8 to our Consolidated Condensed Financial Statements for a more extensive discussion regarding this remarketing.

## FINANCIAL OBLIGATIONS

At March 31, 2004, we had approximately \$21.4 billion of indebtedness (including corporate indebtedness of approximately \$4.8 billion, Upper DECS of \$863 million and debt under management and mortgage programs of approximately \$15.7 billion).

### Corporate Indebtedness

Corporate indebtedness consisted of:

|   | Earliest<br>Mandatory<br>Redemption<br>Date | Final<br>Maturity<br>Date | As of<br>March 31,<br>2004 | As of<br>December 31,<br>2003 | Change   |
|---|---|---------------------------|----------------------------|-------------------------------|----------|
| <i>Term notes</i>   |   |                           |                            |                               |          |
| 6 <sup>7</sup> / <sub>8</sub> % notes                             | August 2006                                 | August 2006               | \$ 849                     | \$ 849                        | \$ —     |
| 6 <sup>1</sup> / <sub>4</sub> % notes                             | January 2008                                | January 2008              | 797                        | 797                           | —        |
| 11% senior subordinated notes <sup>(a)</sup>                      | May 2009                                    | May 2009                  | 329                        | 333                           | (4)      |
| 6 <sup>1</sup> / <sub>4</sub> % notes                             | March 2010                                  | March 2010                | 348                        | 348                           | —        |
| 7 <sup>3</sup> / <sub>8</sub> % notes                             | January 2013                                | January 2013              | 1,190                      | 1,190                         | —        |
| 7 <sup>1</sup> / <sub>8</sub> % notes                             | March 2015                                  | March 2015                | 250                        | 250                           | —        |
| <i>Contingently convertible debt securities</i>                   |   |                           |                            |                               |          |
| Zero coupon senior convertible<br>contingent notes <sup>(b)</sup> | February 2004                               | n/a                       | —                          | 430                           | (430)    |
| Zero coupon convertible debentures                                | May 2004                                    | May 2021                  | 7                          | 7                             | —        |
| 3 <sup>7</sup> / <sub>8</sub> % convertible senior debentures     | November 2004                               | November 2011             | 804                        | 804                           | —        |
| <i>Other</i>  |   |                           |                            |                               |          |
| Net hedging gains <sup>(c)</sup>                                  |   |                           | 99                         | 31                            | 68       |
| Other   |   |                           | 118                        | 100                           | 18       |
|   |   |                           | 4,791                      | 5,139                         | (348)    |
| Upper DECS <sup>(d)</sup>   |   |                           | 863                        | 863                           | —        |
|   |   |                           | \$ 5,654                   | \$ 6,002                      | \$ (348) |

(a) On May 3, 2004, we redeemed our outstanding 11% senior subordinated notes for \$345 million in cash, thereby further reducing our corporate indebtedness.

(b) During first quarter 2004, holders had the right to convert their notes into shares of CD common stock and virtually all holders elected to do so. Accordingly, the change in the balance at March 31, 2004 reflects the conversion of these notes by holders into approximately 22 million shares of CD common stock. As of March 31, 2004, we had used \$405 million of available cash (as discussed in "Liquidity and Capital Resources—Cash Flows" above) that otherwise would have been used to redeem these notes to repurchase a corresponding number of shares in the open market.

(c) As of March 31, 2004, the balance represents \$190 million of realized gains resulting from the termination of fair value interest rate hedges, which will be amortized as a reduction to future interest expense. Such gains are partially offset by \$91 million of mark-to-market adjustments on other fair value interest rate hedges. As of December 31, 2003, the balance represents \$201 million of realized gains resulting from the termination of fair value interest rate hedges, which are partially offset by \$170 million of mark-to-market adjustments on other fair value interest rate hedges.

(d) The Upper DECS are subject to a remarketing in May 2004. See Note 8 to our Consolidated Condensed Financial Statements.

**Debt Under Management and Mortgage Programs**

The following table summarizes the components of our debt under management and mortgage programs (including related party debt due to AESOP Funding II, LLC):

|  | <b>As of<br/>March 31,<br/>2004</b> | <b>As of<br/>December 31,<br/>2003</b> | <b>Change</b> |
|--|-------------------------------------|--|---------------|
| <b>Asset-Backed Debt:</b>                                |                                     |  |               |
| Vehicle rental program                                   |                                     |  |               |
| AESOP Funding II, LLC <sup>(a)</sup>                     | \$ 6,499                            | \$ 5,644                               | \$ 855        |
| Other  | 600                                 | 651                                    | (51)          |
| Vehicle management program <sup>(b)</sup>                | 3,333                               | 3,118                                  | 215           |
| Mortgage program   |                                     |  |               |
| Bishop's Gate Residential Mortgage Trust <sup>(c)</sup>  | 1,301                               | 1,651                                  | (350)         |
| Other  | —                                   | —                                      | —             |
| Timeshare program  |                                     |  |               |
| Sierra Receivables Funding Entities                      | 795                                 | 774                                    | 21            |
| Other  | 355                                 | 335                                    | 20            |
| Relocation program                                       |                                     |  |               |
| Apple Ridge Funding LLC                                  | 400                                 | 400                                    | —             |
| Other  | —                                   | —                                      | —             |
|  | <b>13,283</b>                       | <b>12,573</b>                          | <b>710</b>    |
| <b>Unsecured Debt:</b>                                   |                                     |  |               |
| Term notes   | 1,955                               | 1,916                                  | 39            |
| Commercial paper   | 345                                 | 164                                    | 181           |
| Other  | 158                                 | 132                                    | 26            |
|  | <b>2,458</b>                        | <b>2,212</b>                           | <b>246</b>    |
| <b>Total debt under management and mortgage programs</b> | <b>\$ 15,741</b>                    | <b>\$ 14,785</b>                       | <b>\$ 956</b> |

<sup>(a)</sup> The change in the balance at March 31, 2004 principally reflects the issuance of term notes at various interest rates to support the acquisition of vehicles used in our vehicle rental business.

<sup>(b)</sup> The change in the balance at March 31, 2004 principally reflects debt assumed in connection with our acquisition of First Fleet.

<sup>(c)</sup> The change in the balance at March 31, 2004 reflects the January 2004 repayment of \$350 million of medium-term notes.

The following table provides the contractual maturities for debt under management and mortgage programs (including related party debt due to AESOP Funding II, LLC) at March 31, 2004 (except for notes under our vehicle management program and Sierra timeshare programs, where the underlying indentures require payment based on cash inflows relating to the corresponding assets under management and mortgage programs and for which estimates of repayments have been used):

|                       | Asset-Backed     | Unsecured       | Total            |
|-----------------------|------------------|-----------------|------------------|
| Within 1 year         | \$ 2,780         | \$ 558          | \$ 3,338         |
| Between 1 and 2 years | 3,363            | 186             | 3,549            |
| Between 2 and 3 years | 2,793            | 1               | 2,794            |
| Between 3 and 4 years | 2,236            | 618             | 2,854            |
| Between 4 and 5 years | 1,431            | 6               | 1,437            |
| Thereafter            | 680              | 1,089           | 1,769            |
|                       | <u>\$ 13,283</u> | <u>\$ 2,458</u> | <u>\$ 15,741</u> |

#### AVAILABLE FUNDING ARRANGEMENTS AND COMMITTED CREDIT FACILITIES

At March 31, 2004, we had approximately \$6.8 billion of available funding arrangements and credit facilities (comprised of approximately \$1.5 billion of availability at the corporate level and approximately \$5.3 billion available for use in our management and mortgage programs). As of March 31, 2004, the committed credit facilities at the corporate level consisted of:

|                           | Total Capacity | Outstanding Borrowings | Letters of Credit Issued and Outstanding | Available Capacity |
|---------------------------|----------------|------------------------|--|--------------------|
| Maturing in December 2005 | \$ 2,900       | \$ —                   | \$ 1,357                                 | \$ 1,543           |

Available funding under our asset-backed debt programs and committed credit facilities related to our management and mortgage programs as of March 31, 2004 consisted of (including related party debt due to AESOP Funding II, LLC):

|   | Total Capacity   | Outstanding Borrowings | Available Capacity |
|---|------------------|------------------------|--------------------|
| <b>Asset-Backed Funding Arrangements <sup>(a)</sup></b> |                  |                        |                    |
| Vehicle rental program                                  |                  |                        |                    |
| AESOP Funding II, LLC <sup>(b)</sup>                    | \$ 6,904         | \$ 6,499               | \$ 405             |
| Other <sup>(c)</sup>                                    | 1,055            | 600                    | 455                |
| Vehicle management program <sup>(d)</sup>               | 3,972            | 3,333                  | 639                |
| Mortgage program  |                  |                        |                    |
| Bishop's Gate Residential Mortgage Trust <sup>(e)</sup> | 2,801            | 1,301                  | 1,500              |
| Other   | 300              | —                      | 300                |
| Timeshare program                                       |                  |                        |                    |
| Sierra Receivables Funding Entities <sup>(f)</sup>      | 1,163            | 795                    | 368                |
| Other <sup>(g)</sup>                                    | 502              | 355                    | 147                |
| Relocation program                                      |                  |                        |                    |
| Apple Ridge Funding, LLC <sup>(h)</sup>                 | 500              | 400                    | 100                |
| Other   | 100              | —                      | 100                |
|   | <u>17,297</u>    | <u>13,283</u>          | <u>4,014</u>       |
| <b>Committed Credit Facilities <sup>(i)</sup></b>       |                  |                        |                    |
| Maturing in February 2005                               | 1,250            | —                      | 1,250              |
|   | <u>\$ 18,547</u> | <u>\$ 13,283</u>       | <u>\$ 5,264</u>    |

(a) Capacity is subject to maintaining sufficient assets to collateralize debt.

(b) The outstanding debt is primarily collateralized by approximately \$6.5 billion of underlying vehicles and related receivables.

(c) The outstanding debt is primarily collateralized by \$726 million of underlying vehicles.

(d) The outstanding debt is primarily collateralized by approximately \$3.7 billion of leased vehicles and \$207 million of program cash.

(e) The outstanding debt is collateralized by approximately \$1.3 billion of underlying mortgage loans and \$28 million of program cash.

(f) The outstanding debt is collateralized by approximately \$1.0 billion of underlying timeshare receivables and \$70 million of program cash.

(g) The outstanding debt is collateralized by \$554 million of timeshare-related assets.

(h) The outstanding debt is collateralized by \$502 million of underlying relocation receivables and \$14 million of program cash.

(i) These committed credit facilities were entered into by and are for the exclusive use of our PHH Corporation subsidiary.

We also had \$400 million of availability for public debt or equity issuances under a shelf registration statement and our PHH subsidiary had an additional \$874 million of availability for public debt issuances under a shelf registration statement.

## LIQUIDITY RISK

Our liquidity position may be negatively affected by unfavorable conditions in any one of the industries in which we operate. Additionally, our liquidity as it relates to management and mortgage programs could be adversely affected by (i) the deterioration in the performance of the underlying assets of such programs, (ii) any impairment of our ability to access the principal financing program for our vehicle rental subsidiaries if General Motors Corporation or Ford Motor Company should not be able to honor its obligations to repurchase a substantial number of our vehicles and (iii) our inability to access the secondary market for mortgage loans or certain of our securitization facilities and our inability to act as servicer thereto, which could occur in the event that our or PHH's credit ratings are downgraded below investment grade and, in certain circumstances, where we or PHH fail to meet certain financial ratios. Further, access to our credit facilities may be limited if we were to fail to meet certain financial ratios. We do not believe that our or PHH's credit ratings are likely to fall below investment grade. Additionally, we monitor the maintenance of required financial ratios and, as of March 31, 2004, we were in compliance with all financial covenants under our material credit and securitization facilities.

Currently our credit ratings are as follows:

|                       | <b>Moody's<br/>Investor<br/>Service</b> | <b>Standard<br/>&amp; Poor's</b> | <b>Fitch<br/>Ratings</b> |
|-----------------------|---|----------------------------------|--------------------------|
| <b>Cendant</b>        |   |                                  |                          |
| Senior unsecured debt | Baa1                                    | BBB                              | BBB+                     |
| <b>PHH</b>            |   |                                  |                          |
| Senior debt           | Baa1                                    | BBB+                             | BBB+                     |
| Short-term debt       | P-2                                     | A-2                              | F-2                      |

Standard & Poor's has assigned a "positive outlook" on our credit ratings, while Moody's Investor Service and Fitch Ratings have assigned a "stable outlook." The credit ratings for PHH's senior debt have all been assigned a "stable outlook." A security rating is not a recommendation to buy, sell or hold securities and is subject to revision or withdrawal by the assigning rating organization. Each rating should be evaluated independently of any other rating.

## CONTRACTUAL OBLIGATIONS

Our future contractual obligations have not changed significantly from the amounts reported within our 2003 Annual Report on Form 10-K with the exception of our commitment to purchase vehicles, which decreased from the amount previously disclosed by approximately \$2.3 billion to approximately \$2.6 billion at March 31, 2004 as a result of purchases during the quarter. Any changes to our obligations related to corporate indebtedness and debt under management and mortgage programs are presented above within the section entitled "Liquidity and Capital Resources—Financial Obligations" and also within Notes 8 and 9 to our Consolidated Condensed Financial Statements.

## ACCOUNTING POLICIES

The majority of our businesses operate in environments where we are paid a fee for a service performed. Therefore, the results of the majority of our recurring operations are recorded in our financial statements using accounting policies that are not particularly subjective, nor complex. However, in presenting our financial statements in conformity with generally accepted accounting principles, we are required to make estimates and assumptions that affect the amounts reported therein. Several of the estimates and assumptions that we are required to make pertain to matters that are inherently uncertain as they relate to future events. Presented within the section entitled "Critical Accounting Policies" of our 2003 Annual Report on Form 10-K are the accounting policies that we believe require subjective and/or complex judgments that could potentially affect reported results (mortgage servicing rights, financial instruments and goodwill). There have not been any significant changes to those accounting policies or to our assessment of which accounting policies we would consider to be critical accounting policies.

## RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

On March 9, 2004, the United States Securities and Exchange Commission ("SEC") issued Staff Accounting Bulletin No. 105—Application of Accounting Principles to Loan Commitments ("SAB 105"). SAB 105 summarizes the views of the SEC staff regarding the application of generally accepted accounting principles to loan commitments accounted for as derivative instruments. The SEC staff believes that in recognizing a loan commitment, entities should not consider expected future cash flows related to the associated servicing of the loan until the servicing asset has been contractually separated from the underlying loan by sale or securitization of the loan with the servicing retained. The provisions of SAB 105 are applicable to all loan commitments accounted for as derivatives and entered into subsequent to March 31, 2004. The adoption of SAB 105 will not have a material impact on our consolidated results of operations or financial position, as our current accounting treatment for such loan commitments is consistent with the provisions of SAB 105.

### Item 3. Quantitative And Qualitative Disclosures About Market Risks

As previously discussed in our 2003 Annual Report on Form 10-K, we assess our market risk based on changes in interest and foreign currency exchange rates utilizing a sensitivity analysis. The sensitivity analysis measures the potential impact in earnings, fair values, and cash flows based on a hypothetical 10% change (increase and decrease) in interest and foreign currency rates. We used March 31, 2004 market rates to perform a sensitivity analysis separately for each of our market risk exposures. The estimates assume instantaneous, parallel shifts in interest rate yield curves and exchange rates. We have determined, through such analyses, that the impact of a 10% change in interest and foreign currency exchange rates and prices on our earnings, fair values and cash flows would not be material.

### Item 4. Controls and Procedures

- (a) *Disclosure Controls and Procedures.* Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this quarterly report. Based on such evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of such period, our disclosure controls and procedures are effective.
- (b) *Internal Controls Over Financial Reporting.* There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter to which this report relates that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings

*In Re Homestore.com Securities Litigation*, No. 10-CV-11115 (MJP) (U.S.D.C., C.D. Cal.). On November 15, 2002, Cendant and Richard A. Smith, one of our officers, were added as defendants in a purported class action. The 26 other defendants in such action include Homestore.com, Inc., certain of its officers and directors and its auditors. Such action was filed on behalf of persons who purchased stock of Homestore.com (an Internet-based provider of residential real estate listings) between January 1, 2000 and December 31, 2001. The complaint in this action alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act based on purported misconduct in connection with the accounting of certain revenues in financial statements published by Homestore during the class period. On January 10, 2003, we, together with Mr. Smith, filed a motion to dismiss plaintiffs' claims for failure to state a claim upon which relief could be granted. A hearing on our motion to dismiss was held on February 14, 2003 and at the conclusion thereof the motion was submitted to the court for determination. On March 7, 2003, the court granted our motion and dismissed the complaint, as against Cendant and Mr. Smith, with prejudice. On April 14, 2003, plaintiffs filed a motion for an order certifying an issue for interlocutory appeal, which the court denied on July 11, 2003. On March 16, 2004, the court approved a settlement dismissing Mr. Smith but not Cendant. On March 8, 2004, the court entered into an order of final judgment dismissing parties, including Cendant, thus allowing for notice of an appeal to be filed. On April 9, 2004, plaintiffs filed notice of an appeal.

*Leonard Loventhal Account v. Silverman, et al.*, C.A. No. 306-N, Court of Chancery for the State of Delaware in and for New Castle County. On or about March 10, 2004, this derivative action was commenced against Henry Silverman, our Chairman and Chief Executive Officer, and the other members of our board of directors asserting claims on our behalf. The complaint in this action alleges that our board members breached their fiduciary duties by approving an employment contract for Mr. Silverman and by allowing us to pay premiums on life insurance policies then in force for Mr. Silverman. The suit seeks equitable relief and compensatory damages in an unspecified amount. Since this action was commenced on our behalf, we are named as a nominal defendant and can only be the beneficiary of damages awarded in any final disposition. On April 19, 2004, we reached an agreement in principle to settle this action. The proposed settlement anticipates changes to Mr. Silverman's existing contract, including changing the expiration date from December 31, 2012 to December 31, 2007; limiting any severance payment to no more than 2.99 times the prior year's compensation; making a significant portion of Mr. Silverman's bonus subject to the attainment of certain performance-based earnings per share goals; and reducing the cash compensation portion of a post-employment consulting contract from life to a period of five years. The settlement is subject to the execution of definitive documentation, notice to shareholders and court approval.

**Item 2. Changes in Securities and Use of Proceeds**

(e) Below is a summary of our CD common stock repurchases for the quarter ended March 31, 2004

| Period                          | Total Number of Shares Purchased | Average Price Paid per Share | Number of Shares Purchased as Part of Publicly Announced Plan <sup>(b)</sup> | Approximate Dollar Value of Shares that May Yet Be Purchased Under Plan |
|---------------------------------|----------------------------------|------------------------------|--|---|
| January 1—31, 2004              | 7,570,000                        | \$ 22.95                     | 7,570,000  | \$ 240,161,127  |
| February 1—29, 2004             | 13,097,000                       | \$ 22.72                     | 13,097,000   | \$ 739,451,558  |
| March 1—31, 2004 <sup>(a)</sup> | 6,342,000                        | \$ 23.58                     | 6,342,000  | \$ 685,877,148  |
| <b>Total</b>                    | <b>27,009,000</b>                | <b>\$ 22.98</b>              | <b>27,009,000</b>  |   |

(a) Includes 1,225,000 shares purchased for which the trade date occurred during March 2004 while settlement occurred in April 2004.

(b) Our share repurchase program, which does not have an expiration date, was first publicly announced on October 13, 1998 in the amount of \$1 billion and has been increased from time to time and each such increase has been publicly announced. The most recent increase of \$750 million was approved and publicly announced on February 11, 2004. No shares were purchased outside our share repurchase program during the periods set forth in the table above.

**Item 4. Submission of Matters to a Vote of Security Holders**

We held an Annual Meeting of Stockholders on April 20, 2004, pursuant to a Notice of Annual Meeting of Stockholders and Proxy Statement dated March 1, 2004, a copy of which has been filed previously with the Securities and Exchange Commission, at which our stockholders approved the election of five directors for a term of one year, approved our proposal to amend our amended and restated certificate of incorporation and by-laws to eliminate the provisions for the classification of our Board of Directors and ratified the appointment of Deloitte & Touche LLP as the auditors of the financial statements for fiscal year 2004. The two stockholder proposals did not receive the requisite affirmative vote of a majority of the shares of common stock present, in person or by proxy, entitled to vote at the Annual Meeting of Stockholders.

Proposal 1: To elect five directors for a one-year term.

**Results:**

|                                     | In Favor    | Withheld   |
|-------------------------------------|-------------|------------|
| Myra J. Biblowit                    | 813,459,148 | 43,451,264 |
| The Right Honourable Brian Mulroney | 828,189,403 | 28,721,009 |
| Ronald L. Nelson                    | 821,354,692 | 35,555,720 |
| Robert W. Pittman                   | 828,358,072 | 28,552,340 |
| Sheli Z. Rosenberg                  | 821,911,875 | 34,998,537 |

Proposal 2: To approve amendments to our amended and restated articles of incorporation and by-laws to eliminate classification of our Board of Directors.

**Results:**

| For         | Against    | Abstain   |
|-------------|------------|-----------|
| 835,703,797 | 19,953,857 | 1,252,758 |

Proposal 3: To ratify and approve the appointment of Deloitte & Touche LLP as our Independent Auditors for the year ending December 31, 2004.

**Results:**

| For         | Against    | Abstain   |
|-------------|------------|-----------|
| 823,638,731 | 28,149,858 | 5,121,822 |

Proposal 4: Stockholder proposal regarding the separation of the offices of Chief Executive Officer and Chairman.

**Results:**

| <b>For</b>  | <b>Against</b> | <b>Abstain</b> |
|-------------|----------------|----------------|
| 132,524,046 | 573,836,913    | 6,421,626      |

Proposal 5: Stockholder proposal regarding Chief Executive Officer compensation.

**Results:**

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 43,172,480 | 661,066,028    | 8,544,077      |

**Item 6. Exhibits and Reports on Form 8-K**

**(a) Exhibits**

See Exhibit Index

**(b) Reports on Form 8-K**

On February 4, 2004, we filed a current report on Form 8-K to report under Item 12 our fourth quarter and full year 2003 financial results.

On February 6, 2004, we filed a current report on Form 8-K to report under Item 5 that we increased our projections for first quarter and full year 2004 earnings per share from continuing operations to \$0.37—\$0.38 and \$1.65—\$1.72, respectively, as a result of a one-time tax benefit of \$0.09—\$0.11 per share related to the transaction with Trilegiant Corporation announced on January 30.

On March 31, 2004, we filed a current report on Form 8-K to report under Item 5 that we increased our projections for first quarter and full year 2004 earnings per share from continuing operations to \$0.41 and \$1.68—\$1.74, respectively, versus our prior projections of \$0.37—\$0.38 and \$1.65—\$1.72, respectively.

**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.

Date: May 3, 2004

**CENDANT CORPORATION**

/s/ Ronald L. Nelson

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Ronald L. Nelson  
Chief Financial Officer

Date: May 3, 2004

/s/ Virginia M. Wilson

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Virginia M. Wilson  
Executive Vice President and  
Chief Accounting Officer



## Exhibit Index

| Exhibit No. | Description   |
|-------------|---|
| 3.1         | Amended and Restated Certificate of Incorporation of the Company.   |
| 3.2         | Amended and Restated By-Laws of the Company.  |
| 10.1        | Series 2004-2 Supplement, dated as of February 18, 2004, between AESOP Funding II L.L.C., as issuer, and The Bank of New York, as trustee and Series 2004-2 agent, to the Amended and Restated Base Indenture, dated as of July 30, 1997, between AESOP Funding II L.L.C., as issuer, and The Bank of New York, as trustee. |
| 12          | Statement Re: Computation of Ratio of Earnings to Fixed Charges.  |
| 15          | Letter Re: Unaudited Interim Financial Information.   |
| 31.1        | Certification of Chief Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) Promulgated Under the Securities Exchange Act of 1934, as amended.   |
| 31.2        | Certification of Chief Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) Promulgated Under the Securities Exchange Act of 1934, as amended.   |
| 32          | Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.   |

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AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
CENDANT CORPORATION

The undersigned, Eric J. Bock, certifies that he is the Executive Vice President, Law and Corporate Secretary of Cendant Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), and does hereby further certify as follows:

(1) The name of the Corporation is Cendant Corporation.

(2) The name under which the Corporation was originally incorporated was Comp-U-Card of America, Inc. and the original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on August 1, 1974.

(3) This Amended and Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

(4) The text of the Amended and Restated Certificate of Incorporation of the Corporation as amended hereby is restated to read in its entirety, as follows:

1. The name of the Corporation is Cendant Corporation (hereinafter, the "Corporation").

2. The address of its registered office in the State of Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is Corporation Service Company.

3. The nature of the business or purposes to be conducted or promoted is:

To engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

4. Capital Stock

The total number of shares of all classes of stock which the Corporation shall have authority to issue is 2,510,000,000, consisting of (i) 2,500,000,000 shares of Common Stock, \$0.01 par value per share ("Common Stock"), and (ii) 10,000,000 shares of Preferred Stock, \$0.01 par value per share ("Preferred Stock"). No stockholder shall have any preemptive right to subscribe to or purchase any additional shares of stock of the Corporation or any securities convertible into any such shares or representing a right or option to purchase any such shares.

A. Common Stock

1. Issuance of Common Stock in Series; Designation; Reclassification.

The Corporation shall have the authority to issue shares of Common Stock in two series. One series of Common Stock shall be designated as Cendant Corporation—CD Common Stock ("CD Stock"). The second series of Common Stock shall be initially designated as Cendant Corporation—Move.com Common Stock or such other name as the board of directors shall determine now or hereafter ("Move.com Stock"). When the filing of this Amended and Restated Certificate of Incorporation becomes effective, each share of Common Stock outstanding immediately prior thereto shall automatically be reclassified as one share of CD Stock (and outstanding certificates that had theretofore represented shares of Common Stock shall thereupon represent an equal number of shares of CD Stock despite the absence of any indication thereon to that effect).

The total number of shares of CD Stock which the Corporation shall have the authority to issue shall initially be 2,000,000,000, and the total number of shares of Move.com Stock which the Corporation shall have the authority to issue shall initially be 500,000,000. The Board of

Directors shall have the authority to increase or decrease from time to time the total number of shares of Common Stock of either series which the Corporation shall have the authority to issue, but not above the number which, when added to the total number of shares of the other series of Common Stock that the Corporation would have the authority to issue, would exceed the total number of shares of Common Stock that the Corporation has the authority to issue, and not below the number of shares of such series then outstanding. The Board of Directors shall have the authority to designate, prior to the time of the first issuance of the Move.com Stock, the number which, immediately prior to such first issuance, will constitute the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group and any other terms which are consistent with applicable law and the provisions of this Article 4. The voting powers, preferences and relative, participating, optional or other special rights of the CD Stock and Move.com Stock, and the qualifications and restrictions thereon, shall be as set forth in this Section A.

## 2. Dividends

(1) Dividends. Subject to the preferences and other terms of any outstanding series of Preferred Stock, the holders of either series of Common Stock shall be entitled to receive dividends on their shares of Common Stock if, as and when declared by the Board of Directors, out of legally available funds, but (i) the Corporation will be permitted to pay dividends on CD Stock out of the lesser of (x) the assets of the Corporation legally available for the payment of dividends under Delaware law or (y) the Available Dividend Amount for Cendant Group and (ii) the Corporation will be permitted to pay dividends on Move.com Stock (and corresponding amounts to the Cendant Group with respect to its Retained Interest in Move.com Group) out of the lesser of (x) the assets of the Corporation legally available for the payment of dividends under Delaware law or (y) the Available Dividend Amount for Move.com Group.

(2) Discrimination Between or Among Series of Common Stock. Subject to paragraph (a) of this Section 2 and subject to the preferences and other terms of any outstanding series of Preferred Stock, the Corporation shall have the authority to declare and pay

dividends on both, one or neither series of Common Stock in equal or unequal amounts, notwithstanding the performance of either Group, the amount of assets available for dividends on either series of Common Stock, the amount of prior dividends paid on either series of Common Stock, the respective voting rights of each series of Common Stock or any other factor.

1. Mandatory Dividend, Redemption or Exchange on Disposition of All or Substantially All of the Assets of a Group; Exchange of One Series of Common Stock for the Other Series or for Stock of a Subsidiary at the Corporation's Option.

(3) Mandatory Dividend, Redemption or Exchange.

(1) In the event of a Disposition of All or Substantially All of the Assets of a Group (other than an Exempt Disposition), the Corporation shall, on or prior to the 85th Trading Day after the consummation of such Disposition, either:

- (x) declare and pay a dividend to holders of the series of Common Stock that relates to that Group (in cash, securities (other than Common Stock) or other property, or a combination thereof), subject to the limitations on dividends set forth under Section 2 of this Article 4(A), in an amount having a Fair Value equal to their Proportionate Interest in the Net Proceeds of such Disposition;
- (y) redeem from holders of the series of Common Stock that relates to that Group, for cash, securities (other than Common Stock) or other property (or a combination thereof) in an amount having a Fair Value equal to their Proportionate Interest in the Net Proceeds of such Disposition, all of the outstanding shares of the relevant series of Common Stock (or, if such Group continues after such Disposition to own any material assets other than the proceeds of such Disposition, a number of

shares of such series of Common Stock (rounded, if necessary, to the nearest whole number) having an aggregate average Market Value, during the 20 consecutive Trading Day period beginning on (and including) the 16th Trading Day immediately following the date on which the Disposition is consummated, equal to such Fair Value); or

- (z) issue, in exchange for all of the outstanding shares of the series of Common Stock that relates to that Group, a number of shares of the series of Common Stock that does not relate to that Group (rounded, if necessary, to the nearest whole number) having an aggregate value equal to 110% of the aggregate value of all of the outstanding shares of the series of Common Stock that relates to that Group (with value in each case based on the average Market Value of a share of the relevant series of Common Stock during the 20 consecutive Trading Day period beginning on (and including) the 16th Trading Day immediately following the date on which the Disposition is consummated).

(2) At any time within one year after completing any dividend or partial redemption pursuant to (x) or (y) of the preceding sentence, the Corporation may issue, in exchange for all of the remaining outstanding shares of the series of Common Stock that relates to the Group that consummated the applicable Disposition, a number of shares of the series of Common Stock that does not relate to that Group (rounded, if necessary, to the nearest whole number) having an aggregate value equal to 110% of the aggregate value of all of the outstanding shares of the series of Common Stock that relates to that Group (with value in each case based on the average Market Value of a share of the relevant series of Common Stock during the 20 consecutive Trading Day period ending on (and including) the 5th Trading Day immediately preceding the

date on which the Corporation mails the notice of exchange to holders of the relevant series).

(3) For purposes of this Section 3, if a Group consummates a Disposition in a series of related transactions, such Disposition shall not be deemed to have been completed until consummation of the last of such transactions.

(4) Optional Exchange of One Series of Common Stock for the Other Series.

(1) Prior to the third anniversary of the earlier of (a) the initial issuance of Move.com Stock in a public offering or (b) the first anniversary of a private placement of Move.com Stock, the Corporation will not have the right to cause the exchange of CD Stock for Move.com Stock.

(2) From and after the 18-month anniversary of the earlier of (a) the initial issuance of Move.com Stock in a public offering or (b) the first anniversary of a private placement of Move.com Stock, the Corporation may issue, in exchange for all of the outstanding shares of Move.com Stock, a number of shares of CD Stock (rounded, if necessary, to the nearest whole number) having an aggregate value equal to the percentage of the aggregate value of all of the outstanding shares of Move.com Stock (the "Applicable Percentage") specified for the applicable date of exchange below. (In each case value is based on the average Market Value of a share of the relevant series of Common Stock during the 20 consecutive Trading Day period ending on (and including) the 5th Trading Day immediately preceding the date on which the Corporation mails the notice of exchange to holders of Move.com Stock).



The Applicable  
Percentage Will  
be the Percentage  
Specified for  
Such Period  
Below

If the Exchange Date Falls During the Period Indicated Below

---

|                              |             |
|------------------------------|-------------|
| Eighteenth Month             | 120%        |
| Nineteenth Month             | 119.722222% |
| Twentieth Month              | 119.444444% |
| Twenty-first Month           | 119.166667% |
| Twenty-second Month          | 118.888889% |
| Twenty-third Month           | 118.611111% |
| Twenty-fourth Month          | 118.333333% |
| Twenty-fifth Month           | 118.055556% |
| Twenty-sixth Month           | 117.777778% |
| Twenty-seventh Month         | 117.5%      |
| Twenty-eighth Month          | 117.222222% |
| Twenty-ninth Month           | 116.944444% |
| Thirtieth Month              | 116.666667% |
| Thirty-first Month           | 116.388889% |
| Thirty-second Month          | 116.111111% |
| Thirty-third Month           | 115.833333% |
| Thirty-fourth Month          | 115.555556% |
| Thirty-fifth Month           | 115.277778% |
| Thirty-sixth Month and after | 115%        |

For purposes of the foregoing chart, (x) the eighteenth "Month" is the period from and including the date which is the earlier of (1) the first issuance of shares of Move.com Stock in a public offering or (2) the first anniversary of a private placement of Move.com Stock, to but excluding the one month anniversary of such date (provided that, if the date is the 29th, 30th or 31st day of any month, the first "Month" will be the period from and including such date to but excluding the one month anniversary of the first day of the month immediately following the month in which such date falls) and (y) each subsequent "Month" is the period from and including the

day after the end of the prior Month to but excluding the one month anniversary of such day.

(3) From and after the third anniversary of the earlier of (a) the initial issuance of Move.com Stock in a public offering or (b) the first anniversary of a private placement of Move.com Stock, the Corporation may, at any time after outstanding Move.com Stock exceeds the 40% of Total Market Capitalization Trigger but has not exceeded 60% of the Total Market Capitalization Threshold, issue, in exchange for all of the outstanding shares of either series of Common Stock (the "Series of Common Stock Being Retired"), a number of shares of the other series of Common Stock (rounded, if necessary, to the nearest whole number) having an aggregate value equal to the aggregate value of all of the outstanding shares of the Series of Common Stock Being Retired (with value in each case based on the average Market Value of a share of the relevant series of Common Stock during the 20 consecutive Trading Day period ending on (and including) the 5th Trading Day immediately preceding the date on which the Corporation mails the notice of exchange to holders of the Series of Common Stock Being Retired). In the event that Move.com Stock exceeds the 60% of Total Market Capitalization Threshold, the Corporation will lose the right to effect an exchange on a value for value basis during such period.

The Corporation will have the right, on or after the third anniversary of the earlier of (a) the initial issuance of Move.com Stock in a public offering or (b) the first anniversary of a private placement of Move.com Stock, if outstanding Move.com Stock exceeds the 60% of Total Market Capitalization Threshold, to issue a number of shares of Move.com Stock, in exchange for all of the outstanding CD Stock, having an aggregate value equal to 115% of the aggregate value of all of the outstanding shares of CD Stock. (In each case value is based on the average Market Value of a share of relevant series of Common

Stock during the 20 consecutive Trading Day period ending on (and including) the 5th Trading Day immediately preceding the date on which the Corporation mails the notice of exchange to holders of CD Stock). In the event that Move.com Stock equals or falls below the 60% of Total Market Capitalization Threshold, the Corporation will lose the right to effect such an exchange during such period.

Move.com Stock will exceed the "40% of Total Market Capitalization Trigger" if the Market Capitalization of the outstanding Move.com Stock exceeds 40% of the Total Market Capitalization of both series of Common Stock for 30 Trading Days during any 60 consecutive Trading Day period. Move.com Stock will be equal to or below the "60% of Total Market Capitalization Threshold" if the Market Capitalization of the outstanding Move.com Stock is equal to or below 60% of the Total Market Capitalization of both series of Common Stock for 30 Trading Days during any 60 consecutive Trading Day period.

If the Corporation has the right, on the date on which it mails a notice of exchange as contemplated above, to issue shares of CD Stock or Move.com Stock in exchange for outstanding shares of the other series of Common Stock as described above, the Corporation will not lose that right if Move.com Stock subsequently falls below the 40% of Total Market Capitalization Trigger or exceeds the 60% of Total Market Capitalization Threshold.

(4) Notwithstanding the preceding paragraphs, if a Tax Event has occurred, the Corporation may issue, in exchange for all of the outstanding shares of Move.com Stock, a number of shares of CD Stock (rounded, if necessary, to the nearest whole number) having an aggregate value equal to 110% of the aggregate value of all of the outstanding shares of Move.com Stock (with value based on the average Market Value of a share of the relevant series of Common Stock during the 20 consecutive

Trading Day period ending on (and including) the 5th Trading Day immediately preceding the date on which the Corporation mails the notice of exchange to holders of Move.com Stock being retired). "Tax Event" means the receipt by the Corporation of an opinion of tax counsel of the Corporation's choice experienced in such matters, who shall not be an officer or employee of the Corporation or any of its affiliates, to the effect that, as a result of any amendment to, or change in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority thereof or therein (including any proposed change in such regulations announced by an administrative agency), or as a result of any official or administrative pronouncement or action or judicial decision interpreting or applying such laws or regulations, it is more likely than not that for United States federal income tax purposes (1) the Corporation, its subsidiaries or affiliates or any of its successors or its stockholders is, or at any time in the future will be, subject to tax upon the issuance of shares of either CD Stock or Move.com Stock or (2) either CD Stock or Move.com Stock is not, or at any time in the future will not be, treated solely as stock of the Corporation. For purposes of rendering such opinion, the tax counsel shall assume that any administrative proposals will be adopted as proposed. However, in the event a change in law is proposed, tax counsel shall render an opinion only in the event of enactment.

(5) Optional Exchange for Stock of a Subsidiary.

(1) At any time at which all of the assets and liabilities of a Group (and no other assets or liabilities of the Corporation or any subsidiary thereof) are held directly or indirectly by one or more wholly owned subsidiaries of the Corporation (the "Group Subsidiaries"), the Corporation shall have the right to issue to holders of the relevant series of Common Stock (including Cendant Group in the case of Move.com Stock) their Proportionate Interest in all of the outstanding shares of the common

stock of the Group Subsidiaries in exchange for all of the outstanding shares of such series of Common Stock.

(2) If the series of Common Stock being exchanged pursuant to Section 3(c)(i) above is CD Stock and the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group is greater than zero, the Corporation shall also issue a number of shares of Move.com Stock equal to the then current Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group and issue those shares to the holders of CD Stock or to one of the Group Subsidiaries, at the option of the Corporation.

(3) If the series of Common Stock being exchanged pursuant to Section 3(c)(i) above is Move.com Stock and the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group is greater than zero (so that less than all of the shares of common stock of the Group Subsidiaries are being delivered to the holders of Move.com Stock), the Corporation may retain the remaining shares of common stock of the Group Subsidiaries or distribute those shares as a dividend on CD Stock.

(6) General Dividend, Exchange and Redemption Provisions.

(1) If the Corporation completes a Disposition of All or Substantially All of the Assets of a Group (other than an Exempt Disposition), the Corporation shall, not more than the 10 Trading Days after the consummation of such Disposition, issue a press release specifying (w) the Net Proceeds of such Disposition, (x) the number of shares of the series of Common Stock related to such Group then outstanding, (y) the number of shares of such series of Common Stock issuable upon conversion, exchange or

exercise of any convertible or exchangeable securities, options or warrants and the conversion, exchange or exercise prices thereof and (z) if the Group is Move.com Group, the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group. The Corporation shall, not more than 30 Trading Days after such consummation, announce by press release which of the actions specified in Section 3(a)(i) of this Article 4(A) it has determined to take, and upon making that announcement, that determination will be irrevocable. In addition, the Corporation shall, not later than 30 Trading Days after such consummation and not earlier than 10 Trading Days before the applicable payment date, redemption date or exchange date, send a notice by first-class mail, postage prepaid, to holders of the relevant series of Common Stock at their addresses as they appear on the transfer books of the Corporation, specifying:

(1) if the Corporation has determined to pay a special dividend, (A) the record date for such dividend, (B) the payment date of such dividend (which cannot be more than 85 Trading Days after such consummation) and (C) the aggregate amount and type of property to be paid in such dividend (and the approximate per share amount thereof);

(2) if the Corporation has determined to undertake a redemption, (A) the date of redemption (which cannot be more than 85 Trading Days after such consummation), (B) the aggregate amount and type of property to be paid as a redemption price (and the approximate per share amount thereof), (C) if less than all shares of the relevant series of Common Stock are to be redeemed, the number of shares to be redeemed and (D) the place or places where certificates for shares of such series of Common Stock, properly endorsed or assigned for transfer (unless the Corporation waives such requirement), should be surrendered in return for delivery of the cash, securities or other property to be paid by the Corporation in such redemption; and

(3) if the Corporation has determined to undertake an exchange, (A) the date of exchange (which cannot be more than 85 Trading Days after such consummation), (B) the number of shares of the other series of Common Stock to be issued in exchange for each outstanding share of such series of Common Stock and (C) the place or places where certificates for shares of such series of Common Stock, properly endorsed or assigned for transfer (unless the Corporation waives such requirement), should be surrendered in return for delivery of the other series of Common Stock to be issued by the Corporation in such exchange.

(2) If the Corporation has determined to complete any exchange described in Section 3(b) or (c) of this Article 4(A), the Corporation shall, not less than 10 Trading Days and not more than 30 Trading Days before the exchange date, send a notice by first-class mail, postage prepaid, to holders of the relevant series of Common Stock at their addresses as they appear on the transfer books of the Corporation, specifying (x) the exchange date and the other terms of the exchange and (y) the place or places where certificates for shares of such series of Common Stock, properly endorsed or assigned for transfer (unless the Corporation waives such requirement), should be surrendered for delivery of the stock to be issued or delivered by the Corporation in such exchange.

(3) Neither the failure to mail any notice required by this Section 3(d) to any particular holder nor any defect therein would affect the sufficiency thereof with respect to any other holder or the validity of any dividend, redemption or exchange contemplated hereby.

(4) If the Corporation is redeeming less than all of the outstanding shares of a series of Common Stock pursuant to Section 3(a)(i) of this Article 4(A), the Corporation shall redeem such shares pro rata or by lot or

by such other method as the Board of Directors determines to be equitable.

(5) No holder of shares of a series of Common Stock being exchanged or redeemed shall be entitled to receive any cash, securities or other property to be distributed in such exchange or redemption until such holder surrenders certificates for such shares, properly endorsed or assigned for transfer, at such place as the Corporation shall specify (unless the Corporation waives such requirement). As soon as practicable after the Corporation's receipt of certificates for such shares, the Corporation shall deliver to the person for whose account such shares were so surrendered, or to the nominee or nominees of such person, the cash, securities or other property to which such person shall be entitled, together with any fractional payment referred to below, in each case without interest. If less than all of the shares of Common Stock represented by any one certificate is exchanged or redeemed, the Corporation shall also issue and deliver a new certificate for the shares of such Common Stock not exchanged or redeemed.

(6) The Corporation shall not be required to issue or deliver fractional shares of any capital stock or any other fractional securities to any holder of Common Stock upon any exchange, redemption, dividend or other distribution described above. If more than one share of Common Stock shall be held at the same time by the same holder, the Corporation may aggregate the number of shares of any capital stock that would be issuable or any other securities that would be distributable to such holder upon any such exchange, redemption, dividend or other distribution. If there are fractional shares of any capital stock or any other fractional securities remaining to be issued or distributed to any holder, the Corporation shall, if such fractional shares or securities are not issued or distributed to such holder, pay cash in respect of such



fractional shares or securities in an amount equal to the Fair Value thereof (without interest).

(7) From and after the date set for any exchange or redemption contemplated by this Section 3, all rights of a holder of shares of Common Stock being exchanged or redeemed shall cease except for the right, upon surrender of the certificates theretofore representing such shares, to receive the cash, securities or other property for which such shares were exchanged or redeemed, together with any fractional payment as provided above, in each case without interest (and, if such holder was a holder of record as of the close of Business on the record date for a dividend not yet paid, the right to receive such dividend). A holder of shares of Common Stock being exchanged shall not be entitled to receive any dividend or other distribution with respect to shares of the other series of Common Stock until after certificates theretofore representing the shares being exchanged are surrendered as contemplated above. Upon such surrender, the Corporation shall pay to the holder the amount of any dividends or other distributions (without interest) which theretofore became payable with respect to a record date occurring after the exchange, but which were not paid by reason of the foregoing, with respect to the number of whole shares of the other series of Common Stock represented by the certificate or certificates issued upon such surrender. From and after the date set for any exchange, the Corporation shall, however, be entitled to treat the certificates for shares of a series of Common Stock being exchanged that were not yet surrendered for exchange as evidencing the ownership of the number of whole shares of the other series of Common Stock for which the shares of such Common Stock should have been exchanged, notwithstanding the failure to surrender such certificates.

(8) The Corporation shall pay any and all documentary, stamp or similar issue or transfer taxes that might be payable in respect of the issue or delivery of any

shares of capital stock and/or other securities on any exchange or redemption contemplated by this Section 3; provided, however, that the Corporation shall not be required to pay any tax that might be payable in respect of any transfer involved in the issue or delivery of any shares of capital stock and/or other securities in a name other than that in which the shares so exchanged or redeemed were registered, and no such issue or delivery will be made unless and until the person requesting such issue pays to the Corporation the amount of any such tax, or establishes to the satisfaction of the Corporation that such tax has been paid.

(9) The Corporation may, subject to applicable law, establish such other rules, requirements and procedures to facilitate any dividend, redemption or exchange contemplated by this Section 3 as the Board of Directors may determine to be appropriate under the circumstances.

### 3. Voting Rights.

At every meeting of stockholders, the holders of CD Stock and the holders of Move.com Stock shall vote together as a single class on all matters as to which common stockholders generally are entitled to vote, unless a separate vote is required by applicable law. On all such matters for which no separate vote is required, (a) holders of CD Stock shall be entitled to one vote per share of CD Stock held and (b) holders of Move.com Stock shall be entitled to a one vote per share of Move.com Stock held. Each share of CD Stock and each share of Move.com Stock shall continue to have one vote following a stock split, stock dividend or similar reclassification.

### 4. Liquidation Rights.

In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, holders of CD Stock and holders of Move.com Stock shall be entitled to receive in respect of shares of CD Stock and shares of Move.com Stock their proportionate interests in the

net assets of the Corporation, if any, remaining for distribution to stockholders (after payment of or provision for all liabilities, including contingent liabilities, of the Corporation and payment of the liquidation preference payable to any holders of Preferred Stock), in proportion to the respective number of liquidation units per share of CD Stock and Move.com Stock. Each share of CD Stock shall have one liquidation unit and each share of Move.com Stock shall have a number of liquidation units (including a fraction of one liquidation unit) equal to the quotient (rounded to the nearest five decimal places) of the average Market Value of one share of Move.com Stock during the 20 consecutive Trading Day period ending on, and including, the 5th Trading Day before the date of the first public announcement of (1) a voluntary liquidation, dissolution or winding-up of the Corporation or (2) the institution of any proceeding for the involuntary liquidation, dissolution or winding-up of the Corporation divided by the average Market Value of one share of CD Stock during such 20 Trading Day period.

If the Corporation shall in any manner subdivide (by stock split, reclassification or otherwise) or combine (by reverse stock split, reclassification or otherwise) the outstanding shares of CD Stock or Move.com Stock, or declare a dividend in shares of either series to holders of such series, the per share liquidation units of such series of Common Stock specified in the preceding paragraph, as adjusted from time to time, shall be appropriately adjusted as determined by the Board of Directors, so as to avoid dilution in the aggregate, relative liquidation rights of the shares of any series of Common Stock.

Neither the merger nor consolidation of the Corporation into or with any other entity, nor a sale, transfer or lease of all or any part of the assets of the Corporation, shall, alone, be deemed a liquidation or winding up of the Corporation or cause the dissolution of the Corporation, for purposes of this Section 5.

5. Adjustments to Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group.

The Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group, as in effect from time to time, shall,

automatically without action by the Board of Directors or any other person, be:

(1) adjusted in proportion to any changes in the number of outstanding shares of Move.com Stock caused by subdivisions (by stock split, reclassification or otherwise) or combinations (by reverse stock split, reclassification or otherwise) of shares of Move.com Stock or by dividends or other distributions of shares of Move.com Stock on shares of Move.com Stock (and, in each such case, rounded, if necessary, to the nearest whole number);

(2) decreased by (i) if the Corporation issues any shares of Move.com Stock and the Board of Directors attributes that issuance (and the proceeds thereof) to Cendant Group, the number of shares of Move.com Stock so issued, and (ii) if the Board of Directors reallocates to Cendant Group any cash or other assets theretofore allocated to Move.com Group in connection with a redemption of shares of Move.com Stock (as required pursuant to clause (ii) of the proviso to the definition of Cendant Group below) or in return for a decrease in the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group, the number (rounded, if necessary, to the nearest whole number) equal to (x) the aggregate Fair Value of such cash or other assets divided by (y) the Market Value of one share of Move.com Stock as of the date of such reallocation; and

(c) increased by (i) if the Corporation repurchases any shares of Move.com Stock and the Board of Directors attributes that repurchase (and the consideration therefor) to Cendant Group, the number of shares of Move.com Stock so repurchased and (ii) if the Board of Directors re-allocates to Move.com Group any cash or other assets theretofore allocated to Cendant Group in return for an increase in the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group, the

number (rounded, if necessary, to the nearest whole number) equal to (x) the Fair Value of such cash or other assets divided by (y) the Market Value of one share of Move.com Stock as of the date of such re-allocation.

Neither the Corporation nor the Board of Directors shall take any action that would, as a result of any of the foregoing adjustments, reduce the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group to below zero. Subject to the preceding sentence, the Board of Directors may attribute the issuance of any shares of Move.com Stock (and the proceeds here from) or the repurchase of Move.com Stock (and the consideration therefor) to Cendant Group or to Move.com Group, as the Board of Directors determines in its sole discretion; provided, however, that the Board of Directors must attribute to Cendant Group the issuance of any shares of Move.com Stock that are issued (1) as a dividend or other distribution on, or as consideration for the repurchase of, shares of CD Stock or (2) as consideration to acquire any assets or satisfy any liabilities attributed to Cendant Group.

#### 6. Additional Definitions.

As used in this Article 4, the following terms shall have the following meanings (with terms defined in singular having comparable meaning when used in the plural and vice versa), unless the context otherwise requires:

"All or Substantially All of the Assets" of either Group means a portion of such assets that represents at least 80% of the then-current Fair Value of the assets of such Group, which for Cendant Group includes the value of its Retained Interest in Move.com Group.

"Available Dividend Amount" for Cendant Group, on any day on which dividends are paid on shares of CD Stock, is the amount that would, immediately prior to the payment of such dividends, be legally available for the payment of dividends on shares of CD Stock under Delaware law if (a) Cendant Group and Move.com Group were each a separate Delaware corporation, (b) Cendant Group had outstanding (i) a number of shares of common stock, par value \$0.01 per share, equal to the number of shares of CD Stock that are then outstanding and (ii) a number of shares of

preferred stock, par value \$0.01 per share, equal to the number of shares of Preferred Stock that have been attributed to Cendant Group and are then outstanding, (c) the assumptions about Move.com Group set forth in the next sentence were true and (d) Cendant Group owned a number of shares of Move.com Stock equal to the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group.

"Available Dividend Amount" for Move.com Group, on any day on which dividends are paid on shares of Move.com Stock, is the amount that would, immediately prior to the payment of such dividends, be legally available for the payment of dividends on shares of Move.com Group's common stock under Delaware law if Move.com Group were a separate Delaware corporation having outstanding (a) a number of shares of common stock, par value \$0.01 per share, equal to the number of shares of Move.com Stock that are then outstanding plus the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group and (b) a number of shares of preferred stock, par value \$0.01 per share, equal to the number of shares of Preferred Stock that have been attributed to Move.com Group and are then outstanding.

"Cendant Group" means (a) all of the businesses, assets and liabilities of the Corporation and its subsidiaries, other than the businesses, assets and liabilities that are part of Move.com Group, (b) the rights and obligations of Cendant Group under any inter-Group debt deemed to be owed to or by Cendant Group (as such rights and obligations are defined in accordance with policies established from time to time by the Board of Directors) and (c) a proportionate interest in Move.com Group (after giving effect to any options, Preferred Stock, other securities or debt issued or incurred by the Corporation and attributed to Move.com Group) equal to the Retained Interest Percentage; provided, however, that:

(1) the Corporation may re-allocate assets from one Group to the other Group in return for other assets or services rendered by that other Group in the ordinary course of business or in accordance with policies established by the Board of Directors, or a committee thereof, from time to time, and

(2) if the Corporation transfers cash, other assets or securities to holders of shares of Move.com Stock as a dividend or other distribution on shares of Move.com Stock (other than a dividend or distribution payable in shares of Move.com Stock), or as payment in a redemption of shares of Move.com Stock required by Section 3(a) of this Article 4(A), then the Board of Directors shall re-allocate from Move.com Group to Cendant Group cash or other assets having a Fair Value equal to the aggregate Fair Value of the cash, other assets or securities so transferred multiplied by a fraction, the numerator of which shall equal the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group on the record date for such dividend or distribution, or on the date of such redemption, and the denominator of which shall equal the number of shares of Move.com Stock outstanding on such date.

"Disposition" means a sale, transfer, assignment or other disposition (whether by merger, consolidation, sale or otherwise) of All or Substantially All of the Assets of a Group to one or more persons or entities, in one transaction or a series of related transactions.

"Effective Date" means the date on which this Amended and Restated Certificate of Incorporation becomes effective under Delaware law.

"Exempt Disposition" means any of the following:

- (2) a Disposition in connection with the liquidation, dissolution or winding-up of the Corporation and the distribution of assets to stockholders,
- (3) a Disposition to any person or entity controlled by the Corporation (as determined by the Board of Directors in its sole discretion),
- (4) a Disposition by either Group for which the Corporation receives consideration primarily consisting of equity

securities (including, without limitation, capital stock of any kind, interests in a general or limited partnership, interests in a limited liability company or debt securities convertible into or exchangeable for, or options or warrants to acquire, any of the foregoing, in each case without regard to the voting power or other management or governance rights associated therewith) of an entity which is primarily engaged or proposes to engage primarily in one or more businesses similar or complementary to businesses conducted by such Group prior to the Disposition, as determined by the Board of Directors in its sole discretion,

(5) a dividend, out of Move.com Group's assets, to holders of Move.com Stock and a re-allocation of a corresponding amount of Move.com Group's assets to Cendant Group as required pursuant to clause (ii) of the proviso to the definition of Cendant Group above,

(6) a dividend, out of Cendant Group's assets, to holders of CD Stock, and

(7) any other Disposition, if (i) at the time of the Disposition there are no shares of CD Stock outstanding, (ii) at the time of the Disposition there are no shares of Move.com Stock outstanding or (iii) before the 30th Trading Day following the Disposition the Corporation has mailed a notice stating that it is exercising its right to exchange all of the outstanding shares of CD Stock or Move.com Stock for newly issued shares of the other series of Common Stock as contemplated under Section 3(b) of this Article 4.

"Fair Value" means (a) in the case of cash, the amount thereof, (b) in the case of capital stock that has been Publicly Traded for a period of at least 15 months, the Market Value thereof and (c) in the case of other assets or securities, the fair market value thereof as the Board of Directors shall determine in good faith (which determination shall be conclusive and binding on all stockholders).

"Group" means either Cendant Group or Move.com Group.



"Market Capitalization" of either series of Common Stock on any date means the Market Value of a share of such series on such date multiplied by the number of shares of such series outstanding on such date.

"Market Value" of a share of any class or series of capital stock on any Trading Day means the average of the high and low reported sales prices regular way of a share of such class or series on such Trading Day or, in case no such reported sale takes place on such Trading Day, the average of the reported closing bid and asked prices regular way of a share of such class or series on such Trading Day, in either case as reported on the New York Stock Exchange ("NYSE") Composite Tape or, if the shares of such class or series are not listed or admitted to trading on the NYSE on such Trading Day, on the principal national securities exchange on which the shares of such class or series are listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange on such Trading Day, on The Nasdaq National Market of the Nasdaq Stock Market ("Nasdaq NMS") or, if the shares of such class or series are not listed or admitted to trading on any national securities exchange or quoted on the Nasdaq NMS on such Trading Day, the average of the closing bid and asked prices of a share of such class or series in the over-the-counter market on such Trading Day as furnished by any NYSE member firm selected from time to time by the Corporation, or, if such closing bid and asked prices are not made available by any such NYSE member firm on such Trading Day, or if such class or series of stock is not listed on the NYSE, a national securities exchange, or the Nasdaq NMS or quoted in the over-the-counter market, the fair market value of a share of such class or series as the Board of Directors shall determine in good faith (which determination shall be conclusive and binding on all stockholders); provided, that, for purposes of determining the average Market Value of a share of any class or series of capital stock for any period, (a) the "Market Value" of a share of any class or series of capital stock on any day prior to any "ex-dividend" date or any similar date occurring during such period for any dividend or distribution (other than any dividend or distribution contemplated by clause (b)(ii) of this sentence) paid or to be paid with respect to such capital stock shall be reduced by the Fair Value of the per share amount of such dividend or distribution and (b) the "Market Value" of a share of any class or series of capital stock on any day prior to (i) the effective date of any subdivision (by stock split or otherwise) or

combination (by reverse stock split or otherwise) of outstanding shares of such class or series of capital stock occurring during such period or (ii) any "ex-dividend" date or any similar date occurring during such period for any dividend or distribution with respect to such capital stock to be made in shares of such class or series of capital stock, shall be appropriately adjusted, as determined by the Board of Directors, to reflect such subdivision, combination, dividend or distribution; and provided further, if (a) the Corporation repurchases outstanding shares of Move.com Stock and the Board of Directors attributes that repurchase (and the consideration therefor) to Move.com Group and (b) the Board of Directors determines to reallocate to Cendant Group cash or other assets theretofore allocated to Move.com Group in order to avoid a change in the Retained Interest Percentage, the "Market Value" of a share Move.com Stock used to compute the corresponding reduction in the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group shall equal the Fair Value of the consideration paid per share of Move.com Stock so repurchased; and provided further, if the Corporation redeems a portion of the outstanding shares of Move.com Stock (and the Board of Directors reallocates to Cendant Group cash or other assets theretofore allocated to Move.com Group in the manner required by clause (ii) of the proviso to the definition of Cendant Group below), the "Market Value" of a share Move.com Stock used to compute the corresponding reduction in the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group shall equal the Fair Value of the consideration paid per share of Move.com Stock so redeemed.

"Move.com Group" means (a) the internet real estate services portal called Move.com, including all of the businesses, assets and liabilities of the Corporation and its subsidiaries that the Board of Directors has, as of the Effective Date, allocated to Move.com Group, (b) any assets or liabilities acquired or incurred by the Corporation or any of its subsidiaries after the Effective Date in the ordinary course of business and attributable to Move.com Group, (c) any businesses, assets or liabilities acquired or incurred by the Corporation or any of its subsidiaries after the Effective Date that the Board of Directors has specifically allocated to Move.com Group or that the Corporation otherwise allocates to Move.com Group in accordance with policies established from time to time by the Board of Directors and (d) the rights and obligations of

Move.com Group under any inter-Group debt deemed to be owed to or by Move.com Group (as such rights and obligations are defined in accordance with policies established from time to time by the Board of Directors); provided, however, that:

(1) the Corporation may re-allocate assets from one Group to the other Group in return for other assets or services rendered by that other Group in the ordinary course of business or in accordance with policies established by the Board of Directors from time to time, and

(2) if the Corporation transfers cash, other assets or securities to holders of shares of Move.com Stock as a dividend or other distribution on shares of Move.com Stock (other than a dividend or distribution payable in shares of Move.com Stock), or as payment in a redemption of shares of Move.com Stock required by Section 3(a) of this Article 4(A), then the Board of Directors shall re-allocate from Move.com Group to Cendant Group cash or other assets having a Fair Value equal to the aggregate Fair Value of the cash, other assets or securities so transferred multiplied by a fraction, the numerator of which shall equal the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group on the record date for such dividend or distribution, or on the date of such redemption, and the denominator of which shall equal the number of shares of Move.com Stock outstanding on such date.

"Net Proceeds" of a Disposition of any of the assets of a Group means the positive amount, if any, remaining from the gross proceeds of such Disposition after any payment of, or reasonable provision (as determined in good faith by the Board of Directors, which determination shall be conclusive and binding on all stockholders) for, (a) any taxes payable by the Corporation in respect of such Disposition, (b) any taxes payable by the Corporation in respect of any resulting dividend or redemption, (c) any transaction costs, including, without limitation, any legal, investment banking and accounting fees and expenses and (d) any

liabilities (contingent or otherwise) of, attributed to or related to, such Group, including, without limitation, any liabilities for deferred taxes, any indemnity or guarantee obligations which are outstanding or incurred in connection with the Disposition or otherwise, any liabilities for future purchase price adjustments and any obligations with respect to outstanding securities (other than Move.com Stock) attributed to such Group.

"Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group" shall initially be a number the Board of Directors designates prior to the time the Corporation first issues shares of Move.com Stock, or options therefor, as the number of shares of Move.com Stock that could be issued by the Corporation for the account of Cendant Group in respect of its Retained Interest in Move.com Group; provided, however, that such number as in effect from time to time shall automatically be adjusted as required by Section 6 of this Article 4(A).

"Proportionate Interest" of holders of Move.com Stock in the Net Proceeds of a Move.com Group Disposition (or in the outstanding shares of common stock of any subsidiaries holding Move.com Group's assets and liabilities) means the amount of such Net Proceeds (or the number of such shares) multiplied by the number of shares of Move.com Stock outstanding divided by the Total Number of Notional Move.com Shares Deemed Outstanding. "Proportionate Interest" of holders of CD Stock in the Net Proceeds of a Cendant Group Disposition (or in the outstanding shares of common stock of any subsidiaries holding Cendant Group's assets and liabilities) means the amount of such Net Proceeds (or the number of such shares) multiplied by the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group divided by the Total Number of Notional Move.com Shares Deemed Outstanding.

"Publicly Traded" with respect to any security means (a) registered under Section 12 of the Securities Exchange Act of 1934, as amended (or any successor provision of law), and (b) listed for trading on the NYSE (or any other national securities exchange registered under Section 7 of the Securities Exchange Act of 1934, as amended (or any successor provision of law)) or listed on the Nasdaq NMS (or any successor market system).

"Retained Interest" means Cendant Group's interest in Move.com Group, excluding the interest represented by outstanding shares of Move.com Stock.

"Retained Interest Percentage" means the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group divided by the Total Number of Notional Move.com Shares Deemed Outstanding.

"Total Number of Notional Move.com Shares Deemed Outstanding" means the number of shares of Move.com Stock outstanding plus the Number of Shares Issuable with Respect to Cendant Group's Retained Interest in Move.com Group.

"Trading Day" means each weekday on which the relevant security (or, if there are two relevant securities, each relevant security) is traded on the principal national securities exchange on which it is listed or admitted to trading or on the Nasdaq NMS or, if such security is not listed or admitted to trading on a national securities exchange or quoted on the Nasdaq NMS, traded in the principal over-the-counter market in which it trades.

7. Effectiveness of Sections 2 Through 7 of this Article 4(A).

The terms of Sections 2 through 7, inclusive, of this Article 4(A) shall apply only when there are shares of both series of Common Stock outstanding.

8. Determinations by the Board of Directors.

Subject to applicable law, any determinations made by the Board of Directors in good faith under the Certificate of Incorporation, as it may be amended from time to time, including without limitation any such determinations with respect to the businesses, assets and liabilities of either Group, transactions between the Groups or the rights of holders of any series of Common Stock or Preferred Stock made pursuant to or in the furtherance hereof, shall be final and binding on all stockholders of the Corporation. A record of all formal determinations of the Board of Directors made as contemplated hereby shall be filed with the records of the actions of the Board of Directors.

## B. Preferred Stock

The Board of Directors is expressly authorized to adopt, from time to time, a resolution or resolutions providing for the issuance of Preferred Stock in one or more series, to fix the number of shares in each such series (subject to the aggregate limitations thereon in this Article) and to fix the designations and the powers, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions, of each such series. The authority of the Board of Directors with respect to each such series shall include determination of the following (which may vary as between the different series of Preferred Stock):

- (a) The number of shares constituting the shares and the distinctive designation of the series;
- (b) The dividend rate on the shares of the series and the extent, if any, to which dividends thereon shall be cumulative;
- (c) Whether shares of the series shall be redeemable and, if redeemable, the redemption price payable on redemption thereof, which price may, but need not, vary according to the time or circumstances of such redemption;
- (d) The amount or amounts payable upon the shares of the series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation prior to any payment or distribution of the assets of the Corporation to any class or classes of stock of the Corporation ranking junior to the Preferred Stock;
- (e) Whether the shares of the series shall be entitled to the benefit of a sinking or retirement fund to be applied to the purchase or redemption of shares of the series and, if so entitled, the amount of such fund and the manner of its application, including the price or prices at which the shares may be redeemed or purchased through the application of such fund;
- (f) Whether the shares of the series shall be convertible into, or exchangeable for, shares of any other class or classes or of any

other series of the same or any other class or classes of stock of the Corporation, and, if so convertible or exchangeable, the conversion price or prices, or the rates of exchange, and the adjustments thereof, if any, at which such conversion or exchange may be made, and any other terms and conditions of such conversion or exchange;

(g) The extent, if any, to which the holders of shares of the series shall be entitled to vote on any question or in any proceedings or to be represented at or to receive notice of any meeting of stockholders of the Corporation;

(h) Whether, and the extent to which, any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any such series may be made dependent upon facts ascertainable outside of the Amended and Restated Certificate of Incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issuance of such series adopted by the Board of Directors, provided that the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such series is clearly and expressly set forth in the resolution or resolutions providing for the issuance of such series adopted by the Board of Directors; and

(i) Any other preferences, privileges and powers and relative, participating, optional or other special rights, and qualifications, limitations or restrictions of such series, as the Board of Directors may deem advisable, which shall not affect adversely any other class or series of Preferred Stock at the time outstanding and which shall not be inconsistent with the provisions of this Amended and Restated Certificate of Incorporation.

Shares of Common Stock and of Preferred Stock may be issued from time to time as the Board of Directors shall determine and on such terms and for such consideration, not less than par value, as shall be fixed by the Board of Directors. No consent by any series of Preferred Stock shall be required for the

issuance of any other series of Preferred Stock unless the Board of Directors in the resolution providing for the issuance of any series of Preferred Stock expressly provides that such consent shall be required.

Subject to the rights, if any, of holders of shares of Preferred Stock from time to time outstanding, dividends may be paid upon the Common Stock as and when declared by the Board of Directors out of any funds legally available therefor.

Except as otherwise provided by law or as otherwise expressly provided in the resolution or resolutions providing for the issuance of shares of any series of the Preferred Stock, the holders of shares of the Common Stock shall have the exclusive right to vote for the election of directors and for all other purposes. Each holder of shares of Common Stock of the Corporation entitled at any time to vote shall have one vote for each share thereof held. Except as otherwise provided with respect to shares of Preferred Stock authorized from time to time by the Board of Directors, the exclusive voting power for all purposes shall be vested in the holders of shares of Common Stock.

5. The Corporation is to have perpetual existence.
6. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:
  - (a) To make, alter, or repeal the By-Laws of the Corporation.
  - (b) To authorize and cause to be executed mortgages and liens upon the real and personal property of the Corporation.
  - (c) To set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and to abolish any such reserve in the manner in which it was created.
  - (d) Subject to the provisions of the By-Laws, to designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Subject to the provisions of the By-Laws, the Board of Directors may designate one or more directors as alternate members of any committee, who



shall replace any absent or disqualified member at any meeting of the committee in the manner specified in such designation. Any such committee, to the extent provided in the resolution of the Board of Directors adopted in accordance with the By-Laws of the Corporation, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to amending the Amended and Restated Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution, or amending the By-Laws of the Corporation; and, unless the resolution or By-Laws expressly so provide, no such committee shall have the power or authority to declare a dividend or to authorize the issuance of stock.

(e) When and as authorized by the stockholders in accordance with statute, to sell, lease, or exchange all or substantially all of the property and assets of the Corporation, including its goodwill and its corporate franchises, upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, including shares of stock in, and/or other securities of, any other corporation or corporations, as its Board of Directors shall deem expedient and for the best interests of the Corporation.

7. Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof, or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions of Section 279 of Title 8 of the Delaware Code, order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, to be summoned in

such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of this Corporation, as the case may be, agree to any compromise or arrangement to any reorganization of this Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders of this Corporation, as the case may be, and also on this Corporation.

8. Meetings of stockholders may be held within or without the State of Delaware, as the By-Laws may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the By-Laws of the Corporation. Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall so provide.

9. For the management of the business and for the conduct of the affairs of the Corporation, and in further creation, definition, limitation and regulation of the power of the Corporation and of its directors and of its stockholders, it is further provided:

(a) Election of Directors. Elections of Directors need not be by written ballot unless the By-Laws of the Corporation shall so provide.

(b) Number, Election and Terms of Directors. The number of Directors of the Corporation shall be fixed from time to time by or pursuant to the By-laws. From and after the annual meeting of stockholders to be held in 2004, the Directors shall hold office for a term expiring at the annual meeting of stockholders to be held in the year following the year of their election, with the members to hold office until their successors are elected and qualified; provided that the term of any Director appointed prior to the annual meeting of stockholders held in 2004 shall be unaffected. At each annual meeting of the stockholders of the Corporation, the Directors whose term expires at that meeting shall

be elected to office for a term expiring at the annual meeting of stockholders held in the year following the year of their election.

(c) Stockholder Nomination of Director Candidates. Advance notice of nominations for the election of Directors, other than by the Board of Directors or a Committee thereof, shall be given in the manner provided in the By-Laws.

(d) Newly Created Directorships and Vacancies. Newly created directorships resulting from any increase in the number of Directors and any vacancies on the Board of Directors resulting from the death, resignation, disqualification, or removal of a director shall be filled solely by the affirmative vote of the majority of the remaining Directors then in office, even though less than a quorum of the Board of Directors. Any Director elected (a) to fill any vacancy resulting from the death, resignation, disqualification or removal of a Director shall hold office for the remainder of the full term of the Director whose death, resignation, disqualification or removal created such vacancy or (b) to fill any vacancy resulting from a newly created directorship shall hold office until the next annual meeting of stockholders and, in each case, until such Director's successors shall have become elected and qualified. No decrease in the number of Directors constituting the Board of Directors shall shorten the term of any incumbent Director.

(e) Removal of Directors. Any Director may be removed from office with or without cause only by the affirmative vote of the holders of a majority of the combined voting power of the then outstanding shares of stock entitled to vote generally in the election of Directors voting together as a single class.

(f) Stockholder Action. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders. Except as otherwise required by law, special meetings of stockholders of the Corporation may be called only by the Chairman of the Board, the President or the Board of Directors

pursuant to a resolution approved by a majority of the entire Board of Directors.

(g) By-Law Amendments. The Board of Directors shall have power to make, alter, amend and repeal the By-Laws (except so far as the By-Laws adopted by the stockholders shall otherwise provide). Any By-Laws made by the Directors under the powers conferred hereby may be altered, amended or repealed by the Directors or by the stockholders. Notwithstanding the foregoing and anything contained in this Restated Certificate of Incorporation to the contrary, Sections 1, 2 and 3 of Article II of the By-Laws shall not be altered, amended or repealed and no provision inconsistent therewith shall be adopted without the affirmative vote of the holders of at least 80% of the voting power of all the shares of the Corporation entitled to vote generally in the election of Directors, voting together as a single class and Sections 1, 2 and 3 of Article III of the By-Laws shall not be altered, amended or repealed and no provision inconsistent therewith shall be adopted without the affirmative vote of the holders of at least a majority of the voting power of all shares of the Corporation entitled to vote generally in the election of Directors, voting together as a single class.

(h) Amendment, Repeal. Notwithstanding anything contained in this Restated Certificate of Incorporation to the contrary, the affirmative vote of the holders of at least 80% of the voting power of all shares of the Corporation entitled to vote generally in the election of Directors, voting together as a single class, shall be required to alter, amend, or adopt any provision inconsistent with, or repeal, Article 9 a., c., d., f., g., or h.

10. (a) Vote Required for Certain Business Combinations.

A. Higher Vote for Certain Business Combinations. In addition to any affirmative vote required by law or this Amended and Restated Certificate of Incorporation, and except as otherwise expressly provided herein:

(1) any merger or consolidation of the Corporation or any Subsidiary (as hereinafter defined) with (a) any Interested Stockholder (as hereinafter defined) or (b) any other corporation (whether or not itself an Interested Stockholder) which is, or after such merger or consolidation would be, an Affiliate (as hereinafter defined) of an Interested Stockholder; or

(2) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) to or with any Interested Stockholder or any Affiliate of any Interested Stockholder of any assets of the Corporation or any Subsidiary having an aggregate Fair Market Value of \$10 million or more; or

(3) the issuance or transfer by the Corporation or any Subsidiary (in one transaction or series of transactions) of any securities of the Corporation or any subsidiary to any Interested Stockholder or to any Affiliate of any Interested Stockholder in exchange for cash, securities or other property (or a combination thereof) having an aggregate Fair Market Value of \$10 million or more; or

(4) the adoption of any plan or proposal for the liquidation or dissolution of the Corporation proposed by or on behalf of any Interested Stockholder or any Affiliate of any Interested Stockholder; or

(5) any reclassification of securities (including any reverse stock split), or recapitalization of the Corporation, or any merger or consolidation of the Corporation with any of its Subsidiaries or any other transaction (whether or not with or into or otherwise involving an Interested Stockholder) which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class of Equity Security (as hereinafter defined) of the Corporation or any Subsidiary

which is directly or indirectly owned by any Interested Stockholder or any Affiliate of any Interested Stockholder;

shall require the affirmative vote of the holders of at least 80% of the voting power of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), voting together as a single class (it being understood that for the purposes of Article 10, each share of the Voting Stock shall have one vote). Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may be specified, by law or in any agreement with any national securities exchange or otherwise.

B. Definition of "Business Combination". The term "Business Combination" used in this Article 10 shall mean any transaction which is referred to in any one or more of clauses (1) through (5) of Paragraph A hereof.

(b) When Higher Vote is Not Required. The provisions of Article 10(a) shall not be applicable to any particular Business Combination, and such Business Combination shall require only such affirmative vote as is required by law and any other provision of this Amended and Restated Certificate of Incorporation, if all of the conditions specified in either of the following Paragraphs A and B are met:

A. Approval by Disinterested Directors. The Business Combination shall have been approved by majority of the Disinterested Directors (as hereinafter defined).

B. Price and Procedure Requirements. All of the following conditions shall have been met:

(i) The aggregate amount of the cash and the Fair Market Value (as hereinafter defined) as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by

holders of Common Stock in such Business Combination shall be at least equal to the higher of the following:

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it (1) within the two-year period immediately prior to the first public announcement of the terms of the proposed Business Combination (the "Announcement Date") or (2) in the transaction in which it became an Interested Stockholder, whichever is higher; and

(b) the Fair Market Value per share of Common Stock on the Announcement Date or on the date on which the Interested Stockholder became an Interested Stockholder (such latter date is referred to in this Paragraph 10 as the "Determination Date"), whichever is higher.

(ii) The aggregate amount of the cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of shares of any other class of outstanding Voting Stock shall be at least equal to the higher of the following:

(a) (if applicable) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by the Interested Stockholder for any shares of Common Stock acquired by it (1) within the two-year period immediately prior to the Announcement Date or (2) in the transaction in which it became an Interested Stockholder, whichever is higher; and

(b) the Fair Market Value per share of such class of Voting Stock on the Announcement Date or on the Determination Date, whichever is higher.

(iii) The consideration to be received by holders of Voting Stock shall be in cash or in the same form as the Interested Stockholder has previously paid for shares of such class of Voting Stock. If the Interested Stockholder has paid for any Voting Stock with varying forms of consideration, the form of consideration for such Voting Stock shall be either cash or the form used to acquire the largest number of shares of such Voting Stock previously acquired by it. The price determined in accordance with paragraphs B(i) and B(ii) of this Article 10(b) shall be subject to appropriate adjustment in the event of any stock dividend, stock split, combination of shares or similar event.

(iv) After such Interested Stockholder has become an Interested Stockholder and prior to the consummation of such Business Combinations: (a) there shall have been (1) no reduction in the annual rate of dividends paid on the Common Stock (except as necessary to reflect any subdivision of the Common Stock), except as approved by a majority of the Disinterested Directors, and (2) an increase in such annual rate of dividends as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization or any similar transaction which has the effect of reducing the number of outstanding shares of the Common Stock, unless the failure so to increase such annual rate is approved by a majority of the Disinterested Directors; and (b) such Interested Stockholder shall have not become the beneficial owner of any additional shares of Voting Stock except as part of the transaction which results in such Interested Stockholder becoming an Interested Stockholder.

(c) Certain Definitions. For the purpose of this Article 10:

A. A "person" shall mean any individual, firm, corporation or other entity.



B. "Interested Stockholder" shall mean any person (other than the Corporation or any Subsidiary) who or which:

(i) is the beneficial owner, directly or indirectly, of 5% or more of the voting power of the outstanding Voting Stock; or

(ii) is an Affiliate of the Corporation and at any time within the two-year period immediately prior to the date in question was the beneficial owner, directly or indirectly, of 5% or more of the voting power of the then outstanding Voting Stock; or

(iii) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were at any time within the two-year period immediately prior to the date in question beneficially owned by any Interested Stockholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933.

C. A person shall be a "beneficial owner" of any Voting Stock:

(i) which such person or any of its Affiliates or Associates (as hereinafter defined) beneficially owns directly or indirectly; or

(ii) which such person or any of its Affiliates or Associates has (a) the right to acquire (whether such right is exercisable immediately or only after the passage of time), pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, or (b) the right to vote pursuant to any agreement, arrangement or understanding; or

(iii) which are beneficially owned, directly or indirectly, by any other person with which such

person or any of its Affiliates or Associates has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of Voting Stock.

D. For the purpose of determining whether a person is an interested Stockholder pursuant to paragraph B of this Article 10(c), the number of shares of Voting Stock deemed to be outstanding shall include shares deemed owned through application of paragraph C of the Article 10(c) but shall not include any other shares of Voting Stock which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

E. "Affiliate" or "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the Securities Exchange Act of 1934, as in effect on January 1, 1985.

F. "Subsidiary" means any corporation of which a majority of any class of Equity Security is owned, directly or indirectly, by the Corporation, provided, however, that for the purposes of the definition of Interested Stockholder set forth in paragraph B of this Article 10(c), the term "Subsidiary" shall mean only a corporation of which a majority of each class of Equity Security is owned, directly or indirectly, by the Corporation.

G. "Disinterested Director" means any member of the Board of Directors who is unaffiliated with the Interested Stockholder and was a member of the Board of Directors prior to the time that the Interested Stockholder became an Interested Stockholder, and any successor of a Disinterested Director who is unaffiliated with the Interested Stockholder and is recommended to succeed a Disinterested Director by a majority of Disinterested Directors then on the Board of Directors.

H. "Fair Market Value" means: (i) in the case of stock, the highest closing bid quotation with respect to a share of such stock during the 30-day period preceding the date in question on

the National Association of Securities Dealers, Inc. Automated Quotation System or any system then in use, or, if such stock is then listed on an exchange, the highest closing sale price during the 30-day period immediately preceding the date in question of a share of such stock on the Composite Tape for New York Stock Exchange—Listed Stocks, or, if such stock is not quoted on the Composite Tape, on the New York Stock Exchange, or, if such stock is not listed on such Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is not listed on any such exchange or quoted as aforesaid, the fair market value on the date in question of a share of such stock as determined by the Board of Directors in good faith; and (ii) in the case of property other than cash or stock, the fair market value of such property on the date in question as determined by the Board of Directors, in good faith.

I. In the event of any Business Combination in which the Corporation survives, the phrase "consideration other than cash to be received" as used in paragraphs B(i) and (ii) of Article 10(b) shall include the shares of Common Stock retained by the holders of such shares.

J. "Equity Security" shall have the meaning ascribed to such term in Section 3(a)(11) of the Securities Exchange Act of 1934, as in effect on January 1, 1985.

(d) *Powers of the Board of Directors.* A majority of the Directors shall have the power and duty to determine for the purposes of this Article 10 on the basis of information known to them after reasonable inquiry, (A) whether a person is an Interested Stockholder, (B) the number of shares of Common Stock beneficially owned by any person, (C) whether a person is an Affiliate or Associate of another (D) whether the assets which are the subject of any Business Combination have, or the consideration to be received for an issuance or transfer of securities by the Corporation or any Subsidiary in any Business Combination has, or an issuance or transfer of securities by the Corporation or any Subsidiary in any Business Combination has,

an aggregate Fair Market Value of \$10 million or more. A majority of the Directors shall have the further power to interpret all of the terms and provisions of this Article 10.

(e) No Effect on Fiduciary Obligations of Interested Shareholders. Nothing contained in this Article 10 shall be construed to relieve any Interested Stockholder from any fiduciary obligation imposed by law.

(f) Amendment, Repeal, etc. Notwithstanding any other provisions of this Amended and Restated Certificate of Incorporation or the By-Laws (and notwithstanding the fact that a lesser percentage may be specified by law, this Amended and Restated Certificate of Incorporation or the By-Laws) the affirmative vote of the holders of 80% or more of the outstanding Voting Stock, voting together as a single class, shall be required to amend or repeal, or adopt any provisions inconsistent with this Article 10.

11. No director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty by such director as a director; provided, however, that this Article 11 shall not eliminate or limit the liability of a director to the extent provided by applicable law (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived an improper personal benefit. No amendment to or repeal of this Article 11 shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

IN WITNESS WHEREOF, the Corporation has caused this Amended and Restated Certificate of Incorporation to be executed this 26<sup>th</sup> day of April, 2004.

CENDANT CORPORATION

By: /s/ ERIC J. BOCK

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Name: Eric J. Bock  
Title: Executive Vice President,  
Law and Corporate Secretary

QuickLinks

[Exhibit 3.1](#)

[AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF CENDANT CORPORATION](#)

**AMENDED AND RESTATED BY-LAWS**  
**(As of April 20, 2004)**  
**OF**  
**CENDANT CORPORATION**  
**(the "Corporation")**

**ARTICLE I.**  
**Offices**

SECTION 1. Offices.

The registered office of the Corporation in the State of Delaware shall be in the City of Wilmington, County of New Castle, State of Delaware.

The Corporation shall have offices at such other places as the Board of Directors may from time to time determine.

**ARTICLE II.**  
**Stockholders**

SECTION 1. Annual Meeting.

The annual meeting of the stockholders for the election of Directors and for the transaction of such other business as may properly come before the meeting shall be held at such place, within or without the State of Delaware, and hour as shall be determined by the Board of Directors. The day, place and hour of each annual meeting shall be specified in the notice of annual meeting.

The meeting may be adjourned from time to time and place to place until its business is completed.

At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (b) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (c) otherwise properly brought before the meeting by a stockholder. For business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation, not less than sixty days nor more than ninety days prior to the meeting; provided, however, that in the event that less than seventy days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the tenth day following the date on which such notice of the date of the annual meeting was mailed or such public disclosure was made. A stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting: (a) a brief description of the business desired to be brought before the annual meeting, (b) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business, (c) the class and

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number of shares of the Corporation which are beneficially owned by the stockholder, and (d) any material interest of the stockholder in such business. Notwithstanding anything in the By-Laws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this Section 1. The presiding officer of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the provisions of this Section 1, and if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

## SECTION 2. Special Meeting.

Except as otherwise required by law, special meetings of the stockholders may be called only by the Chairman of the Board, the President, or the Board of Directors pursuant to a resolution approved by a majority of the entire Board of Directors.

## SECTION 3. Stockholder Action; How Taken.

Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders.

## SECTION 4. Notice of Meeting.

Notice of every meeting of the stockholders shall be given in the manner prescribed by law.

## SECTION 5. Quorum.

Except as otherwise required by law, the Certificate of Incorporation or these By-Laws, the holders of not less than one-third of the shares entitled to vote at any meeting of the stockholders, present in person or by proxy, shall constitute a quorum and the act of the majority of such quorum shall be deemed the act of the stockholders.

If a quorum shall fail to attend any meeting, the chairman of the meeting may adjourn the meeting to another place, date or time.

If a notice of any adjourned special meeting of stockholders is sent to all stockholders entitled to vote thereat, stating that it will be held with those present constituting a quorum, then, except as otherwise required by law, those present at such adjourned meeting shall constitute a quorum and all matters shall be determined by a majority of votes cast at such meeting.

## SECTION 6. Qualification of Voters.

The Board of Directors (hereinafter sometimes referred to as the "Board") may fix a day and hour not more than sixty nor less than ten days prior to the day of holding any meeting of the stockholders as the time which the stockholders entitled to notice of and to vote at such meeting shall be determined. Only those persons who were holders of record of voting stock at such time shall be entitled to notice of and to vote at such meeting.

## SECTION 7. Procedure.

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The order of business and all other matters of procedure at every meeting of the stockholders may be determined by the presiding officer.

The Board shall appoint two or more Inspectors of Election to serve at every meeting of the stockholders at which Directors are to be elected.

### **ARTICLE III. Directors**

#### **SECTION 1. Number, Election and Terms.**

The number of Directors shall be fixed from time to time by the Board of Directors but shall not be less than three. From and after the annual meeting of stockholders to be held in 2004, the Directors shall hold office for a term expiring at the annual meeting of stockholders to be held in the year following their election with each member to hold office until their successors are elected and qualified; provided that the term of any Director appointed prior to the annual meeting of stockholders to be held in 2004 shall be unaffected. At each annual meeting of stockholders, the successors of the Directors whose term expires at that meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders held in the year following the year of their election.

The term "entire Board" as used in these By-Laws means the total number of Directors which the Corporation would have if there were no vacancies.

Nominations for the election of Directors may be made by the Board of Directors or a committee appointed by the Board of Directors or by any stockholder entitled to vote in the election of Directors generally. However, any stockholder entitled to vote in the election of Directors generally may nominate one or more persons for election as Directors at a meeting only if written notice of such stockholder's intent to make such nomination or nominations has been given, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Corporation not later than (i) with respect to an election to be held at an annual meeting of stockholders, ninety days prior to the anniversary date of the immediately preceding annual meeting, and (ii) with respect to an election to be held at a special meeting of stockholders for the election of Directors, the close of business on the tenth day following the date on which notice of such meeting is first given to stockholders. Each such notice shall set forth: (a) the name and address of the stockholder who intends to make the nomination and of the person or persons to be nominated; (b) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (c) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (d) such other information regarding each nominee proposed by such stockholder as would be required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission; and (e) the consent of each nominee to serve as a Director of the Corporation of so elected. The presiding officer of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedure.

#### **SECTION 2. Newly Created Directorships and Vacancies.**

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Newly created directorships resulting from any increase in the number of Directors and any vacancies on the Board of Directors resulting from the death, resignation, disqualification, or removal of a director shall be filled solely by the affirmative vote of a majority of the remaining Directors then in office, even though less than a quorum of the Board of Directors. Any Directors elected (a) to fill any vacancy resulting from the death, resignation, disqualification or removal of a Director shall hold office for the remainder of the full term of the Director whose death, resignation, disqualification or removal created such vacancy and (b) to fill any vacancy resulting from a newly created directorship shall hold office until the next annual meeting of stockholders. And, in each case, until such Director's successor shall have been elected and qualified. No decrease in the number of Directors constituting the Board of Directors shall shorten the term of any incumbent Director.

#### SECTION 3. Removal.

Any Director may be removed from office, with or without cause, only by the affirmative vote of the holders of a majority of the combined voting power of the then outstanding shares of stock entitled to vote generally in the election of Directors, voting together as a single class.

#### SECTION 4. Regular Meetings.

Regular meetings of the Board shall be held at such times and places as the Board may from time to time determine.

#### SECTION 5. Special Meetings.

Special meetings of the Board may be called at any time, at any place and for any purpose by the Chairman of the Executive Committee, the Chairman of the Board, or the President, or by any officer of the Corporation upon the request of a majority of the entire Board.

#### SECTION 6. Notice of Meeting.

Notice of regular meetings of the Board need not be given.

Notice of every special meeting of the Board shall be given to each Director at his usual place of business, or at such other address as shall have been furnished by him for the purpose. Such notice shall be given at least twenty-four hours before the meeting by telephone or by being personally delivered, mailed, or telegraphed. Such notice need not include a statement of the business to be transacted at, or the purpose of, any such meeting.

#### SECTION 7. Quorum.

Except as may be otherwise provided by law or in these By-Laws, the presence of a majority of the Board shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board, and the act of a majority of such quorum shall be deemed the act of the Board.

Less than a quorum may adjourn any meeting of the Board from time to time without notice.

#### SECTION 8. Participation In Meetings By Conference Telephone.

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Members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

#### SECTION 9. Powers.

The business, property and affairs of the Corporation shall be managed by or under the direction of its Board of Directors, which shall have and may exercise all the powers of the Corporation to do all such lawful acts and things as are not by law, or by the Certificate of Incorporation, or by these By-Laws, directed or required to be exercised or done by the stockholders.

#### SECTION 10. Compensation of Directors.

Directors shall receive such compensation for their services as shall be determined by a majority of the Board provided that Directors who are serving the Corporation as officers or employees and who receive compensation for their services as such officers or employers shall not receive any salary or other compensation for their services as Directors.

### **ARTICLE IV. Officers**

#### SECTION 1. Number.

a) General. The officers of the Corporation shall be appointed or elected by the Board of Directors. The officers shall be a Chairman of the Board, a President and Chief Executive Officer, one or more Vice Chairmen of the Board, a Chief Financial Officer, a General Counsel, such number of vice presidents as the Board may from time to time determine and a Secretary. The Chairman of the Board or, in his absence or if such office be vacant, the President, shall preside at all meetings of the stockholders and of the Board. In the absence of the Chairman of the Board and the President, a Vice Chairman of the Board shall preside at all meetings of the stockholders and of the Board. Any person may hold two or more offices, other than the offices of Chairman of the Board and Vice Chairman of the Board, at the same time. Subject to this Section 1, the Chairman of the Board and the Vice Chairmen of the Board shall be chosen from among the Board of Directors, but the other officers need not be members of the Board.

b) Chairman of the Board. The Chairman of the Board shall be a member of the Board of Directors and shall be an officer of the Corporation.

c) President and Chief Executive Officer. The President and Chief Executive Officer shall be a member of the Board of Directors and an officer of the Corporation. The President and Chief Executive Officer shall be the chief executive officer of the Corporation and shall supervise, coordinate and manage the Corporation's business and activities and supervise, coordinate and manage its operating expenses and capital allocation, shall have general authority to exercise all the powers necessary for the President and Chief Executive Officer of the Corporation and shall perform such other duties and have such other powers as may be prescribed by the Board or these By-laws, all in accordance with basic policies as established by and subject to the oversight of the Board. In the absence or disability of the Chairman of the Board, the

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duties of the Chairman of the Board shall be performed and the Chairman of the Board's authority may be exercised by the President and Chief Executive Officer.

d) Chief Financial Officer. The Chief Financial Officer shall have responsibility for the financial affairs of the Corporation and shall exercise supervisory responsibility for the performance of the duties of the Treasurer and the Controller. The Chief Financial Officer shall perform such other duties and have such other powers as may be prescribed by the Board or these By-laws, all in accordance with basic policies as established by and subject to the oversight of the Board, the Chairman of the Board and the President and Chief Executive Officer.

e) General Counsel. The General Counsel shall have responsibility for the legal affairs of the Corporation and for the performance of the duties of the Secretary. The General Counsel shall perform such other duties and have such other powers as may be prescribed by the Board or these By-laws, all in accordance with basic policies as established by and subject to the oversight of the Board, the Chairman of the Board and the President and Chief Executive Officer.

#### SECTION 2. Additional Officers.

The Board may appoint such other officers, agents and employees as it shall deem appropriate. All references in these By-laws to a particular officer shall be deemed to refer to the person holding such office regardless of whether such person holds additional offices.

#### SECTION 3. Terms of Office.

All officers, agents and employees of the Corporation shall hold their respective offices or positions at the pleasure of the Board of Directors and may be removed at any time by the Board of Directors with or without cause.

#### SECTION 4. Duties.

The officers, agents and employees shall perform the duties and exercise the powers usually incident to the offices or positions held by them respectively, and/or such other duties and powers as may be assigned to them from time to time by the Board of Directors or the Chief Executive Officer.

### **ARTICLE V. Committees of the Board of Directors**

#### SECTION 1. Designation.

The Board of Directors of the Corporation shall have the following committees:

a) An Executive Committee consisting of not less than three Directors may be elected by a majority vote of the Board to serve until the Board shall otherwise determine. The Executive Committee shall have and may exercise all of the powers of the Board of Directors when the Board is not in session, including the power to authorize the issuance of stock, except that the Executive Committee shall have no power to (i) alter, amend or repeal these By-Laws or any resolution or resolutions of the Board of Directors; (ii) declare any dividend or make any other distribution to the stockholders of the Corporation; (iii) appoint any member of the Executive Committee; or (iv) take any other action which legally may be taken only by the Board. The

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Chairman of the Board will also serve as Chairman of the Executive Committee. Each resolution of the Executive Committee will require approval by a majority of the members of such Committee.

b) A Compensation Committee consisting of not less than three Directors may be elected by a majority vote of the Board to serve until the Board shall otherwise determine. The Compensation Committee will have the following powers and authority: (i) determining and fixing the compensation for all senior officers of the Corporation and those of its subsidiaries that the Compensation Committee shall from time to time consider appropriate, as well as all employees of the Corporation and its subsidiaries compensated at a rate in excess of such amount per annum as may be fixed or determined from time to time by the Board; (ii) performing the duties of the committees of the Board provided for in any present or future stock option, incentive compensation or employee benefit plan of the Corporation or, if the Compensation Committee shall so determine, any such plan of any subsidiary; and (iii) reviewing the operations of and policies pertaining to any present or future stock option, incentive compensation or employee benefit plan of the Corporation or any subsidiary that the Compensation Committee shall from time to time consider appropriate. Each resolution of the Compensation Committee will require approval by a majority of the members of such committee. Notwithstanding anything to the contrary contained herein or in any option plan adopted from time to time by the Corporation, neither the Board of Directors nor the Compensation Committee shall have the authority, without prior shareholder approval, to alter the price at which options, once granted, may be exercised, except to the extent any such alteration may be contemplated in such option plan or the applicable stock option agreement in connection with a change of capitalization of the Corporation.

c) An Audit Committee consisting of not less than four Directors may be elected by a majority vote of the Board to serve until the Board shall otherwise determine. The Audit Committee will have the following powers and authority: (i) employing independent public accountants to audit the books of account, accounting procedures, and financial statements of the Corporation and to perform such other duties from time to time as the Audit Committee may prescribe; (ii) receiving the reports and comments of the Corporation's internal auditors and of the independent public accountants employed by the Audit Committee and to take such action with respect thereto as may seem appropriate; (iii) requesting the Corporation's consolidated subsidiaries and affiliated companies to employ independent public accountants to audit their respective books of account, accounting procedures, and financial statements; (iv) requesting the independent public accountants to furnish to the Compensation Committee the certifications required under any present or future stock option, incentive compensation or employee benefit plan of the Corporation; (v) reviewing the adequacy of internal financial controls; (vi) approving the accounting principles employed in financial reporting; (vii) approving the appointment or removal of the Corporation's general auditor; and (viii) reviewing the accounting principles employed in financial reporting. Each resolution of the Audit Committee will require approval by a majority of the members of such committee. Notwithstanding the foregoing, there will be no changes in the composition of the Audit Committee prior to the date of the adoption of a resolution of the Audit Committee approving its final report concerning the Accounting Issues (as defined in Section 1(d)).

## SECTION 2. Meetings; Notice.

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Regular meetings of committees shall be held at such times and places as the Board or the committee in question may from time to time determine. Special meetings of any committee may be called at any time, at any place and for any purpose by the Chairman of such committee, the Chairman of the Board, or the President, or by any officer of the Corporation upon the request of a majority of the members of such committee. Notice of regular meetings of the committees need not be given. Notice of every special meeting of any committee shall be given to each member at his usual place of business, or at such other address as shall have been furnished by him for the purpose. Such notice shall be given at least twenty-four hours before the meeting by telephone or by being personally delivered, mailed, or telegraphed. Such notice need not include a statement of the business to be transacted at, or the purpose of, any such meeting.

SECTION 3. Committee Members; Board of Director Nominations.

a) Each member of any committee of the Board shall hold office until such member's successor is elected and has qualified, unless such member sooner dies, resigns or is removed.

b) Subject to Section 3(d) of this Article V, the Board may remove a director from a committee or change the chairmanship of a committee by resolution adopted by a majority of the Board.

c) Subject to Section 3(d) of this Article V, the Board may designate one or more Directors as alternate members of any committee to fill any vacancy on a committee and to fill a vacant chairmanship of a committee, occurring as a result of a member or chairman leaving the committee, whether through death, resignation, removal or otherwise. Any such designation may be made or amended by the affirmative vote of a majority of the Board.

(d) From and after August 28, 1998, any new appointees to the Audit Committee shall be composed solely of independent directors. For this purpose, an independent director is one who:

(1) has not been employed by the Corporation or an affiliate of the Corporation in an executive capacity within the last five years;

(2) is not an employee of a company that is one of the Corporation's paid advisors or consultants;

(3) is not employed by a significant customer or supplier of the Corporation;

(4) is not remunerated by the Corporation for personal services (consisting of legal, accounting, investment banking, and management consulting services) whether or not as an employee of a corporation, division, or similar organization that actually provides the personal services, nor is an employee of an entity which derives more than 50 percent of its gross revenues from the Corporation;

(5) is not employed by a tax-exempt organization that receives significant contributions from the Corporation;

(6) is not a relative of any member of the senior management of the Corporation;

(7) has no business or financial ties to the Corporation's Chief Executive Officer or other executive officers or directors other than relationships with the Corporation; and

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(8) is not part of an interlocking directorate in which the Chief Executive Officer or another executive officer of the Corporation serves on the board of another corporation that employs the director.

**ARTICLE VI.**  
**Indemnification of Directors, Officers and Employees**

SECTION 1. Power to Indemnify in Actions, Suits or Proceedings other than Those by or in the Right of the Corporation.

Subject to Section 3 of this Article VI, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that such person is or was a director or officer of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director or officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

SECTION 2. Power to Indemnify in Actions, Suits or Proceedings by or in the Right of the Corporation.

Subject to Section 3 of this Article VI, the Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

SECTION 3. Authorization of Indemnification.

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Any indemnification under this Article VI (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 1 or Section 2 of this Article VI, as the case may be. Such determination shall be made (i) by a majority vote of the Directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (ii) if there are no such Directors, or if such Directors so direct, by independent legal counsel in a written opinion or (iii) by the stockholders. To the extent, however, that a director or officer of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case.

#### SECTION 4. Good Faith Defined.

For purposes of any determination under Section 3 of this Article VI, a person shall be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe such person's conduct was unlawful, if such person's action is based on the records or books of account of the Corporation or another enterprise, or on information supplied to such person by the officers of the Corporation or another enterprise in the course of their duties, or on the advice of legal counsel for the Corporation or another enterprise or on information or records given or reports made to the Corporation or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Corporation or another enterprise. The term "another enterprise" as used in this Section 4 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such person is or was serving at the request of the Corporation as a director, officer, employee or agent. The provisions of this Section 4 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Section 1 or 2 of this Article VI, as the case may be.

#### SECTION 5. Indemnification by a Court.

Notwithstanding any contrary determination in the specific case under Section 3 of this Article VI, and notwithstanding the absence of any determination thereunder, any director or officer may apply to the Court of Chancery in the State of Delaware for indemnification to the extent otherwise permissible under Sections 1 and 2 of this Article VI. The basis of such indemnification by a court shall be a determination by such court that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standards of conduct set forth in Section 1 or 2 of this Article VI, as the case may be. Neither a contrary determination in the specific case under Section 3 of this Article VI nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director or officer seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 5 shall be given to the Corporation promptly upon the filing of such application. If successful, in whole or in part, the director or officer seeking indemnification shall also be entitled to be paid the expense of prosecuting such application.

#### SECTION 6. Expenses Payable in Advance.

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Expenses incurred by a current or former director or officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Corporation as authorized in this Article VI. Any disagreement concerning the foregoing expense advancement provisions shall be resolved in a summary proceeding as expeditiously as possible.

#### SECTION 7. Nonexclusivity of Indemnification and Advancement of Expenses.

The indemnification and advancement of expenses provided by or granted pursuant to this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Certificate of Incorporation, any By-Law, agreement, vote of stockholders or disinterested Directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Corporation that indemnification of the persons specified in Sections 1 and 2 of this Article VI shall be made to the fullest extent permitted by law. The provisions of this Article VI shall not be deemed to preclude the indemnification of any person who is not specified in Section 1 or 2 of this Article VI but whom the Corporation has the power or obligation to indemnify under the provisions of the General Corporation Law of the State of Delaware, or otherwise.

#### SECTION 8. Insurance.

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was a director or officer of the Corporation serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power or the obligation to indemnify such person against such liability under the provisions of this Article VI.

#### SECTION 9. Certain Definitions.

For purposes of this Article VI, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its Directors or officers, so that any person who is or was a director or officer of such constituent corporation, or is or was a director or officer of such constituent corporation serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article VI, references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the Corporation" shall include any service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries

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of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Corporation" as referred to in this Article VI.

**SECTION 10. Survival of Indemnification and Advancement of Expenses.**

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VI shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors and administrators of such a person.

**SECTION 11. Limitation on Indemnification.**

Notwithstanding anything contained in this Article VI to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 5 hereof), the Corporation shall not be obligated to indemnify any director or officer in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors of the Corporation.

**SECTION 12. Indemnification of Employees and Agents.**

The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this Article VI to Directors and officers of the Corporation.

**ARTICLE VII.**

**Seal**

**SECTION 1.**

The Corporate seal shall bear the name of the Corporation and the words "Corporate Seal, Delaware."

**ARTICLE VIII.**

**Amendments**

**SECTION 1. Amendments of By-Laws.**

Subject to the provisions of the Certificate of Incorporation and the provisions of these By-Laws, these By-Laws may be altered, amended or repealed at any regular meeting of the stockholders (or at any special meeting thereof duly called for that purpose) by the vote of a majority of the shares outstanding and entitled to vote at such meeting; provided that in the notice of such special meeting notice of such purpose shall be given. Subject to the laws of the State of Delaware, the provisions of Certificate of Incorporation and the provisions of these By-Laws, the Board of Directors may by majority vote of those present at any meeting at which a quorum is present amend these By-Laws, or enact such other bylaws as in their judgment may be advisable for the regulation of the conduct of the affairs of the Corporation.

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## QuickLinks

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[ARTICLE II. Stockholders](#)

[ARTICLE III. Directors](#)

[ARTICLE IV. Officers](#)

[ARTICLE V. Committees of the Board of Directors](#)

[ARTICLE VI. Indemnification of Directors, Officers and Employees](#)

[ARTICLE VII. Seal](#)

[ARTICLE VIII. Amendments](#)

AESOP FUNDING II L.L.C.,  
as Issuer

and

THE BANK OF NEW YORK,  
as Trustee and Series 2004-2 Agent

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SERIES 2004-2 SUPPLEMENT  
dated as of February 18, 2004

to

AMENDED AND RESTATED BASE INDENTURE  
dated as of July 30, 1997

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SERIES 2004-2 SUPPLEMENT, dated as of February 18, 2004 (this "Supplement"), among AESOP FUNDING II L.L.C., a special purpose limited liability company established under the laws of Delaware ("AFC-II"), THE BANK OF NEW YORK, a New York banking corporation, as successor in interest to the corporate trust administration of Harris Trust and Savings Bank, as trustee (together with its successors in trust thereunder as provided in the Base Indenture referred to below, the "Trustee"), and THE BANK OF NEW YORK, a New York banking corporation, as agent for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider (the "Series 2004-2 Agent"), to the Amended and Restated Base Indenture, dated as of July 30, 1997, between AFC-II and the Trustee (as amended, modified or supplemented from time to time, exclusive of Supplements creating a new Series of Notes, the "Base Indenture").

#### PRELIMINARY STATEMENT

WHEREAS, Sections 2.2 and 12.1 of the Base Indenture provide, among other things, that AFC-II and the Trustee may at any time and from time to time enter into a supplement to the Base Indenture for the purpose of authorizing the issuance of one or more Series of Notes;

NOW, THEREFORE, the parties hereto agree as follows:

#### DESIGNATION

There is hereby created a Series of Notes of three classes to be issued pursuant to the Base Indenture and this Supplement, and such Series of Notes shall be designated generally as Series 2004-2 Rental Car Asset Backed Notes.

The Series 2004-2 Notes will be issued in three classes: one of which shall be designated as the Series 2004-2 2.76% Rental Car Asset Backed Notes, Class A-1, one of which shall be designated as the Series 2004-2 Floating Rate Rental Car Asset Backed Notes, Class A-2, and one of which shall be designated as the Series 2004-2 Floating Rate Rental Car Asset Backed Notes, Class A-3.

The proceeds from the sale of the Series 2004-2 Notes shall be deposited in the Collection Account and shall be paid to AFC-II and used to make Loans under the Loan Agreements to the extent that the Borrowers have requested Loans thereunder and Eligible Vehicles are available for acquisition or refinancing thereunder on the date hereof. Any such portion of proceeds not so used to make Loans shall be deemed to be Principal Collections.

The Series 2004-2 Notes are a non-Segregated Series of Notes (as more fully described in the Base Indenture). Accordingly, all references in this Supplement to "all" Series of Notes (and all references in this Supplement to terms defined in the Base Indenture that contain references to "all" Series of Notes) shall refer to all Series of Notes other than Segregated Series of Notes.

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**ARTICLE I****DEFINITIONS**

(a) All capitalized terms not otherwise defined herein are defined in the Definitions List attached to the Base Indenture as Schedule I thereto. All Article, Section or Subsection references herein shall refer to Articles, Sections or Subsections of this Supplement, except as otherwise provided herein. Unless otherwise stated herein, as the context otherwise requires or if such term is otherwise defined in the Base Indenture, each capitalized term used or defined herein shall relate only to the Series 2004-2 Notes and not to any other Series of Notes issued by AFC-II.

(b) The following words and phrases shall have the following meanings with respect to the Series 2004-2 Notes and the definitions of such terms are applicable to the singular as well as the plural form of such terms and to the masculine as well as the feminine and neuter genders of such terms:

"AGH" means Avis Group Holdings, Inc., a Delaware corporation.

"Authorized Newspaper" means the *Luxemburger Wort* or other daily newspaper of general circulation in Luxembourg (or if publication is not practical in Luxembourg, in Europe).

"Business Day" means any day other than (a) a Saturday or a Sunday or (b) a day on which the Surety Provider or banking institutions in New York City or in the city in which the corporate trust office of the Trustee is located are authorized or obligated by law or executive order to close.

"Certificate of Lease Deficit Demand" means a certificate in the form of Annex A to the Series 2004-2 Letters of Credit.

"Certificate of Termination Date Demand" means a certificate in the form of Annex D to the Series 2004-2 Letters of Credit.

"Certificate of Termination Demand" means a certificate in the form of Annex C to the Series 2004-2 Letters of Credit.

"Certificate of Unpaid Demand Note Demand" means a certificate in the form of Annex B to the Series 2004-2 Letters of Credit.

"Class" means a class of the Series 2004-2 Notes, which may be the Class A-1 Notes, the Class A-2 Notes or the Class A-3 Notes.

"Class A-1 Carryover Controlled Amortization Amount" means, with respect to any Related Month during the Three-Year Notes Controlled Amortization Period, the amount, if any, by which the portion of the Monthly Total Principal Allocation paid to the Class A-1 Noteholders pursuant to Section 2.5(e) for the previous Related Month was less than the Class A-1 Controlled Distribution Amount for the previous Related Month; provided, however, that for



the first Related Month in the Three-Year Notes Controlled Amortization Period, the Class A-1 Carryover Controlled Amortization Amount shall be zero.

"Class A-1 Controlled Amortization Amount" means (i) with respect to any Related Month during the Three-Year Notes Controlled Amortization Period other than the Related Month immediately preceding the Three-Year Notes Expected Final Distribution Date, \$16,666,666.66 and (ii) with respect to the Related Month immediately preceding the Three-Year Notes Expected Final Distribution Date, \$16,666,666.70.

"Class A-1 Controlled Distribution Amount" means, with respect to any Related Month during the Three-Year Notes Controlled Amortization Period, an amount equal to the sum of the Class A-1 Controlled Amortization Amount and any Class A-1 Carryover Controlled Amortization Amount for such Related Month.

"Class A-1 Initial Invested Amount" means the aggregate initial principal amount of the Class A-1 Notes, which is \$100,000,000.

"Class A-1 Invested Amount" means, when used with respect to any date, an amount equal to the Class A-1 Outstanding Principal Amount plus the sum of (a) the amount of any principal payments made to the Class A-1 Noteholders on or prior to such date with the proceeds of a demand on the Surety Bond and (b) the amount of any principal payments made to Class A-1 Noteholders that have been rescinded or otherwise returned by the Class A-1 Noteholders for any reason.

"Class A-1 Monthly Interest" means, with respect to (i) the initial Series 2004-2 Interest Period, an amount equal to \$245,333.33 and (ii) any other Series 2004-2 Interest Period, an amount equal to the product of (A) one-twelfth of the Class A-1 Note Rate and (B) the Class A-1 Invested Amount on the first day of such Series 2004-2 Interest Period, after giving effect to any principal payments made on such date.

"Class A-1 Noteholder" means the Person in whose name a Class A-1 Note is registered in the Note Register.

"Class A-1 Note Rate" means 2.76% per annum.

"Class A-1 Notes" means any one of the Series 2004-2 2.76% Rental Car Asset Backed Notes, Class A-1, executed by AFC-II and authenticated by or on behalf of the Trustee, substantially in the form of Exhibit A-1-1, Exhibit A-1-2 or Exhibit A-1-3. Definitive Class A-1 Notes shall have such insertions and deletions as are necessary to give effect to the provisions of Section 2.18 of the Base Indenture.

"Class A-1 Outstanding Principal Amount" means, when used with respect to any date, an amount equal to (a) the Class A-1 Initial Invested Amount minus (b) the amount of principal payments made to Class A-1 Noteholders on or prior to such date.

"Class A-2 Carryover Controlled Amortization Amount" means, with respect to any Related Month during the Three-Year Notes Controlled Amortization Period, the amount, if any, by which the portion of the Monthly Total Principal Allocation paid to the Class A-2

Noteholders pursuant to Section 2.5(e) for the previous Related Month was less than the Class A-2 Controlled Distribution Amount for the previous Related Month; provided, however, that for the first Related Month in the Three-Year Notes Controlled Amortization Period, the Class A-2 Carryover Controlled Amortization Amount shall be zero.

"Class A-2 Controlled Amortization Amount" means (i) with respect to any Related Month during the Three-Year Notes Controlled Amortization Period other than the Related Month immediately preceding the Three-Year Notes Expected Final Distribution Date, \$16,666,666.66 and (ii) with respect to the Related Month immediately preceding the Three-Year Notes Expected Final Distribution Date, \$16,666,666.70.

"Class A-2 Controlled Distribution Amount" means, with respect to any Related Month during the Three-Year Notes Controlled Amortization Period, an amount equal to the sum of the Class A-2 Controlled Amortization Amount and any Class A-2 Carryover Controlled Amortization Amount for such Related Month.

"Class A-2 Initial Invested Amount" means the aggregate initial principal amount of the Class A-2 Notes, which is \$100,000,000.

"Class A-2 Invested Amount" means, when used with respect to any date, an amount equal to the Class A-2 Outstanding Principal Amount plus the sum of (a) the amount of any principal payments made to the Class A-2 Noteholders on or prior to such date with the proceeds of a demand on the Surety Bond and (b) the amount of any principal payments made to Class A-2 Noteholders that have been rescinded or otherwise returned by the Class A-2 Noteholders for any reason.

"Class A-2 Monthly Interest" means, with respect to any Series 2004-2 Interest Period, an amount equal to the product of (A) the Class A-2 Invested Amount on the first day of such Series 2004-2 Interest Period, after giving effect to any principal payments made on such date, (B) the Class A-2 Note Rate for such Series 2004-2 Interest Period and (C) the number of days in such Series 2004-2 Interest Period divided by 360.

"Class A-2 Noteholder" means the Person in whose name a Class A-2 Note is registered in the Note Register.

"Class A-2 Note Rate" means, for (i) the initial Series 2004-2 Interest Period, 1.21375% per annum and (ii) any other Series 2004-2 Interest Period, the sum of 0.12% plus LIBOR for such Series 2004-2 Interest Period.

"Class A-2 Notes" means any one of the Series 2004-2 Floating Rate Rental Car Asset Backed Notes, Class A-2, executed by AFC-II and authenticated by or on behalf of the Trustee, substantially in the form of Exhibit A-2-1, Exhibit A-2-2 or Exhibit A-2-3. Definitive Class A-2 Notes shall have such insertions and deletions as are necessary to give effect to the provisions of Section 2.18 of the Base Indenture.

"Class A-2 Outstanding Principal Amount" means, when used with respect to any date, an amount equal to (a) the Class A-2 Initial Invested Amount minus (b) the amount of principal payments made to Class A-2 Noteholders on or prior to such date.

"Class A-3 Carryover Controlled Amortization Amount" means, with respect to any Related Month during the Class A-3 Controlled Amortization Period, the amount, if any, by which the portion of the Monthly Total Principal Allocation paid to the Class A-3 Noteholders pursuant to Section 2.5(e) for the previous Related Month was less than the Class A-3 Controlled Distribution Amount for the previous Related Month; provided, however, that for the first Related Month in the Class A-3 Controlled Amortization Period, the Class A-3 Carryover Controlled Amortization Amount shall be zero.

"Class A-3 Controlled Amortization Amount" means (i) with respect to any Related Month during the Class A-3 Controlled Amortization Period other than the Related Month immediately preceding the Class A-3 Expected Final Distribution Date, \$66,666,666.66 and (ii) with respect to the Related Month immediately preceding the Class A-3 Expected Final Distribution Date, \$66,666,666.70.

"Class A-3 Controlled Amortization Period" means the period commencing at the opening of business on October 1, 2008 (or, if such day is not a Business Day, the Business Day immediately preceding such day) and continuing to the earliest of (i) the commencement of the Series 2004-2 Rapid Amortization Period, (ii) the date on which the Class A-3 Notes are fully paid and (iii) the termination of the Indenture.

"Class A-3 Controlled Distribution Amount" means, with respect to any Related Month during the Class A-3 Controlled Amortization Period, an amount equal to the sum of the Class A-3 Controlled Amortization Amount and any Class A-3 Carryover Controlled Amortization Amount for such Related Month.

"Class A-3 Expected Final Distribution Date" means the April 2009 Distribution Date.

"Class A-3 Final Distribution Date" means the April 2010 Distribution Date.

"Class A-3 Initial Invested Amount" means the aggregate initial principal amount of the Class A-3 Notes, which is \$400,000,000.

"Class A-3 Invested Amount" means, when used with respect to any date, an amount equal to the Class A-3 Outstanding Principal Amount plus the sum of (a) the amount of any principal payments made to the Class A-3 Noteholders on or prior to such date with the proceeds of a demand on the Surety Bond and (b) the amount of any principal payments made to Class A-3 Noteholders that have been rescinded or otherwise returned by the Class A-3 Noteholders for any reason.

"Class A-3 Monthly Interest" means, with respect to any Series 2004-2 Interest Period, an amount equal to the product of (A) the Class A-3 Invested Amount on the first day of such Series 2004-2 Interest Period, after giving effect to any principal payments made on such date, (B) the Class A-3 Note Rate for such Series 2004-2 Interest Period and (C) the number of days in such Series 2004-2 Interest Period divided by 360.

"Class A-3 Noteholder" means the Person in whose name a Class A-3 Note is registered in the Note Register.

"Class A-3 Note Rate" means, for (i) the initial Series 2004-2 Interest Period, 1.31375% per annum and (ii) any other Series 2004-2 Interest Period, the sum of 0.22% plus LIBOR for such Series 2004-2 Interest Period.

"Class A-3 Notes" means any one of the Series 2004-2 Floating Rate Rental Car Asset Backed Notes, Class A-3, executed by AFC-II and authenticated by or on behalf of the Trustee, substantially in the form of Exhibit A-3-1, Exhibit A-3-2 or Exhibit A-3-3. Definitive Class A-3 Notes shall have such insertions and deletions as are necessary to give effect to the provisions of Section 2.18 of the Base Indenture.

"Class A-3 Outstanding Principal Amount" means, when used with respect to any date, an amount equal to (a) the Class A-3 Initial Invested Amount minus (b) the amount of principal payments made to Class A-3 Noteholders on or prior to such date.

"Clearstream" is defined in Section 5.2.

"Consent" is defined in Article IV.

"Consent Period Expiration Date" is defined in Article IV.

"Demand Note Issuer" means each issuer of a Series 2004-2 Demand Note.

"Designated Amounts" is defined in Article IV.

"Disbursement" means any Lease Deficit Disbursement, any Unpaid Demand Note Disbursement, any Termination Date Disbursement or any Termination Disbursement under a Series 2004-2 Letter of Credit, or any combination thereof, as the context may require.

"Excess Collections" is defined in Section 2.3(f)(i).

"Euroclear" is defined in Section 5.2.

"Fixed Rate Payment" means, for any Distribution Date, the aggregate of the amounts, if any, payable by AFC-II as the "Fixed Amount" under each of the Series 2004-2 Interest Rate Swaps after the netting of payments due to AFC-II as the "Floating Amount" from the Series 2004-2 Interest Rate Swap Counterparty under each such Series 2004-2 Interest Rate Swap on such Distribution Date.

"Insurance Agreement" means the Insurance Agreement, dated as of February 18, 2004, among the Surety Provider, the Trustee and AFC-II, which shall constitute an "Enhancement Agreement" with respect to the Series 2004-2 Notes for all purposes under the Indenture.

"Insured Principal Deficit Amount" means, with respect to any Distribution Date, the excess, if any, of (a) the Series 2004-2 Outstanding Principal Amount on such Distribution Date (after giving effect to the distribution of the Monthly Total Principal Allocation for the Related Month) over (b) the sum of the Series 2004-2 Available Reserve Account Amount on such Distribution Date, the Series 2004-2 Letter of Credit Amount on such Distribution Date and

the Series 2004-2 AESOP I Operating Lease Loan Agreement Borrowing Base on such Distribution Date.

"Lease Deficit Disbursement" means an amount drawn under a Series 2004-2 Letter of Credit pursuant to a Certificate of Lease Deficit Demand.

"LIBOR" means, with respect to each Series 2004-2 Interest Period, a rate per annum to be determined by the Trustee as follows:

(i) On each LIBOR Determination Date, the Trustee will determine the London interbank offered rate for U.S. dollar deposits for one month that appears on Telerate Page 3750 as it relates to U.S. dollars as of 11:00 a.m., London time, on such LIBOR Determination Date:

(ii) If, on any LIBOR Determination Date, such rate does not appear on Telerate Page 3750, the Trustee will request that the principal London offices of each of four major banks in the London interbank market selected by the Trustee provide the Trustee with offered quotations for deposits in U.S. dollars for a period of one month, commencing on the first day of such Series 2004-2 Interest Period, to prime banks in the London interbank market at approximately 11:00 a.m., London time, on such LIBOR Determination Date and in a principal amount equal to an amount of not less than \$250,000 that is representative of a single transaction in such market at such time. If at least two such quotations are provided, "LIBOR" for such Series 2004-2 Interest Period will be the arithmetic mean of such quotations; or

(iii) If fewer than two such quotations are provided pursuant to clause (ii), "LIBOR" for such Series 2004-2 Interest Period will be the arithmetic mean of rates quoted by three major banks in the City of New York selected by the Trustee at approximately 11:00 a.m., New York City time, on such LIBOR Determination Date for loans in U.S. dollars to leading European banks, for a period of one month, commencing on the first day of such Series 2004-2 Interest Period, and in a principal amount equal to an amount of not less than \$250,000 that is representative of a single transaction in such market at such time; provided, however, that if the banks selected as aforesaid by such Trustee are not quoting rates as mentioned in this sentence, "LIBOR" for such Series 2004-2 Interest Period will be the same as "LIBOR" for the immediately preceding Series 2004-2 Interest Period.

"LIBOR Determination Date" means, with respect to any Series 2004-2 Interest Period, the second London Banking Day preceding the first day of such Series 2004-2 Interest Period.

"London Banking Day" means any business day on which dealings in deposits in United States dollars are transacted in the London interbank market.

"Monthly Total Principal Allocation" means for any Related Month the sum of all Series 2004-2 Principal Allocations with respect to such Related Month.

"Moody's" means Moody's Investors Service.

"Past Due Rent Payment" is defined in Section 2.2(g).

"Permanent Global Class A-1 Note" is defined in Section 5.2.

"Permanent Global Class A-2 Note" is defined in Section 5.2.

"Permanent Global Class A-3 Note" is defined in Section 5.2.

"Pre-Preference Period Demand Note Payments" means, as of any date of determination, the aggregate amount of all proceeds of demands made on the Series 2004-2 Demand Notes included in the Series 2004-2 Demand Note Payment Amount as of the Series 2004-2 Letter of Credit Termination Date that were paid by the Demand Note Issuers more than one year before such date of determination; provided, however, that if an Event of Bankruptcy (or the occurrence of an event described in clause (a) of the definition thereof, without the lapse of a period of sixty (60) consecutive days) with respect to a Demand Note Issuer occurs during such one year period, (x) the Pre-Preference Period Demand Note Payments as of any date during the period from and including the date of the occurrence of such Event of Bankruptcy to and including the conclusion or dismissal of the proceedings giving rise to such Event of Bankruptcy without continuing jurisdiction by the court in such proceedings shall equal the Pre-Preference Period Demand Note Payments as of the date of such occurrence for all Demand Note Issuers and (y) the Pre-Preference Period Demand Note Payments as of any date after the conclusion or dismissal of such proceedings shall equal the Series 2004-2 Demand Note Payment Amount as of the date of the conclusion or dismissal of such proceedings.

"Principal Deficit Amount" means, as of any date of determination, the excess, if any, of (i) the Series 2004-2 Invested Amount on such date (after giving effect to the distribution of the Monthly Total Principal Allocation for the Related Month if such date is a Distribution Date) over (ii) the Series 2004-2 AESOP I Operating Lease Loan Agreement Borrowing Base on such date; provided, however the Principal Deficit Amount on any date occurring during the period commencing on and including the date of the filing by any of the Lessees of a petition for relief under Chapter 11 of the Bankruptcy Code to but excluding the date on which each of the Lessees shall have resumed making all payments of the portion of Monthly Base Rent relating to Loan Interest required to be made under the AESOP I Operating Lease, shall mean the excess, if any, of (x) the Series 2004-2 Invested Amount on such date (after giving effect to the distribution of Monthly Total Principal Allocation for the Related Month if such date is a Distribution Date) over (y) the sum of (1) the Series 2004-2 AESOP I Operating Lease Loan Agreement Borrowing Base on such date and (2) the lesser of (a) the Series 2004-2 Liquidity Amount on such date and (b) the Series 2004-2 Required Liquidity Amount on such date.

"Pro Rata Share" means, with respect to any Series 2004-2 Letter of Credit Provider as of any date, the fraction (expressed as a percentage) obtained by dividing (A) the available amount under such Series 2004-2 Letter of Credit Provider's Series 2004-2 Letter of Credit as of such date by (B) an amount equal to the aggregate available amount under all Series 2004-2 Letters of Credit as of such date; provided, that only for purposes of calculating the Pro Rata Share with respect to any Series 2004-2 Letter of Credit Provider as of any date, if such Series 2004-2 Letter of Credit Provider has not complied with its obligation to pay the Trustee the amount of any draw under its Series 2004-2 Letter of Credit made prior to such date, the

available amount under such Series 2004-2 Letter of Credit Provider's Series 2004-2 Letter of Credit as of such date shall be treated as reduced (for calculation purposes only) by the amount of such unpaid demand and shall not be reinstated for purposes of such calculation unless and until the date as of which such Series 2004-2 Letter of Credit Provider has paid such amount to the Trustee and been reimbursed by the Lessee or the applicable Demand Note Issuer, as the case may be, for such amount (provided that the foregoing calculation shall not in any manner reduce the undersigned's actual liability in respect of any failure to pay any demand under its Series 2004-2 Letter of Credit).

"Qualified Interest Rate Swap Counterparty" means a counterparty to any Series 2004-2 Interest Rate Swap (A) who is acceptable to the Surety Provider and (B) who is a bank or other financial institution, which is acceptable to each Rating Agency or has (i) a short-term senior unsecured debt, deposit or credit (as the case may be) rating of at least "A-1" from Standard & Poor's and of "P-1" from Moody's and (ii) (a) on the date such Series 2004-2 Interest Rate Swap is executed, a long-term senior unsecured debt, deposit or credit (as the case may be) rating of at least "AA-" from Standard & Poor's and of at least "Aa3" from Moody's and (b) on any other date, a long-term senior unsecured debt, deposit or credit (as the case may be) rating of at least "A+" from Standard & Poor's and of at least "A1" from Moody's.

"Requisite Noteholders" means Series 2004-2 Noteholders holding more than 50% of the Series 2004-2 Invested Amount.

"Restricted Global Class A-1 Note" is defined in Section 5.1.

"Restricted Global Class A-2 Note" is defined in Section 5.1.

"Restricted Global Class A-3 Note" is defined in Section 5.1.

"Series 1998-1 Notes" means the Series of Notes designated as the Series 1998-1 Notes.

"Series 2000-2 Notes" means the Series of Notes designated as the Series 2000-2 Notes.

"Series 2000-4 Notes" means the Series of Notes designated as the Series 2000-4 Notes.

"Series 2001-1 Notes" means the Series of Notes designated as the Series 2001-1 Notes.

"Series 2001-2 Notes" means the Series of Notes designated as the Series 2001-2 Notes.

"Series 2002-1 Notes" means the Series of Notes designated as the Series 2002-1 Notes.

"Series 2002-2 Notes" means the Series of Notes designated as the Series 2002-2 Notes.

"Series 2002-3 Notes" means the Series of Notes designated as the Series 2002-3 Notes.

"Series 2003-1 Notes" means the Series of Notes designated as the Series 2003-1 Notes.

"Series 2003-2 Notes" means the Series of Notes designated as the Series 2003-2 Notes.

"Series 2003-3 Notes" means the Series of Notes designated as the Series 2003-3 Notes.

"Series 2003-4 Notes" means the Series of Notes designated as the Series 2003-4 Notes.

"Series 2003-5 Notes" means the Series of Notes designated as the Series 2003-5 Notes.

"Series 2004-1 Notes" means the Series of Notes designated as the Series 2004-1 Notes.

"Series 2004-2 Accounts" means each of the Series 2004-2 Distribution Account, the Series 2004-2 Reserve Account, the Series 2004-2 Collection Account, the Series 2004-2 Excess Collection Account and the Series 2004-2 Accrued Interest Account.

"Series 2004-2 Accrued Interest Account" is defined in Section 2.1(b).

"Series 2004-2 Adjusted Monthly Interest" means (a) for the initial Distribution Date, an amount equal to \$838,302.08 and (b) for any other Distribution Date, the sum of (i) the sum of (A) for the Series 2004-2 Interest Period ending on the day preceding such Distribution Date, an amount equal to the product of (1) the Class A-1 Note Rate and (2) the Class A-1 Outstanding Principal Amount on the first day of such Series 2004-2 Interest Period, divided by twelve, (B) an amount equal to the product of (1) the Class A-2 Note Rate for such Series 2004-2 Interest Period, (2) the Class A-2 Outstanding Principal Amount on the first day of such Series 2004-2 Interest Period and (3) a fraction, the numerator of which is the number of days in such Series 2004-2 Interest Period and the denominator of which is 360 and (C) an amount equal to the product of (1) the Class A-3 Note Rate for such Series 2004-2 Interest Period, (2) the Class A-3 Outstanding Principal Amount on the first day of such Series 2004-2 Interest Period and (3) a fraction, the numerator of which is the number of days in such Series 2004-2 Interest Period and the denominator of which is 360 and (ii) any amount described in clause (b)(i) with respect to a prior Distribution Date that remains unpaid as of such Distribution Date (together with any accrued interest on such amount).

"Series 2004-2 AESOP I Operating Lease Loan Agreement Borrowing Base" means, as of any date of determination, the product of (a) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of such date and (b) the AESOP I Operating Lease Loan Agreement Borrowing Base as of such date.



"Series 2004-2 AESOP I Operating Lease Vehicle Percentage" means, as of any date of determination, the percentage equivalent (which percentage shall never exceed 100%) of a fraction, the numerator of which is the Series 2004-2 Required AESOP I Operating Lease Vehicle Amount as of such date and the denominator of which is the sum of the Required AESOP I Operating Lease Vehicle Amounts for all Series of Notes as of such date.

"Series 2004-2 Agent" is defined in the recitals hereto.

"Series 2004-2 Available Cash Collateral Account Amount" means, as of any date of determination, the amount on deposit in the Series 2004-2 Cash Collateral Account (after giving effect to any deposits thereto and withdrawals and releases therefrom on such date).

"Series-2004-2 Available Reserve Account Amount" means, as of any date of determination, the amount on deposit in the Series 2004-2 Reserve Account (after giving effect to any deposits thereto and withdrawals and releases therefrom on such date).

"Series 2004-2 Cash Collateral Account" is defined in Section 2.8(f).

"Series 2004-2 Cash Collateral Account Collateral" is defined in Section 2.8(a).

"Series 2004-2 Cash Collateral Account Surplus" means, with respect to any Distribution Date, the lesser of (a) the Series 2004-2 Available Cash Collateral Account Amount and (b) the lesser of (A) the excess, if any, of the Series 2004-2 Liquidity Amount (after giving effect to any withdrawal from the Series 2004-2 Reserve Account on such Distribution Date) over the Series 2004-2 Required Liquidity Amount on such Distribution Date and (B) the excess, if any, of the Series 2004-2 Enhancement Amount (after giving effect to any withdrawal from the Series 2004-2 Reserve Account on such Distribution Date) over the Series 2004-2 Required Enhancement Amount on such Distribution Date; provided, however that, on any date after the Series 2004-2 Letter of Credit Termination Date, the Series 2004-2 Cash Collateral Account Surplus shall mean the excess, if any, of (x) the Series 2004-2 Available Cash Collateral Account Amount over (y) the Series 2004-2 Demand Note Payment Amount minus the Pre-Preference Period Demand Note Payments as of such date.

"Series 2004-2 Cash Collateral Percentage" means, as of any date of determination, the percentage equivalent of a fraction, the numerator of which is the Series 2004-2 Available Cash Collateral Amount as of such date and the denominator of which is the Series 2004-2 Letter of Credit Liquidity Amount as of such date.

"Series 2004-2 Closing Date" means February 18, 2004.

"Series 2004-2 Collateral" means the Collateral, each Series 2004-2 Letter of Credit, each Series 2004-2 Demand Note, the Series 2004-2 Distribution Account Collateral, the Series 2004-2 Interest Rate Swap Collateral, the Series 2004-2 Cash Collateral Account Collateral and the Series 2004-2 Reserve Account Collateral.

"Series 2004-2 Collection Account" is defined in Section 2.1(b).

"Series 2004-2 Controlled Amortization Period" means the Three-Year Notes Controlled Amortization Period and/or the Class A-3 Controlled Amortization Period, as the case may be.

"Series 2004-2 Demand Note" means each demand note made by a Demand Note Issuer, substantially in the form of Exhibit C to this Supplement, as amended, modified or restated from time to time.

"Series 2004-2 Demand Note Payment Amount" means, as of the Series 2004-2 Letter of Credit Termination Date, the aggregate amount of all proceeds of demands made on the Series 2004-2 Demand Notes pursuant to Section 2.5(b) or (c) that were deposited into the Series 2004-2 Distribution Account and paid to the Series 2004-2 Noteholders during the one year period ending on the Series 2004-2 Letter of Credit Termination Date; provided, however, that if an Event of Bankruptcy (or the occurrence of an event described in clause (a) of the definition thereof, without the lapse of a period of sixty (60) consecutive days) with respect to a Demand Note Issuer shall have occurred during such one year period, the Series 2004-2 Demand Note Payment Amount as of the Series 2004-2 Letter of Credit Termination Date shall equal the Series 2004-2 Demand Note Payment Amount as if it were calculated as of the date of such occurrence.

"Series 2004-2 Deposit Date" is defined in Section 2.2.

"Series 2004-2 Distribution Account" is defined in Section 2.9(a).

"Series 2004-2 Distribution Account Collateral" is defined in Section 2.9(d).

"Series 2004-2 Eligible Letter of Credit Provider" means a person satisfactory to ARAC, the Demand Note Issuers and the Surety Provider and having, at the time of the issuance of the related Series 2004-2 Letter of Credit, a long-term senior unsecured debt rating (or the equivalent thereof in the case of Moody's or Standard & Poor's, as applicable) of at least "A+" from Standard & Poor's and at least "A1" from Moody's and a short-term senior unsecured debt rating of at least "A-1" from Standard & Poor's and "P-1" from Moody's that is (a) a commercial bank having total assets in excess of \$500,000,000, (b) a finance company, insurance company or other financial institution that in the ordinary course of business issues letters of credit and has total assets in excess of \$200,000,000 or (c) any other financial institution; provided, however, that if a person is not a Series 2004-2 Letter of Credit Provider (or a letter of credit provider under the Supplement for any other Series of Notes), then such person shall not be a Series 2004-2 Eligible Letter of Credit Provider until AFC-II has provided ten (10) days' prior notice to the Rating Agencies that such person has been proposed as a Series 2004-2 Letter of Credit Provider.

"Series 2004-2 Enhancement" means the Series 2004-2 Cash Collateral Account Collateral, the Series 2004-2 Letters of Credit, the Series 2004-2 Demand Notes, the Series 2004-2 Overcollateralization Amount and the Series 2004-2 Reserve Account Amount.

"Series 2004-2 Enhancement Amount" means, as of any date of determination, the sum of (i) the Series 2004-2 Overcollateralization Amount as of such date, (ii) the Series 2004-2 Letter of Credit Amount as of such date, (iii) the Series 2004-2 Available Reserve Account Amount as of such date and (iv) the amount of cash and Permitted Investments on

deposit in the Series 2004-2 Collection Account (not including amounts allocable to the Series 2004-2 Accrued Interest Account) and the Series 2004-2 Excess Collection Account as of such date.

"Series 2004-2 Enhancement Deficiency" means, on any date of determination, the amount by which the Series 2004-2 Enhancement Amount is less than the Series 2004-2 Required Enhancement Amount as of such date.

"Series 2004-2 Excess Collection Account" is defined in Section 2.1(b).

"Series 2004-2 Final Distribution Date" means the Three-Year Notes Final Distribution Date or the Class A-3 Final Distribution Date, as the case may be.

"Series 2004-2 Initial Invested Amount" means the sum of the Class A-1 Initial Invested Amount, the Class A-2 Initial Invested Amount and the Class A-3 Initial Invested Amount.

"Series 2004-2 Interest Period" means a period commencing on and including a Distribution Date and ending on and including the day preceding the next succeeding Distribution Date; provided, however that the initial Series 2004-2 Interest Period shall commence on and include the Series 2004-2 Closing Date and end on and include March 21, 2004.

"Series 2004-2 Interest Rate Swap" is defined in Section 2.10(a).

"Series 2004-2 Interest Rate Swap Collateral" is defined in Section 2.10(d).

"Series 2004-2 Interest Rate Swap Counterparty" means AFC-II's counterparty under any Series 2004-2 Interest Rate Swap.

"Series 2004-2 Interest Rate Swap Proceeds" means the amounts received by the Trustee from a Series 2004-2 Interest Rate Swap Counterparty from time to time in respect of any Series 2004-2 Interest Rate Swap (including amounts received from a guarantor or from collateral).

"Series 2004-2 Invested Amount" means, as of any date of determination, the sum of the Class A-1 Invested Amount as of such date, the Class A-2 Invested Amount as of such date and the Class A-3 Invested Amount as of such date.

"Series 2004-2 Invested Percentage" means as of any date of determination:

(a) when used with respect to Principal Collections, the percentage equivalent (which percentage shall never exceed 100%) of a fraction, the numerator of which shall be equal to the sum of the Series 2004-2 Invested Amount and the Series 2004-2 Overcollateralization Amount, determined during the Series 2004-2 Revolving Period as of the end of the Related Month (or, until the end of the initial Related Month, on the Series 2004-2 Closing Date), or, during the Series 2004-2 Controlled Amortization Period and the Series 2004-2 Rapid Amortization Period, as of the end of the Series 2004-2 Revolving Period, and the denominator of which shall be the greater of (I) the Aggregate

Asset Amount as of the end of the Related Month or, until the end of the initial Related Month, as of the Series 2004-2 Closing Date, and (II) as of the same date as in clause (I), the sum of the numerators used to determine (i) invested percentages for allocations with respect to Principal Collections (for all Series of Notes and all classes of such Series of Notes) and (ii) overcollateralization percentages for allocations with respect to Principal Collections (for all Series of Notes that provide for credit enhancement in the form of overcollateralization); and

(b) when used with respect to Interest Collections, the percentage equivalent (which percentage shall never exceed 100%) of a fraction, the numerator of which shall be the Accrued Amounts with respect to the Series 2004-2 Notes on such date of determination, and the denominator of which shall be the aggregate Accrued Amounts with respect to all Series of Notes on such date of determination.

"Series 2004-2 Lease Interest Payment Deficit" means, on any Distribution Date, an amount equal to the excess, if any, of (a) the aggregate amount of Interest Collections which pursuant to Section 2.2(a), (b), (c) or (d) would have been allocated to the Series 2004-2 Accrued Interest Account if all payments of Monthly Base Rent required to have been made under the Leases from and excluding the preceding Distribution Date to and including such Distribution Date were made in full over (b) the aggregate amount of Interest Collections which pursuant to Section 2.2(a), (b), (c) or (d) have been allocated to the Series 2004-2 Accrued Interest Account (excluding any amounts paid into the Series 2004-2 Accrued Interest Account pursuant to the proviso in Sections 2.2(c)(ii) and/or 2.2(d)(ii)) from and excluding the preceding Distribution Date to and including such Distribution Date.

"Series 2004-2 Lease Payment Deficit" means either a Series 2004-2 Lease Interest Payment Deficit or a Series 2004-2 Lease Principal Payment Deficit.

"Series 2004-2 Lease Principal Payment Carryover Deficit" means (a) for the initial Distribution Date, zero and (b) for any other Distribution Date, the excess of (x) the Series 2004-2 Lease Principal Payment Deficit, if any, on the preceding Distribution Date over (y) the amount deposited in the Distribution Account on such preceding Distribution Date pursuant to Section 2.5(b) on account of such Series 2004-2 Lease Principal Payment Deficit.

"Series 2004-2 Lease Principal Payment Deficit" means on any Distribution Date the sum of (a) the Series 2004-2 Monthly Lease Principal Payment Deficit for such Distribution Date and (b) the Series 2004-2 Lease Principal Payment Carryover Deficit for such Distribution Date.

"Series 2004-2 Letter of Credit" means an irrevocable letter of credit, if any, substantially in the form of Exhibit D to this Supplement issued by a Series 2004-2 Eligible Letter of Credit Provider in favor of the Trustee for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider in form and substance satisfactory to the Surety Provider.

"Series 2004-2 Letter of Credit Amount" means, as of any date of determination, the lesser of (a) the sum of (i) the aggregate amount available to be drawn on such date under

each Series 2004-2 Letter of Credit, as specified therein, and (ii) if the Series 2004-2 Cash Collateral Account has been established and funded pursuant to Section 2.8, the Series 2004-2 Available Cash Collateral Account Amount on such date and (b) the aggregate outstanding principal amount of the Series 2004-2 Demand Notes on such date.

"Series 2004-2 Letter of Credit Expiration Date" means, with respect to any Series 2004-2 Letter of Credit, the expiration date set forth in such Series 2004-2 Letter of Credit, as such date may be extended in accordance with the terms of such Series 2004-2 Letter of Credit.

"Series 2004-2 Letter of Credit Liquidity Amount" means, as of any date of determination, the sum of (a) the aggregate amount available to be drawn on such date under each Series 2004-2 Letter of Credit, as specified therein, and (b) if the Series 2004-2 Cash Collateral Account has been established and funded pursuant to Section 2.8, the Series 2004-2 Available Cash Collateral Account Amount on such date.

"Series 2004-2 Letter of Credit Provider" means the issuer of a Series 2004-2 Letter of Credit.

"Series 2004-2 Letter of Credit Termination Date" means the first to occur of (a) the date on which the Series 2004-2 Notes are fully paid and the Surety Provider has been paid all Surety Provider Fees and all other Surety Provider Reimbursement Amounts then due, (b) the Series 2004-2 Termination Date and (c) such earlier date consented to by the Surety Provider and the Rating Agencies which consent by the Surety Provider shall be in writing.

"Series 2004-2 Limited Liquidation Event of Default" means, so long as such event or condition continues, any event or condition of the type specified in clauses (a) through (j) of Article III; provided, however, that any event or condition of the type specified in clauses (a) through (e) and (h) through (j) of Article III shall not constitute a Series 2004-2 Limited Liquidation Event of Default if (i) within such thirty (30) day period, such Amortization Event shall have been cured and, after such cure of such Amortization Event is provided for, the Trustee shall have received the written consent of the Surety Provider waiving the occurrence of such Series 2004-2 Limited Liquidation Event of Default or (ii) the Trustee shall have received the written consent of the Surety Provider waiving the occurrence of such Series 2004-2 Limited Liquidation Event of Default.

"Series 2004-2 Liquidity Amount" means, as of any date of determination, the sum of (a) the Series 2004-2 Letter of Credit Liquidity Amount on such date and (b) the Series 2004-2 Available Reserve Account Amount on such date.

"Series 2004-2 Maximum Aggregate Kia/Isuzu/Subaru/Hyundai/Suzuki Amount" means, as of any day, with respect to Kia, Isuzu, Subaru, Hyundai and Suzuki, in the aggregate, an amount equal to 15% of the aggregate Net Book Value of all Vehicles leased under the Leases on such day or such lesser percentage as may be agreed to in writing by AFC-II and the Surety Provider of the aggregate Net Book Value of all Vehicles leased under the Leases on such day.

"Series 2004-2 Maximum Amount" means any of the Series 2004-2 Maximum Manufacturer Amounts, the Series 2004-2 Maximum Non-Eligible Manufacturer Amount, the

Series 2004-2 Maximum Non-Program Vehicle Amount or the Series 2004-2 Maximum Specified States Amount.

"Series 2004-2 Maximum Individual Kia/Isuzu/Subaru/Hyundai/Suzuki Amount" means, as of any day, with respect to Kia, Isuzu, Subaru, Hyundai or Suzuki, individually, an amount equal to 5% of the aggregate Net Book Value of all Vehicles leased under the Leases on such day.

"Series 2004-2 Maximum Manufacturer Amount" means, as of any day, any of the Series 2004-2 Maximum Mitsubishi Amount, the Series 2004-2 Maximum Individual Kia/Isuzu/Subaru/Hyundai/Suzuki Amount or the Series 2004-2 Maximum Aggregate Kia/Isuzu/Subaru/Hyundai/Suzuki Amount.

"Series 2004-2 Maximum Mitsubishi Amount" means, as of any day, an amount equal to 10% of the aggregate Net Book Value of all Vehicles leased under the Leases on such day.

"Series 2004-2 Maximum Non-Eligible Manufacturer Amount" means, as of any day, an amount equal to 3% of the aggregate Net Book Value of all Vehicles leased under the Leases on such day.

"Series 2004-2 Maximum Non-Program Vehicle Amount" means, as of any day, an amount equal to the Series 2004-2 Maximum Non-Program Vehicle Percentage of the aggregate Net Book Value of all Vehicles leased under the Leases on such day.

"Series 2004-2 Maximum Non-Program Vehicle Percentage" means 25% or such lesser percentage as may be agreed to in writing by AFC-II and the Surety Provider on or after the Series 2004-2 Closing Date, with prompt written notice thereof delivered by AFC-II to the Trustee.

"Series 2004-2 Maximum Specified States Amount" means, as of any day, an amount equal to 7.5% of the aggregate Net Book Value of all Vehicles leased under the Leases on such day.

"Series 2004-2 Monthly Interest" means, with respect to any Series 2004-2 Interest Period, the sum of the Class A-1 Monthly Interest, the Class A-2 Monthly Interest and the Class A-3 Monthly Interest with respect to such Series 2004-2 Interest Period.

"Series 2004-2 Monthly Lease Principal Payment Deficit" means, on any Distribution Date, an amount equal to the excess, if any, of (a) the aggregate amount of Principal Collections which pursuant to Section 2.2(a), (b), (c) or (d) would have been allocated to the Series 2004-2 Collection Account if all payments required to have been made under the Leases from and excluding the preceding Distribution Date to and including such Distribution Date were made in full over (b) the aggregate amount of Principal Collections which pursuant to Section 2.2(a), (b), (c) or (d) have been allocated to the Series 2004-2 Collection Account (without giving effect to any amounts paid into the Series 2004-2 Accrued Interest Account pursuant to the proviso in Sections 2.2(c)(ii) and/or 2.2(d)(ii)) from and excluding the preceding Distribution Date to and including such Distribution Date.

"Series 2004-2 Non-Program Vehicle Percentage" means, as of any date of determination, a fraction, expressed as a percentage, the numerator of which is the aggregate Net Book Value of all Non-Program Vehicles leased under the AESOP I Operating Lease as of such date and the denominator of which is the aggregate Net Book Value of all Vehicles leased under the AESOP I Operating Lease as of such date.

"Series 2004-2 Note Rate" means, the Class A-1 Note Rate, the Class A-2 Note Rate or the Class A-3 Note Rate, as the context may require.

"Series 2004-2 Noteholder" means any Class A-1 Noteholder, any Class A-2 Noteholder or any Class A-3 Noteholder.

"Series 2004-2 Notes" means, collectively, the Class A-1 Notes, the Class A-2 Notes and the Class A-3 Notes.

"Series 2004-2 Outstanding Principal Amount" means, as of any date of determination, the sum of the Class A-1 Outstanding Principal Amount, the Class A-2 Outstanding Principal Amount and the Class A-3 Outstanding Principal Amount.

"Series 2004-2 Overcollateralization Amount" means (i) as of any date on which no AESOP I Operating Lease Vehicle Deficiency exists, the Series 2004-2 Required Overcollateralization Amount as of such date and (ii) as of any date on which an AESOP I Operating Lease Vehicle Deficiency exists, the excess, if any, of (x) the Series 2004-2 AESOP I Operating Lease Loan Agreement Borrowing Base as of such date over (y) the Series 2004-2 Invested Amount as of such date.

"Series 2004-2 Past Due Rent Payment" is defined in Section 2.2(g).

"Series 2004-2 Percentage" means, as of any date of determination, a fraction, expressed as a percentage, the numerator of which is the Series 2004-2 Invested Amount as of such date and the denominator of which is the Aggregate Invested Amount as of such date.

"Series 2004-2 Principal Allocation" is defined in Section 2.2(a)(ii).

"Series 2004-2 Program Vehicle Percentage" means, as of any date of determination, 100% minus the Series 2004-2 Non-Program Vehicle Percentage.

"Series 2004-2 Rapid Amortization Period" means the period beginning at the close of business on the Business Day immediately preceding the day on which an Amortization Event is deemed to have occurred with respect to the Series 2004-2 Notes and ending upon the earliest to occur of (i) the date on which the Series 2004-2 Notes are fully paid, the Surety Provider has been paid all Surety Provider Fees and all other Surety Provider Reimbursement Amounts then due and the Series 2004-2 Interest Rate Swaps have been terminated and there are no amounts due and owing thereunder, (ii) the Series 2004-2 Termination Date and (iii) the termination of the Indenture.

"Series 2004-2 Reimbursement Agreement" means any and each agreement providing for the reimbursement of a Series 2004-2 Letter of Credit Provider for draws under its

Series 2004-2 Letter of Credit as the same may be amended, supplemented, restated or otherwise modified from time to time.

"Series 2004-2 Repurchase Amount" is defined in Section 6.1.

"Series 2004-2 Required AESOP I Operating Lease Vehicle Amount" means, as of any date of determination, the sum of the Series 2004-2 Invested Amount and the Series 2004-2 Required Overcollateralization Amount as of such date.

"Series 2004-2 Required Enhancement Amount" means, as of any date of determination, the sum of (i) the product of the Series 2004-2 Required Enhancement Percentage as of such date and the Series 2004-2 Invested Amount as of such date, (ii) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the immediately preceding Business Day of the excess, if any, of the Non-Program Vehicle Amount as of such date over the Series 2004-2 Maximum Non-Program Vehicle Amount as of such date, (iii) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the immediately preceding Business Day of the excess, if any, of the aggregate Net Book Value of all Vehicles manufactured by Mitsubishi and leased under the Leases as of such date over the Series 2004-2 Maximum Mitsubishi Amount as of such date, (iv) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the immediately preceding Business Day of the excess, if any, of the aggregate Net Book Value of all Vehicles manufactured by Kia, Isuzu, Subaru, Hyundai or Suzuki, individually, and leased under the Leases as of such date over the Series 2004-2 Maximum Individual Kia/Isuzu/Subaru/ Hyundai/Suzuki Amount as of such date, (v) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the immediately preceding Business Day of the excess, if any, of the aggregate Net Book Value of all Vehicles manufactured by Kia, Isuzu, Subaru, Hyundai or Suzuki, in the aggregate, and leased under the Leases as of such date over the Series 2004-2 Maximum Aggregate Kia/Isuzu/Subaru/Hyundai/Suzuki Amount as of such date, (vi) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the immediately preceding Business Day of the excess, if any, of the Specified States Amount as of such date over the Series 2004-2 Maximum Specified States Amount as of such date and (vii) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the immediately preceding Business Day of the excess, if any, of the Non-Eligible Manufacturer Amount as of such date over the Series 2004-2 Maximum Non-Eligible Manufacturer Amount as of such date.

"Series 2004-2 Required Enhancement Percentage" means, as of any date of determination, the sum of (i) the product of (A) 14.55% times (B) the Series 2004-2 Program Vehicle Percentage as of such date and (ii) the product of (A) the Series 2004-2 Required Non-Program Enhancement Percentage as of such date times (B) the Series 2004-2 Non-Program Vehicle Percentage as of such date.

"Series 2004-2 Required Liquidity Amount" means, with respect to any Distribution Date, an amount equal to 3.0% of the Series 2004-2 Invested Amount on such Distribution Date (after giving effect to any payments of principal to be made on the Series 2004-2 Notes on such Distribution Date).

"Series 2004-2 Required Non-Program Enhancement Percentage" means, as of any date of determination, the greater of (a) 20.15% and (b) the sum of (i) 20.15% and (ii) the



highest, for any calendar month within the preceding twelve calendar months, of the greater of (x) an amount (not less than zero) equal to 100% minus the Measurement Month Average for the immediately preceding Measurement Month and (y) an amount (not less than zero) equal to 100% minus the Market Value Average as of the Determination Date within such calendar month (excluding the Market Value Average for any Determination Date which has not yet occurred).

"Series 2004-2 Required Overcollateralization Amount" means, as of any date of determination, the excess, if any, of the Series 2004-2 Required Enhancement Amount over the sum of (i) the Series 2004-2 Letter of Credit Amount as of such date, (ii) the Series 2004-2 Available Reserve Account Amount on such date and (iii) the amount of cash and Permitted Investments on deposit in the Series 2004-2 Collection Account (not including amounts allocable to the Series 2004-2 Accrued Interest Account) and the Series 2004-2 Excess Collection Account on such date.

"Series 2004-2 Required Reserve Account Amount" means, with respect to any Distribution Date, an amount equal to the greater of (a) the excess, if any, of the Series 2004-2 Required Liquidity Amount on such Distribution Date over the Series 2004-2 Letter of Credit Liquidity Amount on such Distribution Date (after giving effect to any payments of principal to be made on the Series 2004-2 Notes on such Distribution Date) and (b) the excess, if any, of the Series 2004-2 Required Enhancement Amount over the Series 2004-2 Enhancement Amount (excluding therefrom the Series 2004-2 Available Reserve Account Amount and calculated after giving effect to any payments of principal to be made on the Series 2004-2 Notes) on such Distribution Date.

"Series 2004-2 Reserve Account" is defined in Section 2.7(a).

"Series 2004-2 Reserve Account Collateral" is defined in Section 2.7(d).

"Series 2004-2 Reserve Account Surplus" means, with respect to any Distribution Date, the excess, if any, of the Series 2004-2 Available Reserve Account Amount over the Series 2004-2 Required Reserve Account Amount on such Distribution Date.

"Series 2004-2 Revolving Period" means, the period from and including the Series 2004-2 Closing Date to the earlier of (i) the commencement of the Three-Year Notes Controlled Amortization Period and (ii) the commencement of the Series 2004-2 Rapid Amortization Period; provided that if the Class A-1 Notes and the Class A-2 Notes are paid in full on or prior to the April 2007 Distribution Date, then the Series 2004-2 Revolving Period shall also include the period from and including the first day of the calendar month during which the Distribution Date on which the Class A-1 Notes and the Class A-2 Notes are paid in full occurs to the earlier of (i) the commencement of the Class A-3 Controlled Amortization Period and (ii) the commencement of the Series 2004-2 Rapid Amortization Period.

"Series 2004-2 Shortfall" is defined in Section 2.3(g).

"Series 2004-2 Termination Date" means the April 2010 Distribution Date.

"Series 2004-2 Trustee's Fees" means, for any Distribution Date during the Series 2004-2 Rapid Amortization Period on which there exists a Series 2004-2 Lease Interest Payment Deficit, an amount equal to the lesser of (x) the product of (i) the Series 2004-2 Percentage as of the beginning of the Series 2004-2 Interest Period ending on the day preceding such Distribution Date and (ii) the fees owing to the Trustee under the Indenture as of such date and (y) the excess, if any, of (A) an amount equal to 1.1% of the Series 2004-2 Required AESOP I Operating Lease Vehicle Amount as of the last day of the Series 2004-2 Revolving Period over (B) the sum of the Series 2004-2 Trustee Fees for all Distribution Dates preceding such Distribution Date.

"Series 2004-2 Unpaid Demand Amount" means, with respect to any single draw pursuant to Section 2.5(c) or (d) on the Series 2004-2 Letters of Credit, the aggregate amount drawn by the Trustee on all Series 2004-2 Letters of Credit.

"Shadow Rating" means the rating of the Series 2004-2 Notes by Standard & Poor's or Moody's, as applicable, without giving effect to the Surety Bond.

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

"Supplement" is defined in the preamble hereto.

"Surety Bond" means the Note Guaranty Insurance Policy No. 04030001, dated February 18, 2004, issued by the Surety Provider.

"Surety Default" means (i) the occurrence and continuance of any failure by the Surety Provider to pay upon a demand for payment in accordance with the requirements of the Surety Bond or (ii) the occurrence of an Event of Bankruptcy with respect to the Surety Provider.

"Surety Provider" means Financial Guaranty Insurance Company, a New York stock insurance company. The Surety Provider shall constitute an "Enhancement Provider" with respect to the Series 2004-2 Notes for all purposes under the Indenture and the other Related Documents.

"Surety Provider Fee" is defined in the Insurance Agreement.

"Surety Provider Reimbursement Amounts" means, as of any date of determination, (i) an amount equal to the aggregate of any amounts due as of such date to the Surety Provider pursuant to the Insurance Agreement in respect of unreimbursed draws under the Surety Bond, including interest thereon determined in accordance with the Insurance Agreement, and (ii) an amount equal to the aggregate of any other amounts due as of such date to the Surety Provider pursuant to the Insurance Agreement.

"Telerate Page 3750" means the display page currently so designated on the Moneyline Telerate Service (or such other page as may replace that page on that service for the purpose of displaying comparable rates or prices).

"Temporary Global Class A-1 Note" is defined in Section 5.2.

"Temporary Global Class A-2 Note" is defined in Section 5.2.

"Temporary Global Class A-3 Note" is defined in Section 5.2.

"Termination Date Disbursement" means an amount drawn under a Series 2004-2 Letter of Credit pursuant to a Certificate of Termination Date Demand.

"Termination Disbursement" means an amount drawn under a Series 2004-2 Letter of Credit pursuant to a Certificate of Termination Demand.

"Three-Year Notes Controlled Amortization Period" means the period commencing at the opening of business on October 1, 2006 (or, if such day is not a Business Day, the Business Day immediately preceding such day) and continuing to the earliest of (i) the commencement of the Series 2004-2 Rapid Amortization Period, (ii) the date on which the Class A-1 Notes and the Class A-2 Notes are fully paid and (iii) the termination of the Indenture.

"Three-Year Notes Expected Final Distribution Date" means the April 2007 Distribution Date.

"Three-Year Notes Final Distribution Date" means the April 2008 Distribution Date.

"Trustee" is defined in the recitals hereto.

"Unpaid Demand Note Disbursement" means an amount drawn under a Series 2004-2 Letter of Credit pursuant to a Certificate of Unpaid Demand Note Demand.

"Waivable Amount" is defined in Article IV.

"Waiver Event" means the occurrence of the delivery of a Waiver Request and the subsequent waiver of any Series 2004-2 Maximum Amount.

"Waiver Request" is defined in Article IV.

## ARTICLE II

### SERIES 2004-2 ALLOCATIONS

With respect to the Series 2004-2 Notes, the following shall apply:

Section 2.1 Establishment of Series 2004-2 Collection Account, Series 2004-2 Excess Collection Account and Series 2004-2 Accrued Interest Account. (a) All Collections allocable to the Series 2004-2 Notes shall be allocated to the Collection Account.

(b) The Trustee will create three administrative subaccounts within the Collection Account for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider: the Series 2004-2 Collection Account (such sub-account, the "Series 2004-2 Collection Account"), the Series 2004-2 Excess Collection

Account (such sub-account, the "Series 2004-2 Excess Collection Account") and the Series 2004-2 Accrued Interest Account (such sub-account, the "Series 2004-2 Accrued Interest Account").

Section 2.2 Allocations with Respect to the Series 2004-2 Notes. The net proceeds from the initial sale of the Series 2004-2 Notes will be deposited into the Collection Account. On each Business Day on which Collections are deposited into the Collection Account (each such date, a "Series 2004-2 Deposit Date"), the Administrator will direct the Trustee in writing pursuant to the Administration Agreement to allocate all amounts deposited into the Collection Account in accordance with the provisions of this Section 2.2:

(a) Allocations of Collections During the Series 2004-2 Revolving Period. During the Series 2004-2 Revolving Period, the Administrator will direct the Trustee in writing pursuant to the Administration Agreement to allocate on each day, prior to 11:00 a.m. (New York City time) on each Series 2004-2 Deposit Date, all amounts deposited into the Collection Account as set forth below:

(i) allocate to the Series 2004-2 Collection Account an amount equal to the sum of (A) the Series 2004-2 Invested Percentage (as of such day) of the aggregate amount of Interest Collections on such day and (B) any amounts received by the Trustee on such day in respect of the Series 2004-2 Interest Rate Swaps. All such amounts allocated to the Series 2004-2 Collection Account shall be further allocated to the Series 2004-2 Accrued Interest Account; and

(ii) allocate to the Series 2004-2 Excess Collection Account an amount equal to the Series 2004-2 Invested Percentage (as of such day) of the aggregate amount of Principal Collections on such day (for any such day, the "Series 2004-2 Principal Allocation"); provided, however, if a Waiver Event shall have occurred, then such allocation shall be modified as provided in Article IV.

(b) Allocations of Collections During any Series 2004-2 Controlled Amortization Period. With respect to any Series 2004-2 Controlled Amortization Period, the Administrator will direct the Trustee in writing pursuant to the Administration Agreement to allocate, prior to 11:00 a.m. (New York City time) on any Series 2004-2 Deposit Date, all amounts deposited into the Collection Account as set forth below:

(i) allocate to the Series 2004-2 Collection Account an amount determined as set forth in Section 2.2(a)(i) above for such day, which amount shall be further allocated to the Series 2004-2 Accrued Interest Account; and

(ii) (A) with respect to the Three-Year Notes Controlled Amortization Period, allocate to the Series 2004-2 Collection Account an amount equal to the Series 2004-2 Principal Allocation for such day, which amount shall be used to make principal payments in respect of the Class A-1 Notes and the Class A-2 Notes; provided, however, that if the Monthly Total Principal Allocation exceeds the sum of the Class A-1 Controlled Distribution Amount and the Class A-2 Controlled Distribution Amount, then the amount of such excess shall be allo-

cated to the Series 2004-2 Excess Collection Account; and provided, further, that if a Waiver Event shall have occurred, then such allocation shall be modified as provided in Article IV and (B) with respect to the Class A-3 Controlled Amortization Period, allocate to the Series 2004-2 Collection Account an amount equal to the Series 2004-2 Principal Allocation for such day, which amount shall be used to make principal payments in respect of the Class A-3 Notes; provided, however, that if the Monthly Total Principal Allocation exceeds the Class A-3 Controlled Distribution Amount, then the amount of such excess shall be allocated to the Series 2004-2 Excess Collection Account; and provided, further, that if a Waiver Event shall have occurred, then such allocation shall be modified as provided in Article IV.

(c) Allocations of Collections During the Series 2004-2 Rapid Amortization Period. With respect to the Series 2004-2 Rapid Amortization Period and thereafter, other than after the occurrence of an Event of Bankruptcy with respect to ARAC, any other Lessee or AGH, the Administrator will direct the Trustee in writing pursuant to the Administration Agreement to allocate, prior to 11:00 a.m. (New York City time) on any Series 2004-2 Deposit Date, all amounts deposited into the Collection Account as set forth below:

(i) allocate to the Series 2004-2 Collection Account an amount determined as set forth in Section 2.2(a)(i) above for such day, which amount shall be further allocated to the Series 2004-2 Accrued Interest Account; and

(ii) allocate to the Series 2004-2 Collection Account an amount equal to the Series 2004-2 Principal Allocation for such day, which amount shall be used to make principal payments in respect of the Class A-1 Notes, the Class A-2 Notes and the Class A-3 Notes, ratably, without preference or priority of any kind, until the Series 2004-2 Invested Amount is paid in full; provided that if on any Determination Date (A) the Administrator determines that the amount anticipated to be available from Interest Collections allocable to the Series 2004-2 Notes, any amounts payable to the Trustee in respect of the Series 2004-2 Interest Rate Swaps and other amounts available pursuant to Section 2.3 to pay Series 2004-2 Adjusted Monthly Interest and the Fixed Rate Payment, if any, on the next succeeding Distribution Date will be less than the sum of the Series 2004-2 Adjusted Monthly Interest and the Fixed Rate Payment, if any, for such Distribution Date and (B) the Series 2004-2 Enhancement Amount is greater than zero, then the Administrator shall direct the Trustee in writing to reallocate a portion of the Principal Collections allocated to the Series 2004-2 Notes during the Related Month equal to the lesser of such insufficiency and the Series 2004-2 Enhancement Amount to the Series 2004-2 Accrued Interest Account to be treated as Interest Collections on such Distribution Date.

(d) Allocations of Collections after the Occurrence of an Event of Bankruptcy. After the occurrence of an Event of Bankruptcy with respect to ARAC, any other Lessee or AGH, the Administrator will direct the Trustee in writing pursuant to the Administration Agreement to allocate, prior to 11:00 a.m. (New York City time) on any

Series 2004-2 Deposit Date, all amounts attributable to the AESOP I Operating Lease Loan Agreement deposited into the Collection Account as set forth below:

(i) allocate to the Series 2004-2 Collection Account an amount equal to the sum of (A) the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the date of the occurrence of such Event of Bankruptcy of the aggregate amount of Interest Collections made under the AESOP I Operating Lease Loan Agreement for such day and (B) any amounts received by the Trustee in respect of the Series 2004-2 Interest Rate Swaps on such day. All such amounts allocated to the Series 2004-2 Collection Account shall be further allocated to the Series 2004-2 Accrued Interest Account;

(ii) allocate to the Series 2004-2 Collection Account an amount equal to the Series 2004-2 AESOP I Operating Lease Vehicle Percentage as of the date of the occurrence of such Event of Bankruptcy of the aggregate amount of Principal Collections made under the AESOP I Operating Lease Loan Agreement, which amount shall be used to make principal payments in respect of the Series Class A-1 Notes, the Class A-2 Notes and the Class A-3 Notes, ratably, without preference or priority of any kind, until the Series 2004-2 Invested Amount is paid in full; provided that if on any Determination Date (A) the Administrator determines that the amount anticipated to be available from Interest Collections allocable to the Series 2004-2 Notes, any amounts payable to the Trustee in respect of Series 2004-2 Interest Rate Swaps and other amounts available pursuant to Section 2.3 to pay Series 2004-2 Adjusted Monthly Interest and the Fixed Rate Payment, if any, on the next succeeding Distribution Date will be less than the sum of the Series 2004-2 Adjusted Monthly Interest and the Fixed Rate Payment, if any, for such Distribution Date and (B) the Series 2004-2 Enhancement Amount is greater than zero, then the Administrator shall direct the Trustee in writing to reallocate a portion of the Principal Collections allocated to the Series 2004-2 Notes during the Related Month equal to the lesser of such insufficiency and the Series 2004-2 Enhancement Amount to the Series 2004-2 Accrued Interest Account to be treated as Interest Collections on such Distribution Date.

(e) Series 2004-2 Excess Collection Account. Amounts allocated to the Series 2004-2 Excess Collection Account on any Series 2004-2 Deposit Date will be (w) first, deposited in the Series 2004-2 Reserve Account in an amount up to the excess, if any, of the Series 2004-2 Required Reserve Account Amount for such date over the Series 2004-2 Available Reserve Account Amount for such date, (x) second, used to pay the principal amount of other Series of Notes that are then in amortization, (y) third, released to AESOP Leasing in an amount equal to the product of (A) the Loan Agreement's Share with respect to the AESOP I Operating Lease Loan Agreement as of such date times (B) 100% minus the Loan Payment Allocation Percentage with respect to the AESOP I Operating Lease Loan Agreement as of such date times (C) the amount of any remaining funds and (z) fourth, paid to AFC-II for any use permitted by the Related Documents including to make Loans under the Loan Agreements to the extent the Borrowers have requested Loans thereunder and Eligible Vehicles are available for

financing thereunder; provided, however, that in the case of clauses (x), (y) and (z), that no Amortization Event, Series 2004-2 Enhancement Deficiency or AESOP I Operating Lease Vehicle Deficiency would result therefrom or exist immediately thereafter. Upon the occurrence of an Amortization Event, funds on deposit in the Series 2004-2 Excess Collection Account will be withdrawn by the Trustee, deposited in the Series 2004-2 Collection Account and allocated as Principal Collections to reduce the Series 2004-2 Invested Amount on the immediately succeeding Distribution Date.

(f) Allocations From Other Series. Amounts allocated to other Series of Notes that have been reallocated by AFC-II to the Series 2004-2 Notes (i) during the Series 2004-2 Revolving Period shall be allocated to the Series 2004-2 Excess Collection Account and applied in accordance with Section 2.2(e) and (ii) during the Series 2004-2 Controlled Amortization Period or the Series 2004-2 Rapid Amortization Period shall be allocated to the Series 2004-2 Collection Account and applied in accordance with Section 2.2(b) or 2.2(c), as applicable, to make principal payments in respect of the Series 2004-2 Notes.

(g) Past Due Rent Payments. Notwithstanding the foregoing, if in the case of Section 2.2(a) or (b), after the occurrence of a Series 2004-2 Lease Payment Deficit, the Lessees shall make payments of Monthly Base Rent or other amounts payable by the Lessees under the Leases on or prior to the fifth Business Day after the occurrence of such Series 2004-2 Lease Payment Deficit (a "Past Due Rent Payment"), the Administrator shall direct the Trustee in writing pursuant to the Administration Agreement to allocate to the Series 2004-2 Collection Account an amount equal to the Series 2004-2 Invested Percentage as of the date of the occurrence of such Series 2004-2 Lease Payment Deficit of the Collections attributable to such Past Due Rent Payment (the "Series 2004-2 Past Due Rent Payment"). The Administrator shall instruct the Trustee in writing pursuant to the Administration Agreement to withdraw from the Series 2004-2 Collection Account and apply the Series 2004-2 Past Due Rent Payment in the following order:

(i) if the occurrence of such Series 2004-2 Lease Payment Deficit resulted in one or more Lease Deficit Disbursements being made under the Series 2004-2 Letters of Credit, pay to each Series 2004-2 Letter of Credit Provider who made such a Lease Deficit Disbursement for application in accordance with the provisions of the applicable Series 2004-2 Reimbursement Agreement an amount equal to the lesser of (x) the unreimbursed amount of such Series 2004-2 Letter of Credit Provider's Lease Deficit Disbursement and (y) such Series 2004-2 Letter of Credit Provider's Pro Rata Share of the Series 2004-2 Past Due Rent Payment;

(ii) if the occurrence of such Series 2004-2 Lease Payment Deficit resulted in a withdrawal being made from the Series 2004-2 Cash Collateral Account, deposit in the Series 2004-2 Cash Collateral Account an amount equal to the lesser of (x) the amount of the Series 2004-2 Past Due Rent Payment remaining after any payment pursuant to clause (i) above and (y) the amount withdrawn from the Series 2004-2 Cash Collateral Account on account of such Series 2004-2 Lease Payment Deficit;

(iii) if the occurrence of such Series 2004-2 Lease Payment Deficit resulted in a withdrawal being made from the Series 2004-2 Reserve Account pursuant to Section 2.3(d), deposit in the Series 2004-2 Reserve Account an amount equal to the lesser of (x) the amount of the Series 2004-2 Past Due Rent Payment remaining after any payments pursuant to clauses (i) and (ii) above and (y) the excess, if any, of the Series 2004-2 Required Reserve Account Amount over the Series 2004-2 Available Reserve Account Amount on such day;

(iv) allocate to the Series 2004-2 Accrued Interest Account the amount, if any, by which the Series 2004-2 Lease Interest Payment Deficit, if any, relating to such Series 2004-2 Lease Payment Deficit exceeds the amount of the Series 2004-2 Past Due Rent Payment applied pursuant to clauses (i), (ii) and (iii) above; and

(v) treat the remaining amount of the Series 2004-2 Past Due Rent Payment as Principal Collections allocated to the Series 2004-2 Notes in accordance with Section 2.2(a)(ii) or 2.2(b)(ii), as the case may be.

**Section 2.3 Payments to Noteholders and Each Series 2004-2 Interest Rate Swap Counterparty.** On each Determination Date, as provided below, the Administrator shall instruct the Paying Agent in writing pursuant to the Administration Agreement to withdraw, and on the following Distribution Date the Paying Agent, acting in accordance with such instructions, shall withdraw the amounts required to be withdrawn from the Collection Account pursuant to Section 2.3(a) below in respect of all funds available from Series 2004-2 Interest Rate Swap Proceeds and Interest Collections processed since the preceding Distribution Date and allocated to the holders of the Series 2004-2 Notes.

(a) **Note Interest with respect to the Series 2004-2 Notes and Payments on the Series 2004-2 Interest Rate Swaps.** On each Determination Date, the Administrator shall instruct the Trustee and the Paying Agent in writing pursuant to the Administration Agreement as to the amount to be withdrawn and paid pursuant to Section 2.4 from the Series 2004-2 Accrued Interest Account to the extent funds are anticipated to be available from Interest Collections allocable to the Series 2004-2 Notes and the Series 2004-2 Interest Rate Swap Proceeds processed from but not including the preceding Distribution Date through the succeeding Distribution Date in respect of (w) first, an amount equal to the Series 2004-2 Monthly Interest for the Series 2004-2 Interest Period ending on the day preceding the related Distribution Date, (x) second, an amount equal to the Fixed Rate Payment for the next succeeding Distribution Date, (y) third, an amount equal to the amount of any unpaid Series 2004-2 Shortfall as of the preceding Distribution Date (together with any accrued interest on such Series 2004-2 Shortfall) and (z) fourth, an amount equal to the Surety Provider Fee for such Series 2004-2 Interest Period plus any Surety Provider Reimbursement Amounts then due and owing. On the following Distribution Date, the Trustee shall withdraw the amounts described in the first sentence of this Section 2.3(a) from the Series 2004-2 Accrued Interest Account and deposit such amounts in the Series 2004-2 Distribution Account.

(b) **Lease Payment Deficit Notice.** On or before 10:00 a.m. (New York City time) on each Distribution Date, the Administrator shall notify the Trustee and the Surety



Provider of the amount of any Series 2004-2 Lease Payment Deficit, such notification to be in the form of Exhibit E to this Supplement (each a "Lease Payment Deficit Notice").

(c) Draws on Series 2004-2 Letters of Credit For Series 2004-2 Lease Interest Payment Deficits. If the Administrator determines on any Distribution Date that there exists a Series 2004-2 Lease Interest Payment Deficit, the Administrator shall instruct the Trustee in writing to draw on the Series 2004-2 Letters of Credit, if any, and, the Trustee shall, by 12:00 noon (New York City time) on such Distribution Date draw an amount as set forth in such notice equal to the least of (i) such Series 2004-2 Lease Interest Payment Deficit, (ii) the excess, if any, of the sum of (A) the sum of the amounts described in clauses (w), (x), (y) and (z) of Section 2.3(a) above on such Distribution Date and (B) during the Series 2004-2 Rapid Amortization Period, the Series 2004-2 Trustee's Fees for such Distribution Date, over the amounts available from the Series 2004-2 Accrued Interest Account and (iii) the Series 2004-2 Letter of Credit Liquidity Amount on the Series 2004-2 Letters of Credit by presenting to each Series 2004-2 Letter of Credit Provider (with a copy to the Surety Provider) a draft accompanied by a Certificate of Lease Deficit Demand and shall cause the Lease Deficit Disbursements to be deposited in the Series 2004-2 Distribution Account on such Distribution Date; provided, however, that if the Series 2004-2 Cash Collateral Account has been established and funded, the Trustee shall withdraw from the Series 2004-2 Cash Collateral Account and deposit in the Series 2004-2 Distribution Account an amount equal to the lesser of (x) the Series 2004-2 Cash Collateral Percentage on such Distribution Date of the least of the amounts described in clauses (i), (ii) and (iii) above and (y) the Series 2004-2 Available Cash Collateral Account Amount on such Distribution Date and draw an amount equal to the remainder of such amount on the Series 2004-2 Letters of Credit. During the continuance of a Surety Default, no amounts in respect of the Surety Provider Fee shall be drawn on the Series 2004-2 Letters of Credit.

(d) Withdrawals from Series 2004-2 Reserve Account. If the Administrator determines on any Distribution Date that the amounts available from the Series 2004-2 Accrued Interest Account plus the amount, if any, to be drawn under the Series 2004-2 Letters of Credit and/or withdrawn from the Series 2004-2 Cash Collateral Account pursuant to Section 2.3(c) are insufficient to pay the sum of (A) the sum of the amounts described in clauses (w), (x), (y) and (z) of Section 2.3(a) above on such Distribution Date and (B) during the Series 2004-2 Rapid Amortization Period, the Series 2004-2 Trustee's Fees for such Distribution Date, the Administrator shall instruct the Trustee in writing to withdraw from the Series 2004-2 Reserve Account and deposit in the Series 2004-2 Distribution Account on such Distribution Date an amount equal to the lesser of the Series 2004-2 Available Reserve Account Amount and such insufficiency. During the continuance of a Surety Default, no amounts in respect of the Surety Provider Fee shall be withdrawn from the Series 2004-2 Reserve Account. The Trustee shall withdraw such amount from the Series 2004-2 Reserve Account and deposit such amount in the Series 2004-2 Distribution Account.

(e) Surety Bond. If the Administrator determines on any Distribution Date that the sum of the amounts available from the Series 2004-2 Accrued Interest Account plus the amount, if any, to be drawn under the Series 2004-2 Letters of Credit and/or to be withdrawn from the Series 2004-2 Cash Collateral Account pursuant to Section 2.3(c) above plus the amount, if any, to be withdrawn from the Series 2004-2 Reserve Account pursuant to Section 2.3(d) above is insufficient to pay the Series 2004-2 Adjusted Monthly Interest for such

Distribution Date, the Administrator shall instruct the Trustee in writing to make a demand on the Surety Bond and, upon receipt of such notice by the Trustee on or prior to 11:00 a.m. (New York City time) on such Distribution Date, the Trustee shall, by 12:00 noon (New York City time) on such Distribution Date, make a demand on the Surety Bond in an amount equal to such insufficiency in accordance with the terms thereof and shall cause the proceeds thereof to be deposited in the Series 2004-2 Distribution Account.

(f) Balance. On or prior to the second Business Day preceding each Distribution Date, the Administrator shall instruct the Trustee and the Paying Agent in writing pursuant to the Administration Agreement to pay the balance (after making the payments required in Section 2.4), if any, of the amounts available from the Series 2004-2 Accrued Interest Account and the Series 2004-2 Distribution Account, plus the amount, if any, drawn under the Series 2004-2 Letters of Credit and/or withdrawn from the Series 2004-2 Cash Collateral Account pursuant to Section 2.3(c) plus the amount, if any, withdrawn from the Series 2004-2 Reserve Account pursuant to Section 2.3(d) as follows:

(i) on each Distribution Date during the Series 2004-2 Revolving Period or a Series 2004-2 Controlled Amortization Period, (1) first, to each Series 2004-2 Interest Rate Swap Counterparty, an amount equal to the portion, if any, of the Fixed Rate Payment for such Distribution Date due and owing to such Series 2004-2 Interest Rate Swap Counterparty, (2) second, to the Surety Provider, in an amount equal to (x) the Surety Provider Fee for the related Series 2004-2 Interest Period and, without duplication, (y) any Surety Provider Reimbursement Amounts then due and owing, (3) third, to the Administrator, an amount equal to the Series 2004-2 Percentage as of the beginning of the Series 2004-2 Interest Period ending on the day preceding such Distribution Date of the portion of the Monthly Administration Fee payable by AFC-II (as specified in clause (iii) of the definition thereof) for such Series 2004-2 Interest Period, (4) fourth, to the Trustee, an amount equal to the Series 2004-2 Percentage as of the beginning of such Series 2004-2 Interest Period of the fees owing to the Trustee under the Indenture for such Series 2004-2 Interest Period, (5) fifth, to pay any Carrying Charges (other than Carrying Charges provided for above) to the Persons to whom such amounts are owed, an amount equal to the Series 2004-2 Percentage as of the beginning of such Series 2004-2 Interest Period of such Carrying Charges (other than Carrying Charges provided for above) for such Series 2004-2 Interest Period, (6) sixth, to each Series 2004-2 Interest Rate Swap Counterparty, any amounts due and owing under the applicable Series 2004-2 Interest Rate Swap (other than any amount included in the Fixed Rate Payment) and (7) seventh, the balance, if any ("Excess Collections"), shall be withdrawn by the Paying Agent from the Series 2004-2 Collection Account and deposited in the Series 2004-2 Excess Collection Account; and

(ii) on each Distribution Date during the Series 2004-2 Rapid Amortization Period, (1) first, to each Series 2004-2 Interest Rate Swap Counterparty, an amount equal to the portion, if any, of the Fixed Rate Payment for such Distribution Date due and owing to such Series 2004-2 Interest Rate Swap Counterparty, (2) second, to the Surety Provider, in an amount equal to (x) the Surety Provider Fee for the related Series 2004-2 Interest Period and, without duplication, (y) any Surety Provider Reimbursement Amounts then due and owing, (3) third, to the Trustee, an amount equal to the Series

2004-2 Percentage as of the beginning of the Series 2004-2 Interest Period ending on the day preceding such Distribution Date of the fees owing to the Trustee under the Indenture for such Series 2004-2 Interest Period, (4) fourth, to the Administrator, an amount equal to the Series 2004-2 Percentage as of the beginning of such Series 2004-2 Interest Period of the portion of the Monthly Administration Fee (as specified in clause (iii) of the definition thereof) payable by AFC-II for such Series 2004-2 Interest Period, (5) fifth, to pay any Carrying Charges (other than Carrying Charges provided for above) to the Persons to whom such amounts are owed, an amount equal to the Series 2004-2 Percentage as of the beginning of such Series 2004-2 Interest Period of such Carrying Charges (other than Carrying Charges provided for above) for such Series 2004-2 Interest Period, (6) sixth, so long as the Series 2004-2 Invested Amount is greater than the Monthly Total Principal Allocations for the Related Month, an amount equal to the excess of the Series 2004-2 Invested Amount over the Monthly Total Principal Allocations for the Related Month shall be treated as Principal Collections and (7) seventh, to each Series 2004-2 Interest Rate Swap Counterparty, any amounts due and owing under the applicable Series 2004-2 Interest Rate Swap (other than any amount included in the Fixed Rate Payment).

(g) Shortfalls. If the amounts described in Section 2.3 are insufficient to pay the Series 2004-2 Monthly Interest on any Distribution Date, payments of interest to the Series 2004-2 Noteholders will be reduced on a pro rata basis by the amount of such deficiency. The aggregate amount, if any, of such deficiency on any Distribution Date shall be referred to as the "Series 2004-2 Shortfall." Interest shall accrue on the portion of the Series 2004-2 Shortfall allocable to the Class A-1 Notes at the Class A-1 Note Rate, on the portion of the Series 2004-2 Shortfall allocable to the Class A-2 Notes at the Class A-2 Note Rate and on the portion of the Series 2004-2 Shortfall allocable to the Class A-3 Notes at the Class A-3 Note Rate.

(h) Listing Information Requirement. From the time of the Administrator's written notice to the Trustee that the Class A-2 Notes and/or the Class A-3 Notes are listed on the Luxembourg Stock Exchange until the Administrator shall give the Trustee written notice that the Class A-2 Notes and/or Class A-3 Notes are not listed on the Luxembourg Stock Exchange, the Trustee shall, or shall instruct the Paying Agent to, cause the Class A-2 Note Rate and/or the Class A-3 Note Rate, as applicable, for the next succeeding Series 2004-2 Interest Period, the number of days in such Series 2004-2 Interest Period, the Distribution Date for such Series 2004-2 Interest Period and the amount of interest payable on the Class A-2 Notes and/or the Class A-3 Notes, as applicable, on such Distribution Date to be (A) communicated to DTC, Euroclear, Clearstream, the Paying Agent in Luxembourg and the Luxembourg Stock Exchange no later than 11:00 a.m. (London time) on the Business Day immediately following each LIBOR Determination Date and (B) published in the Authorized Newspaper as soon as possible after its determination.

Section 2.4 Payment of Note Interest. On each Distribution Date, subject to Section 9.8 of the Base Indenture, the Paying Agent shall, in accordance with Section 6.1 of the Base Indenture, pay to the Series 2004-2 Noteholders from the Series 2004-2 Distribution Account the amount due to the Series 2004-2 Noteholders deposited in the Series 2004-2 Distribution Account pursuant to Section 2.3.

Section 2.5 Payment of Note Principal. (a) Monthly Payments During Controlled Amortization Period or Rapid Amortization

Period. Commencing on the second Determination Date during the Three-Year Notes Controlled Amortization Period or the Class A-3 Controlled Amortization Period, as the case may be, or the first Determination Date after the commencement of the Series 2004-2 Rapid Amortization Period, the Administrator shall instruct the Trustee and the Paying Agent in writing pursuant to the Administration Agreement and in accordance with this Section 2.5 as to (i) the amount allocated to the Series 2004-2 Notes during the Related Month pursuant to Section 2.2(b)(ii), (c)(ii) or (d)(ii), as the case may be, (ii) any amounts to be drawn on the Series 2004-2 Demand Notes and/or on the Series 2004-2 Letters of Credit (or withdrawn from the Series 2004-2 Cash Collateral Account), (iii) any amounts to be withdrawn from the Series 2004-2 Reserve Account and deposited into the Series 2004-2 Distribution Account and (iv) the amount of any demand on the Surety Bond in accordance with the terms thereof. On the Distribution Date following each such Determination Date, the Trustee shall withdraw the amount allocated to the Series 2004-2 Notes during the Related Month pursuant to Section 2.2(b)(ii), (c)(ii) or (d)(ii), as the case may be, from the Series 2004-2 Collection Account and deposit such amount in the Series 2004-2 Distribution Account, to be paid to the holders of the Series 2004-2 Notes.

(b) Principal Draws on Series 2004-2 Letters of Credit. If the Administrator determines on any Distribution Date during the Series 2004-2 Rapid Amortization Period that there exists a Series 2004-2 Lease Principal Payment Deficit, the Administrator shall instruct the Trustee in writing to draw on the Series 2004-2 Letters of Credit, if any, as provided below; provided, however, that the Administrator shall not instruct the Trustee to draw on the Series 2004-2 Letters of Credit in respect of a Series 2004-2 Lease Principal Payment Deficit on or after the date of the filing by any of the Lessees of a petition for relief under Chapter 11 of the Bankruptcy Code unless and until the date on which each of the Lessees shall have resumed making all payments of the portion of Monthly Base Rent relating to Loan Interest required to be made under the AESOP I Operating Lease. Upon receipt of a notice by the Trustee from the Administrator in respect of a Series 2004-2 Lease Principal Payment Deficit on or prior to 11:00 a.m. (New York City time) on a Distribution Date, the Trustee shall, by 12:00 noon (New York City time) on such Distribution Date draw an amount as set forth in such notice equal to the lesser of (i) such Series 2004-2 Lease Principal Payment Deficit and (ii) the Series 2004-2 Letter of Credit Liquidity Amount on the Series 2004-2 Letters of Credit by presenting to each Series 2004-2 Letter of Credit Provider a draft accompanied by a Certificate of Lease Deficit Demand and shall cause the Lease Deficit Disbursements to be deposited in the Series 2004-2 Distribution Account on such Distribution Date; provided, however, that if the Series 2004-2 Cash Collateral Account has been established and funded, the Trustee shall withdraw from the Series 2004-2 Cash Collateral Account and deposit in the Series 2004-2 Distribution Account an amount equal to the lesser of (x) the Series 2004-2 Cash Collateral Percentage on such Distribution Date of the Series 2004-2 Lease Principal Payment Deficit and (y) the Series 2004-2 Available Cash Collateral Account Amount on such Distribution Date and draw an amount equal to the remainder of such amount on the Series 2004-2 Letters of Credit.

(c) Final Distribution Date. The entire Class A-1 Invested Amount and the entire Class A-2 Invested Amount shall be due and payable on the Three-Year Notes Final Distribution Date, and the entire Class A-3 Invested Amount shall be due and payable on the Class A-3 Final Distribution Date. In connection therewith:

(i) Demand Note Draw. If the amount to be deposited in the Series 2004-2 Distribution Account in accordance with Section 2.5(a) together with any amounts to be deposited therein in accordance with Section 2.5(b) allocable to the Class A-1 Notes and the Class A-2 Notes on the Three-Year Notes Final Distribution Date, or the Class A-3 Notes on the Class A-3 Final Distribution Date, as the case may be, is less than the sum of the Class A-1 Invested Amount and the Class A-2 Invested Amount, or the Class A-3 Invested Amount, as the case may be, and there are any Series 2004-2 Letters of Credit on such date, then, prior to 10:00 a.m. (New York City time) on the second Business Day prior to such Series 2004-2 Final Distribution Date, the Administrator shall instruct the Trustee in writing (with a copy to the Surety Provider) to make a demand (a "Demand Notice") substantially in the form attached hereto as Exhibit F on the Demand Note Issuers for payment under the Series 2004-2 Demand Notes in an amount equal to the lesser of (i) such insufficiency and (ii) the Series 2004-2 Letter of Credit Amount. The Trustee shall, prior to 12:00 noon (New York City time) on the second Business Day preceding such Series 2004-2 Final Distribution Date, deliver such Demand Notice to the Demand Note Issuers; provided, however, that if an Event of Bankruptcy (or the occurrence of an event described in clause (a) of the definition thereof, without the lapse of a period of 60 consecutive days) with respect to a Demand Note Issuer shall have occurred and be continuing, the Trustee shall not be required to deliver such Demand Notice to such Demand Note Issuer. The Trustee shall cause the proceeds of any demand on the Series 2004-2 Demand Notes to be deposited into the Series 2004-2 Distribution Account.

(ii) Letter of Credit Draw. In the event that either (x) on or prior to 10:00 a.m. (New York City time) on the Business Day immediately preceding any Distribution Date next succeeding any date on which a Demand Notice has been transmitted by the Trustee to the Demand Note Issuers pursuant to clause (i) of this Section 2.5(c), any Demand Note Issuer shall have failed to pay to the Trustee or deposit into the Series 2004-2 Distribution Account the amount specified in such Demand Notice in whole or in part or (y) due to the occurrence of an Event of Bankruptcy (or the occurrence of an event described in clause (a) of the definition thereof, without the lapse of a period of 60 consecutive days) with respect to one or more of the Demand Note Issuers, the Trustee shall not have delivered such Demand Notice to any Demand Note Issuer on the second Business Day preceding such Series 2004-2 Final Distribution Date, then, in the case of (x) or (y) the Trustee shall draw on the Series 2004-2 Letters of Credit by 12:00 noon (New York City time) on such Business Day an amount equal to the lesser of (a) the amount that the Demand Note Issuers failed to pay under the Series 2004-2 Demand Notes (or, the amount that the Trustee failed to demand for payment thereunder) and (b) the Series 2004-2 Letter of Credit Amount on such Business Day by presenting to each Series 2004-2 Letter of Credit Provider (with a copy to the Surety Provider) a draft accompanied by a Certificate of Unpaid Demand Note Demand; provided, however, that if the Series 2004-2 Cash Collateral Account has been established and funded, the Trustee shall withdraw from the Series 2004-2 Cash Collateral Account and deposit in the Series 2004-2 Distribution Account an amount equal to the lesser of (x) the Series 2004-2 Cash Collateral Percentage on such Business Day of the amount that the Demand Note Issuers failed to pay under the Series 2004-2 Demand Notes (or, the amount that the Trustee failed to demand for payment thereunder) and (y) the Series 2004-2 Available

Cash Collateral Account Amount on such Business Day and draw an amount equal to the remainder of the amount that the Demand Note Issuers failed to pay under the Series 2004-2 Demand Notes (or, the amount that the Trustee failed to demand for payment thereunder) on the Series 2004-2 Letters of Credit. The Trustee shall deposit, or cause the deposit of, the proceeds of any draw on the Series 2004-2 Letters of Credit and the proceeds of any withdrawal from the Series 2004-2 Cash Collateral Account to be deposited in the Series 2004-2 Distribution Account.

(iii) Reserve Account Withdrawal. If, after giving effect to the deposit into the Series 2004-2 Distribution Account of the amount to be deposited in accordance with Section 2.5(a) and the amounts described in clauses (i) and (ii) of this Section 2.5(c), the amount to be deposited in the Series 2004-2 Distribution Account with respect to a Series 2004-2 Final Distribution Date is or will be less than the sum of the Class A-1 Invested Amount and the Class A-2 Invested Amount, or the Class A-3 Invested Amount, as the case may be, then, prior to 12:00 noon (New York City time) on the second Business Day prior to such Series 2004-2 Final Distribution Date, the Administrator shall instruct the Trustee in writing to withdraw from the Series 2004-2 Reserve Account, an amount equal to the lesser of the Series 2004-2 Available Reserve Account Amount and such remaining insufficiency and deposit it in the Series 2004-2 Distribution Account on such Series 2004-2 Final Distribution Date.

(iv) Demand on Surety Bond. If after giving effect to the deposit into the Series 2004-2 Distribution Account of the amount to be deposited in accordance with Section 2.5(a) and all other amounts described in clauses (i), (ii) and (iii) of this Section 2.5(c), the amount to be deposited in the Series 2004-2 Distribution Account with respect to such Series 2004-2 Final Distribution Date is or will be less than the sum of the Class A-1 Outstanding Principal Amount and the Class A-2 Outstanding Principal Amount, or the Class A-3 Outstanding Principal Amount, as the case may be, then the Trustee shall make a demand on the Surety Bond by 12:00 noon (New York City time) on the second Business Day preceding such Distribution Date in an amount equal to such insufficiency in accordance with the terms thereof and shall cause the proceeds thereof to be deposited in the Series 2004-2 Distribution Account.

(d) Principal Deficit Amount. On each Distribution Date, other than the Three-Year Notes Final Distribution Date and the Class A-3 Final Distribution Date, on which the Principal Deficit Amount is greater than zero, amounts shall be transferred to the Series 2004-2 Distribution Account as follows:

(i) Demand Note Draw. If on any Determination Date, the Administrator determines that the Principal Deficit Amount with respect to the next succeeding Distribution Date will be greater than zero and there are any Series 2004-2 Letters of Credit on such date, prior to 10:00 a.m. (New York City time) on the second Business Day prior to such Distribution Date, the Administrator shall instruct the Trustee in writing (with a copy to the Surety Provider) to deliver a Demand Notice to the Demand Note Issuers demanding payment of an amount equal to the lesser of (A) the Principal Deficit Amount and (B) the Series 2004-2 Letter of Credit Amount. The Trustee shall, prior to 12:00 noon (New York City time) on the second Business Day preceding such

Distribution Date, deliver such Demand Notice to the Demand Note Issuers; provided, however, that if an Event of Bankruptcy (or the occurrence of an event described in clause (a) of the definition thereof, without the lapse of a period of 60 consecutive days) with respect to a Demand Note Issuer shall have occurred and be continuing, the Trustee shall not be required to deliver such Demand Notice to such Demand Note Issuer. The Trustee shall cause the proceeds of any demand on the Series 2004-2 Demand Note to be deposited into the Series 2004-2 Distribution Account.

(ii) Letter of Credit Draw. In the event that either (x) on or prior to 10:00 a.m. (New York City time) on the Business Day prior to such Distribution Date, any Demand Note Issuer shall have failed to pay to the Trustee or deposit into the Series 2004-2 Distribution Account the amount specified in such Demand Notice in whole or in part or (y) due to the occurrence of an Event of Bankruptcy (or the occurrence of an event described in clause (a) of the definition thereof, without the lapse of a period of 60 consecutive days) with respect to any Demand Note Issuer, the Trustee shall not have delivered such Demand Notice to any Demand Note Issuer on the second Business Day preceding such Distribution Date, then, in the case of (x) or (y) the Trustee shall on such Business Day draw on the Series 2004-2 Letters of Credit an amount equal to the lesser of (i) Series 2004-2 Letter of Credit Amount and (ii) the aggregate amount that the Demand Note Issuers failed to pay under the Series 2004-2 Demand Notes (or, the amount that the Trustee failed to demand for payment thereunder) by presenting to each Series 2004-2 Letter of Credit Provider (with a copy to the Surety Provider) a draft accompanied by a Certificate of Unpaid Demand Note Demand; provided, however, that if the Series 2004-2 Cash Collateral Account has been established and funded, the Trustee shall withdraw from the Series 2004-2 Cash Collateral Account and deposit in the Series 2004-2 Distribution Account an amount equal to the lesser of (x) the Series 2004-2 Cash Collateral Percentage on such Business Day of the aggregate amount that the Demand Note Issuers failed to pay under the Series 2004-2 Demand Notes (or, the amount that the Trustee failed to demand for payment thereunder) and (y) the Series 2004-2 Available Cash Collateral Account Amount on such Business Day and draw an amount equal to the remainder of the aggregate amount that the Demand Note Issuers failed to pay under the Series 2004-2 Demand Notes (or, the amount that the Trustee failed to demand for payment thereunder) on the Series 2004-2 Letters of Credit. The Trustee shall deposit into, or cause the deposit of, the proceeds of any draw on the Series 2004-2 Letters of Credit and the proceeds of any withdrawal from the Series 2004-2 Cash Collateral Account to be deposited in the Series 2004-2 Distribution Account.

(iii) Reserve Account Withdrawal. If the Series 2004-2 Letter of Credit Amount will be less than the Principal Deficit Amount on any Distribution Date, then, prior to 12:00 noon (New York City time) on the second Business Day prior to such Distribution Date, the Administrator shall instruct the Trustee in writing to withdraw from the Series 2004-2 Reserve Account, an amount equal to the lesser of (x) the Series 2004-2 Available Reserve Account Amount and (y) the amount by which the Principal Deficit Amount exceeds the amounts to be deposited in the Series 2004-2 Distribution Account in accordance with clauses (i) and (ii) of this Section 2.5(d) and deposit it in the Series 2004-2 Distribution Account on such Distribution Date.

(iv) Demand on Surety Bond. If the sum of the Series 2004-2 Letter of Credit Amount and the Series 2004-2 Available Reserve Account Amount will be less than the Principal Deficit Amount on any Distribution Date, then the Trustee shall make a demand on the Surety Bond by 12:00 noon (New York City time) on the second Business Day preceding such Distribution Date in an amount equal to the Insured Principal Deficit Amount and shall cause the proceeds thereof to be deposited in the Series 2004-2 Distribution Account.

(e) Distribution. On each Distribution Date occurring on or after the date a withdrawal is made from the Series 2004-2 Collection Account pursuant to Section 2.5(a) or amounts are deposited in the Series 2004-2 Distribution Account pursuant to Section 2.5(b), (c) or (d) the Paying Agent shall, in accordance with Section 6.1 of the Base Indenture, pay pro rata to each Class A-1 Noteholder, Class A-2 Noteholder or Class A-3 Noteholder, as applicable, from the Series 2004-2 Distribution Account the amount deposited therein pursuant to Section 2.5(a), (b), (c) or (d), to the extent necessary to pay the sum of the Class A-1 Controlled Amortization Amount and the Class A-2 Controlled Amortization Amount during the Three-Year Notes Controlled Amortization Period or the Class A-3 Controlled Amortization Amount during the Class A-3 Controlled Amortization Period, as the case may be, or to the extent necessary to pay the Class-A-1 Invested Amount, the Class A-2 Invested Amount and the Class A-3 Invested Amount during the Series 2004-2 Rapid Amortization Period.

Section 2.6 Administrator's Failure to Instruct the Trustee to Make a Deposit or Payment. If the Administrator fails to give notice or instructions to make any payment from or deposit into the Collection Account required to be given by the Administrator, at the time specified in the Administration Agreement or any other Related Document (including applicable grace periods), the Trustee shall make such payment or deposit into or from the Collection Account without such notice or instruction from the Administrator, provided that the Administrator, upon request of the Trustee, promptly provides the Trustee with all information necessary to allow the Trustee to make such a payment or deposit. When any payment or deposit hereunder or under any other Related Document is required to be made by the Trustee or the Paying Agent at or prior to a specified time, the Administrator shall deliver any applicable written instructions with respect thereto reasonably in advance of such specified time.

Section 2.7 Series-2004-2 Reserve Account. (a) Establishment of Series 2004-2 Reserve Account. AFC-II shall establish and maintain in the name of the Series 2004-2 Agent for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, or cause to be established and maintained, an account (the "Series 2004-2 Reserve Account"), bearing a designation clearly indicating that the funds deposited therein are held for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider. The Series 2004-2 Reserve Account shall be maintained (i) with a Qualified Institution, or (ii) as a segregated trust account with the corporate trust department of a depository institution or trust company having corporate trust powers and acting as trustee for funds deposited in the Series 2004-2 Reserve Account; provided that, if at any time such Qualified Institution is no longer a Qualified Institution or the credit rating of any securities issued by such depository institution or trust company shall be reduced to below "BBB-" by Standard & Poor's or "Baa2" by Moody's, then AFC-II shall, within 30 days of such reduction, establish a new Series 2004-2 Reserve Account with a new Qualified



Institution. If the Series 2004-2 Reserve Account is not maintained in accordance with the previous sentence, AFC-II shall establish a new Series 2004-2 Reserve Account, within ten (10) Business Days after obtaining knowledge of such fact, which complies with such sentence, and shall instruct the Series 2004-2 Agent in writing to transfer all cash and investments from the non-qualifying Series 2004-2 Reserve Account into the new Series 2004-2 Reserve Account. Initially, the Series 2004-2 Reserve Account will be established with The Bank of New York.

(b) Administration of the Series 2004-2 Reserve Account. The Administrator may instruct the institution maintaining the Series 2004-2 Reserve Account to invest funds on deposit in the Series 2004-2 Reserve Account from time to time in Permitted Investments; provided, however, that any such investment shall mature not later than the Business Day prior to the Distribution Date following the date on which such funds were received, unless any Permitted Investment held in the Series 2004-2 Reserve Account is held with the Paying Agent, then such investment may mature on such Distribution Date and such funds shall be available for withdrawal on or prior to such Distribution Date. All such Permitted Investments will be credited to the Series 2004-2 Reserve Account and any such Permitted Investments that constitute (i) physical property (and that is not either a United States security entitlement or a security entitlement) shall be physically delivered to the Trustee; (ii) United States security entitlements or security entitlements shall be controlled (as defined in Section 8-106 of the New York UCC) by the Trustee pending maturity or disposition, and (iii) uncertificated securities (and not United States security entitlements) shall be delivered to the Trustee by causing the Trustee to become the registered holder of such securities. The Trustee shall, at the direction and expense of AFC-II, take such action as is required to maintain the Trustee's security interest in the Permitted Investments credited to the Series 2004-2 Reserve Account. AFC-II shall not direct the Trustee to dispose of (or permit the disposal of) any Permitted Investments prior to the maturity thereof to the extent such disposal would result in a loss of the purchase price of such Permitted Investments. In the absence of written investment instructions hereunder, funds on deposit in the Series 2004-2 Reserve Account shall remain uninvested.

(c) Earnings from Series 2004-2 Reserve Account. All interest and earnings (net of losses and investment expenses) paid on funds on deposit in the Series 2004-2 Reserve Account shall be deemed to be on deposit therein and available for distribution.

(d) Series 2004-2 Reserve Account Constitutes Additional Collateral for Series 2004-2 Notes. In order to secure and provide for the repayment and payment of the AFC-II Obligations with respect to the Series 2004-2 Notes, AFC-II hereby grants a security interest in and assigns, pledges, grants, transfers and sets over to the Series 2004-2 Agent, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, all of AFC-II's right, title and interest in and to the following (whether now or hereafter existing or acquired): (i) the Series 2004-2 Reserve Account, including any security entitlement thereto; (ii) all funds on deposit therein from time to time; (iii) all certificates and instruments, if any, representing or evidencing any or all of the Series 2004-2 Reserve Account or the funds on deposit therein from time to time; (iv) all investments made at any time and from time to time with monies in the Series 2004-2 Reserve Account, whether constituting securities, instruments, general intangibles, investment property, financial assets or other property; (v) all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for the Series 2004-2 Reserve Account, the

funds on deposit therein from time to time or the investments made with such funds; and (vi) all proceeds of any and all of the foregoing, including, without limitation, cash (the items in the foregoing clauses (i) through (vi) are referred to, collectively, as the "Series 2004-2 Reserve Account Collateral"). The Series 2004-2 Agent shall possess all right, title and interest in and to all funds on deposit from time to time in the Series 2004-2 Reserve Account and in all proceeds thereof, and shall be the only person authorized to originate entitlement orders in respect of the Series 2004-2 Reserve Account. The Series 2004-2 Reserve Account Collateral shall be under the sole dominion and control of the Series 2004-2 Agent for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider. The Series 2004-2 Agent hereby agrees (i) to act as the securities intermediary (as defined in Section 8-102(a)(14) of the New York UCC) with respect to the Series 2004-2 Reserve Account; (ii) that each item of property (whether investment property, financial asset, security, instrument or cash) credited to the Series 2004-2 Reserve Account shall be treated as a financial asset (as defined in Section 8-102(a)(9) of the New York UCC) and (iii) to comply with any entitlement order (as defined in Section 8-102(a)(8) of the New York UCC) issued by the Trustee.

(e) Series 2004-2 Reserve Account Surplus. In the event that the Series 2004-2 Reserve Account Surplus on any Distribution Date, after giving effect to all withdrawals from the Series 2004-2 Reserve Account, is greater than zero, if no Series 2004-2 Enhancement Deficiency or AESOP I Operating Lease Vehicle Deficiency would result therefrom or exist thereafter, the Trustee, acting in accordance with the written instructions of the Administrator (with a copy of such written instructions to be provided by the Administrator to the Surety Provider) pursuant to the Administration Agreement, shall withdraw from the Series 2004-2 Reserve Account an amount equal to the Series 2004-2 Reserve Account Surplus and shall pay such amount to AFC-II.

(f) Termination of Series 2004-2 Reserve Account. Upon the termination of the Indenture pursuant to Section 11.1 of the Base Indenture, the Trustee, acting in accordance with the written instructions of the Administrator, after the prior payment of all amounts owing to the Series 2004-2 Noteholders and to the Surety Provider and payable from the Series 2004-2 Reserve Account as provided herein, shall withdraw from the Series 2004-2 Reserve Account all amounts on deposit therein for payment to AFC-II.

Section 2.8 Series 2004-2 Letters of Credit and Series 2004-2 Cash Collateral Account. (a) Series 2004-2 Letters of Credit and Series 2004-2 Cash Collateral Account constitute Additional Collateral for Series 2004-2 Notes. In order to secure and provide for the repayment and payment of the AFC-II Obligations with respect to the Series 2004-2 Notes, AFC-II hereby grants a security interest in and assigns, pledges, grants, transfers and sets over to the Trustee, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, all of AFC-II's right, title and interest in and to the following (whether now or hereafter existing or acquired): (i) each Series 2004-2 Letter of Credit; (ii) the Series 2004-2 Cash Collateral Account, including any security entitlement thereto; (iii) all funds on deposit in the Series 2004-2 Cash Collateral Account from time to time; (iv) all certificates and instruments, if any, representing or evidencing any or all of the Series 2004-2 Cash Collateral Account or the funds on deposit therein from time to time; (v) all investments made at any time and from time to time with monies in the Series 2004-2 Cash Collateral Account, whether constituting securities, instruments, general intangibles, investment

property, financial assets or other property; (vi) all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for the Series 2004-2 Cash Collateral Account, the funds on deposit therein from time to time or the investments made with such funds; and (vii) all proceeds of any and all of the foregoing, including, without limitation, cash (the items in the foregoing clauses (ii) through (vii) are referred to, collectively, as the "Series 2004-2 Cash Collateral Account Collateral"). The Trustee shall, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, maintain possession of the Series 2004-2 Letter of Credit, possess all right, title and interest in all funds on deposit from time to time in the Series 2004-2 Cash Collateral Account and in all proceeds thereof, and shall be the only person authorized to originate entitlement orders in respect of the Series 2004-2 Cash Collateral Account. The Series 2004-2 Cash Collateral Account shall be under the sole dominion and control of the Trustee for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider. The Series 2004-2 Agent hereby agrees (i) to act as the securities intermediary (as defined in Section 8-102(a)(14) of the New York UCC) with respect to the Series 2004-2 Cash Collateral Account; (ii) that each item of property (whether investment property, financial asset, security, instrument or cash) credited to the Series 2004-2 Cash Collateral Account shall be treated as a financial asset (as defined in Section 8-102(a)(9) of the New York UCC) and (iii) to comply with any entitlement order (as defined in Section 8-102(a)(8) of the New York UCC) issued by the Trustee.

(b) Series 2004-2 Letter of Credit Expiration Date. If prior to the date which is ten (10) days prior to the then-scheduled Series 2004-2 Letter of Credit Expiration Date with respect to any Series 2004-2 Letter of Credit, excluding the amount available to be drawn under such Series 2004-2 Letter of Credit but taking into account each substitute Series 2004-2 Letter of Credit which has been obtained from a Series 2004-2 Eligible Letter of Credit Provider and is in full force and effect on such date, the Series 2004-2 Enhancement Amount would be equal to or more than the Series 2004-2 Required Enhancement Amount and the Series 2004-2 Liquidity Amount would be equal to or greater than the Series 2004-2 Required Liquidity Amount, then the Administrator shall notify the Trustee and the Surety Provider (with the Surety Provider to be provided supporting calculations in reasonable detail) in writing no later than two (2) Business Days prior to such Series 2004-2 Letter of Credit Expiration Date of such determination. If prior to the date which is ten (10) days prior to the then-scheduled Series 2004-2 Letter of Credit Expiration Date with respect to any Series 2004-2 Letter of Credit, excluding the amount available to be drawn under such Series 2004-2 Letter of Credit but taking into account a substitute Series 2004-2 Letter of Credit which has been obtained from a Series 2004-2 Eligible Letter of Credit Provider and is in full force and effect on such date, the Series 2004-2 Enhancement Amount would be less than the Series 2004-2 Required Enhancement Amount or the Series 2004-2 Liquidity Amount would be less than the Series 2004-2 Required Liquidity Amount, then the Administrator shall notify the Trustee and the Surety Provider (with the Surety Provider to be provided supporting calculations in reasonable detail) in writing no later than two (2) Business Days prior to such Series 2004-2 Letter of Credit Expiration Date of (x) the greater of (A) the excess, if any, of the Series 2004-2 Required Enhancement Amount over the Series 2004-2 Enhancement Amount, excluding the available amount under such expiring Series 2004-2 Letter of Credit but taking into account any substitute Series 2004-2 Letter of Credit which has been obtained from a Series 2004-2 Eligible Letter of Credit Provider and is in full force and effect, on such date, and (B) the excess, if any, of the Series 2004-2 Required Liquidity Amount

over the Series 2004-2 Liquidity Amount, excluding the available amount under such expiring Series 2004-2 Letter of Credit but taking into account any substitute Series 2004-2 Letter of Credit which has been obtained from a Series 2004-2 Eligible Letter of Credit Provider and is in full force and effect, on such date, and (y) the amount available to be drawn on such expiring Series 2004-2 Letter of Credit on such date. Upon receipt of such notice by the Trustee on or prior to 10:00 a.m. (New York City time) on any Business Day, the Trustee shall, by 12:00 noon (New York City time) on such Business Day (or, in the case of any notice given to the Trustee after 10:00 a.m. (New York City time), by 12:00 noon (New York City time) on the next following Business Day), draw the lesser of the amounts set forth in clauses (x) and (y) above on such expiring Series 2004-2 Letter of Credit by presenting a draft (with a copy to the Surety Provider) accompanied by a Certificate of Termination Demand and shall cause the Termination Disbursement to be deposited in the Series 2004-2 Cash Collateral Account.

If the Trustee does not receive the notice from the Administrator described in the first paragraph of this Section 2.8(b) on or prior to the date that is two (2) Business Days prior to each Series 2004-2 Letter of Credit Expiration Date, the Trustee shall, by 12:00 noon (New York City time) on such Business Day draw the full amount of such Series 2004-2 Letter of Credit by presenting a draft accompanied by a Certificate of Termination Demand and shall cause the Termination Disbursement to be deposited in the Series 2004-2 Cash Collateral Account.

(c) Series 2004-2 Letter of Credit Providers. The Administrator shall notify the Trustee and the Surety Provider in writing within one (1) Business Day of becoming aware that (i) the long-term senior unsecured debt credit rating of any Series 2004-2 Letter of Credit Provider has fallen below "A+" as determined by Standard & Poor's or "A1" as determined by Moody's or (ii) the short-term senior unsecured debt credit rating of any Series 2004-2 Letter of Credit Provider has fallen below "A-1" as determined by Standard & Poor's or "P-1" as determined by Moody's. At such time the Administrator shall also notify the Trustee of (i) the greater of (A) the excess, if any, of the Series 2004-2 Required Enhancement Amount over the Series 2004-2 Enhancement Amount, excluding the available amount under the Series 2004-2 Letter of Credit issued by such Series 2004-2 Letter of Credit Provider, on such date, and (B) the excess, if any, of the Series 2004-2 Required Liquidity Amount over the Series 2004-2 Liquidity Amount, excluding the available amount under such Series 2004-2 Letter of Credit, on such date, and (ii) the amount available to be drawn on such Series 2004-2 Letter of Credit on such date. Upon receipt of such notice by the Trustee on or prior to 10:00 a.m. (New York City time) on any Business Day, the Trustee shall, by 12:00 noon (New York City time) on such Business Day (or, in the case of any notice given to the Trustee after 10:00 a.m. (New York City time), by 12:00 noon (New York City time) on the next following Business Day), draw on such Series 2004-2 Letter of Credit in an amount equal to the lesser of the amounts in clause (i) and clause (ii) of the immediately preceding sentence on such Business Day by presenting a draft accompanied by a Certificate of Termination Demand and shall cause the Termination Disbursement to be deposited in the Series 2004-2 Cash Collateral Account.

(d) Termination Date Demands on the Series 2004-2 Letters of Credit. Prior to 10:00 a.m. (New York City time) on the Business Day immediately succeeding the Series 2004-2 Letter of Credit Termination Date, the Administrator shall determine the Series 2004-2 Demand Note Payment Amount, if any, as of the Series 2004-2 Letter of Credit Termination Date and, if the Series 2004-2 Demand Note Payment Amount is greater than zero, instruct the

Trustee in writing to draw on the Series 2004-2 Letters of Credit. Upon receipt of any such notice by the Trustee on or prior to 11:00 a.m. (New York City time) on a Business Day, the Trustee shall, by 12:00 noon (New York City time) on such Business Day draw an amount equal to the lesser of (i) the Series 2004-2 Demand Note Payment Amount and (ii) the Series 2004-2 Letter of Credit Liquidity Amount on the Series 2004-2 Letters of Credit by presenting to each Series 2004-2 Letter of Credit Provider (with a copy to the Surety Provider) a draft accompanied by a Certificate of Termination Date Demand and shall cause the Termination Date Disbursement to be deposited in the Series 2004-2 Cash Collateral Account; provided, however, that if the Series 2004-2 Cash Collateral Account has been established and funded, the Trustee shall draw an amount equal to the product of (a) 100% minus the Series 2004-2 Cash Collateral Percentage and (b) the lesser of the amounts referred to in clause (i) and (ii) on such Business Day on the Series 2004-2 Letters of Credit as calculated by the Administrator and provided in writing to the Trustee and the Surety Provider.

(e) Draws on the Series 2004-2 Letters of Credit. If there is more than one Series 2004-2 Letter of Credit on the date of any draw on the Series 2004-2 Letters of Credit pursuant to the terms of this Supplement, the Administrator shall instruct the Trustee, in writing, to draw on each Series 2004-2 Letter of Credit in an amount equal to the Pro Rata Share of the Series 2004-2 Letter of Credit Provider issuing such Series 2004-2 Letter of Credit of the amount of such draw on the Series 2004-2 Letters of Credit.

(f) Establishment of Series 2004-2 Cash Collateral Account. On or prior to the date of any drawing under a Series 2004-2 Letter of Credit pursuant to Section 2.8(b), (c) or (d) above, AFC-II shall establish and maintain in the name of the Trustee for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, or cause to be established and maintained, an account (the "Series 2004-2 Cash Collateral Account"), bearing a designation clearly indicating that the funds deposited therein are held for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider. The Series 2004-2 Cash Collateral Account shall be maintained (i) with a Qualified Institution, or (ii) as a segregated trust account with the corporate trust department of a depository institution or trust company having corporate trust powers and acting as trustee for funds deposited in the Series 2004-2 Cash Collateral Account; provided, however, that if at any time such Qualified Institution is no longer a Qualified Institution or the credit rating of any securities issued by such depository institution or trust company shall be reduced to below "BBB-" by Standard & Poor's or "Baa3" by Moody's, then AFC-II shall, within 30 days of such reduction, establish a new Series 2004-2 Cash Collateral Account with a new Qualified Institution or a new segregated trust account with the corporate trust department of a depository institution or trust company having corporate trust powers and acting as trustee for funds deposited in the Series 2004-2 Cash Collateral Account. If a new Series 2004-2 Cash Collateral Account is established, AFC-II shall instruct the Trustee in writing to transfer all cash and investments from the non-qualifying Series 2004-2 Cash Collateral Account into the new Series 2004-2 Cash Collateral Account.

(g) Administration of the Series 2004-2 Cash Collateral Account. AFC-II may instruct (by standing instructions or otherwise) the institution maintaining the Series 2004-2 Cash Collateral Account to invest funds on deposit in the Series 2004-2 Cash Collateral Account from time to time in Permitted Investments; provided, however, that any such investment shall

mature not later than the Business Day prior to the Distribution Date following the date on which such funds were received, unless any Permitted Investment held in the Series 2004-2 Cash Collateral Account is held with the Paying Agent, in which case such investment may mature on such Distribution Date so long as such funds shall be available for withdrawal on or prior to such Distribution Date. All such Permitted Investments will be credited to the Series 2004-2 Cash Collateral Account and any such Permitted Investments that constitute (i) physical property (and that is not either a United States security entitlement or a security entitlement) shall be physically delivered to the Trustee; (ii) United States security entitlements or security entitlements shall be controlled (as defined in Section 8-106 of the New York UCC) by the Trustee pending maturity or disposition, and (iii) uncertificated securities (and not United States security entitlements) shall be delivered to the Trustee by causing the Trustee to become the registered holder of such securities. The Trustee shall, at the expense of AFC-II, take such action as is required to maintain the Trustee's security interest in the Permitted Investments credited to the Series 2004-2 Cash Collateral Account. AFC-II shall not direct the Trustee to dispose of (or permit the disposal of) any Permitted Investments prior to the maturity thereof to the extent such disposal would result in a loss of the purchase price of such Permitted Investments. In the absence of written investment instructions hereunder, funds on deposit in the Series 2004-2 Cash Collateral Account shall remain uninvested.

(h) Earnings from Series 2004-2 Cash Collateral Account. All interest and earnings (net of losses and investment expenses) paid on funds on deposit in the Series 2004-2 Cash Collateral Account shall be deemed to be on deposit therein and available for distribution.

(i) Series 2004-2 Cash Collateral Account Surplus. In the event that the Series 2004-2 Cash Collateral Account Surplus on any Distribution Date (or, after the Series 2004-2 Letter of Credit Termination Date, on any date) is greater than zero, the Trustee, acting in accordance with the written instructions (a copy of which shall be provided by the Administrator to the Surety Provider) of the Administrator, shall withdraw from the Series 2004-2 Cash Collateral Account an amount equal to the Series 2004-2 Cash Collateral Account Surplus and shall pay such amount: first, to the Series 2004-2 Letter of Credit Providers to the extent of any unreimbursed drawings under the related Series 2004-2 Reimbursement Agreement, for application in accordance with the provisions of the related Series 2004-2 Reimbursement Agreement, and, second, to AFC-II any remaining amount.

(j) Post-Series 2004-2 Letter of Credit Termination Date Withdrawals from the Series 2004-2 Cash Collateral Account. If the Surety Provider notifies the Trustee in writing that the Surety Provider shall have paid a Preference Amount (as defined in the Surety Bond) under the Surety Bond, subject to the satisfaction of the conditions set forth in the next succeeding sentence, the Trustee shall withdraw from the Series 2004-2 Cash Collateral Account and pay to the Surety Provider an amount equal to the lesser of (i) the Series 2004-2 Available Cash Collateral Account Amount on such date and (ii) such Preference Amount. Prior to any withdrawal from the Series 2004-2 Cash Collateral Account pursuant to this Section 2.8(j), the Trustee shall have received a certified copy of the order requiring the return of such Preference Amount.

(k) Termination of Series 2004-2 Cash Collateral Account. Upon the termination of this Supplement in accordance with its terms, the Trustee, acting in accordance with the

written instructions of the Administrator, after the prior payment of all amounts owing to the Series 2004-2 Noteholders and to the Surety Provider and payable from the Series 2004-2 Cash Collateral Account as provided herein, shall withdraw from the Series 2004-2 Cash Collateral Account all amounts on deposit therein (to the extent not withdrawn pursuant to Section 2.8(i) above) and shall pay such amounts: first, to the Series 2004-2 Letter of Credit Providers to the extent of any unreimbursed drawings under the related Series 2004-2 Reimbursement Agreement, for application in accordance with the provisions of the related Series 2004-2 Reimbursement Agreement, and, second, to AFC-II any remaining amount.

Section 2.9 Series 2004-2 Distribution Account. (a) Establishment of Series 2004-2 Distribution Account. The Trustee shall establish and maintain in the name of the Series 2004-2 Agent for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, or cause to be established and maintained, an account (the "Series 2004-2 Distribution Account"), bearing a designation clearly indicating that the funds deposited therein are held for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider. The Series 2004-2 Distribution Account shall be maintained (i) with a Qualified Institution, or (ii) as a segregated trust account with the corporate trust department of a depository institution or trust company having corporate trust powers and acting as trustee for funds deposited in the Series 2004-2 Distribution Account; provided, however, that if at any time such Qualified Institution is no longer a Qualified Institution or the credit rating of any securities issued by such depository institution or trust company shall be reduced to below "BBB-" by Standard & Poor's or "Baa3" by Moody's, then AFC-II shall, within 30 days of such reduction, establish a new Series 2004-2 Distribution Account with a new Qualified Institution. If the Series 2004-2 Distribution Account is not maintained in accordance with the previous sentence, AFC-II shall establish a new Series 2004-2 Distribution Account, within ten (10) Business Days after obtaining knowledge of such fact, which complies with such sentence, and shall instruct the Series 2004-2 Agent in writing to transfer all cash and investments from the non-qualifying Series 2004-2 Distribution Account into the new Series 2004-2 Distribution Account. Initially, the Series 2004-2 Distribution Account will be established with The Bank of New York.

(b) Administration of the Series 2004-2 Distribution Account. The Administrator may instruct the institution maintaining the Series 2004-2 Distribution Account to invest funds on deposit in the Series 2004-2 Distribution Account from time to time in Permitted Investments; provided, however, that any such investment shall mature not later than the Business Day prior to the Distribution Date following the date on which such funds were received, unless any Permitted Investment held in the Series 2004-2 Distribution Account is held with the Paying Agent, then such investment may mature on such Distribution Date and such funds shall be available for withdrawal on or prior to such Distribution Date. All such Permitted Investments will be credited to the Series 2004-2 Distribution Account and any such Permitted Investments that constitute (i) physical property (and that is not either a United States security entitlement or a security entitlement) shall be physically delivered to the Trustee; (ii) United States security entitlements or security entitlements shall be controlled (as defined in Section 8-106 of the New York UCC) by the Trustee pending maturity or disposition, and (iii) uncertificated securities (and not United States security entitlements) shall be delivered to the Trustee by causing the Trustee to become the registered holder of such securities. The Trustee shall, at the direction and expense of AFC-II, take such action as is required to maintain

the Trustee's security interest in the Permitted Investments credited to the Series 2004-2 Distribution Account. AFC-II shall not direct the Trustee to dispose of (or permit the disposal of) any Permitted Investments prior to the maturity thereof to the extent such disposal would result in a loss of the purchase price of such Permitted Investments. In the absence of written investment instructions hereunder, funds on deposit in the Series 2004-2 Distribution Account shall remain uninvested.

(c) Earnings from Series 2004-2 Distribution Account. All interest and earnings (net of losses and investment expenses) paid on funds on deposit in the Series 2004-2 Distribution Account shall be deemed to be on deposit and available for distribution.

(d) Series 2004-2 Distribution Account Constitutes Additional Collateral for Series 2004-2 Notes. In order to secure and provide for the repayment and payment of the AFC-II Obligations with respect to the Series 2004-2 Notes, AFC-II hereby grants a security interest in and assigns, pledges, grants, transfers and sets over to the Series 2004-2 Agent, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, all of AFC-II's right, title and interest in and to the following (whether now or hereafter existing or acquired): (i) the Series 2004-2 Distribution Account, including any security entitlement thereto; (ii) all funds on deposit therein from time to time; (iii) all certificates and instruments, if any, representing or evidencing any or all of the Series 2004-2 Distribution Account or the funds on deposit therein from time to time; (iv) all investments made at any time and from time to time with monies in the Series 2004-2 Distribution Account, whether constituting securities, instruments, general intangibles, investment property, financial assets or other property; (v) all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for the Series 2004-2 Distribution Account, the funds on deposit therein from time to time or the investments made with such funds; and (vi) all proceeds of any and all of the foregoing, including, without limitation, cash (the items in the foregoing clauses (i) through (vi) are referred to, collectively, as the "Series 2004-2 Distribution Account Collateral"). The Series 2004-2 Agent shall possess all right, title and interest in all funds on deposit from time to time in the Series 2004-2 Distribution Account and in and to all proceeds thereof, and shall be the only person authorized to originate entitlement orders in respect of the Series 2004-2 Distribution Account. The Series 2004-2 Distribution Account Collateral shall be under the sole dominion and control of the Series 2004-2 Agent for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider. The Series 2004-2 Agent hereby agrees (i) to act as the securities intermediary (as defined in Section 8-102(a)(14) of the New York UCC) with respect to the Series 2004-2 Distribution Account; (ii) that each item of property (whether investment property, financial asset, security, instrument or cash) credited to the Series 2004-2 Distribution Account shall be treated as a financial asset (as defined in Section 8-102(a)(9) of the New York UCC) and (iii) to comply with any entitlement order (as defined in Section 8-102(a)(8) of the New York UCC) issued by the Trustee.

Section 2.10 Series 2004-2 Interest Rate Swaps. (a) On the Series 2004-2 Closing Date, AFC-II shall enter into one or more interest rate swaps acceptable to the Surety Provider in respect of the Class A-2 Notes satisfying the requirements of clause (i) below and one or more interest rate swaps acceptable to the Surety Provider in respect of the Class A-3



Notes satisfying the requirements of clause (ii) below, in each case with a Qualified Interest Rate Swap Counterparty (each a "Series 2004-2 Interest Rate Swap");

(i) The Series 2004-2 Interest Rate Swap in respect of the Class A-2 Notes shall have an aggregate initial notional amount equal to the Class A-2 Initial Invested Amount. The aggregate notional amount of such Series 2004-2 Interest Rate Swap shall be reduced pursuant to the terms of such Series 2004-2 Interest Rate Swap but shall not at any time be less than the Class A-2 Invested Amount. The fixed rate payable by AFC-II under such Series 2004-2 Interest Rate Swap and any replacement thereof shall not be greater than 3.5%.

(ii) The Series 2004-2 Interest Rate Swap in respect of the Class A-3 Notes shall have an aggregate initial notional amount equal to the Class A-3 Initial Invested Amount. The aggregate notional amount of such Series 2004-2 Interest Rate Swap shall be reduced pursuant to the terms of such Series 2004-2 Interest Rate Swap but shall not at any time be less than the Class A-3 Invested Amount. The fixed rate payable by AFC-II under such Series 2004-2 Interest Rate Swap and any replacement thereof shall not be greater than 3.5%.

(b) Replacement of Any Series 2004-2 Interest Rate Swap. If, at any time, a Series 2004-2 Interest Rate Swap Counterparty is not a Qualified Interest Rate Swap Counterparty, then AFC-II will cause such Series 2004-2 Interest Rate Swap Counterparty within 30 days following such occurrence, at the Series 2004-2 Interest Rate Swap Counterparty's expense, to either (i) obtain a replacement interest rate swap on substantially the same terms as the Series 2004-2 Interest Rate Swap being replaced from a Qualified Interest Rate Swap Counterparty, at which point, simultaneously with such replacement, AFC-II shall terminate the Series 2004-2 Interest Rate Swap being replaced or (ii) enter into any arrangement satisfactory to Standard & Poor's, Moody's and the Surety Provider that is sufficient to maintain or restore the immediately prior Shadow Rating; provided, however, that no termination of any Series 2004-2 Interest Rate Swap shall occur until AFC-II has entered into a replacement Series 2004-2 Interest Rate Swap. Each Series 2004-2 Interest Rate Swap must provide that if such Series 2004-2 Interest Rate Swap Counterparty thereto is required to take any of the actions described in clauses (i) or (ii) of the preceding sentence and such action is not taken within 30 days, then such Series 2003- 4 Interest Rate Swap Counterparty must, until a replacement Series 2004-2 Interest Rate Swap is executed and in effect, collateralize its obligations under such Series 2004-2 Interest Rate Swap in an amount equal to the greatest of (i) the marked to market value of such Series 2004-2 Interest Rate Swap, (ii) the next payment due from such Series 2004-2 Interest Rate Swap Counterparty and (iii) 1% of the notional amount of such Series 2004-2 Interest Rate Swap.

(c) To secure payment of all AFC-II Obligations with respect to the Series 2004-2 Notes, AFC-II grants a security interest in, and assigns, pledges, grants, transfers and sets over to the Series 2004-2 Agent, for the benefit of the Series 2004-2 Noteholders and the Surety Provider, all of AFC-II's right, title and interest in the Series 2004-2 Interest Rate Swaps and all proceeds thereof (the "Series 2004-2 Interest Rate Swap Collateral"). AFC-II shall require all Series 2004-2 Interest Rate Swap Proceeds to be paid to, and the Trustee shall allocate all Series 2004-2 Interest Rate Swap Proceeds to, the Series 2004-2 Accrued Interest Account of the Series 2004-2 Collection Account.

(d) The failure of AFC-II to comply with its covenants contained in the this Section 2.10 shall not constitute an Amortization Event with respect to the Series 2004-2 Notes.

Section 2.11 Series 2004-2 Accounts Permitted Investments. AFC-II shall not, and shall not permit, funds on deposit in the Series 2004-2 Accounts to be invested in:

- (i) Permitted Investments that do not mature at least one Business Day before the next Distribution Date;
- (ii) demand deposits, time deposits or certificates of deposit with a maturity in excess of 360 days;
- (iii) commercial paper which is not rated "P-1" by Moody's;
- (iv) money market funds or eurodollar time deposits which are not rated at least "AAA" by Standard & Poor's;
- (v) eurodollar deposits that are not rated "P-1" by Moody's or that are with financial institutions not organized under the laws of a G-7 nation; or
- (vi) any investment, instrument or security not otherwise listed in clause (i) through (v) of the definition of "Permitted Investments" in the Base Indenture that is not approved in writing by the Surety Provider.

Section 2.12 Series 2004-2 Demand Notes Constitute Additional Collateral for Series 2004-2 Notes. In order to secure and provide for the repayment and payment of the AFC-II Obligations with respect to the Series 2004-2 Notes, AFC-II hereby grants a security interest in and assigns, pledges, grants, transfers and sets over to the Trustee, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, all of AFC-II's right, title and interest in and to the following (whether now or hereafter existing or acquired): (i) the Series 2004-2 Demand Notes; (ii) all certificates and instruments, if any, representing or evidencing the Series 2004-2 Demand Notes; and (iii) all proceeds of any and all of the foregoing, including, without limitation, cash. On the date hereof, AFC-II shall deliver to the Trustee, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, each Series 2004-2 Demand Note, endorsed in blank. The Trustee, for the benefit of the Series 2004-2 Noteholders, each Series 2004-2 Interest Rate Swap Counterparty and the Surety Provider, shall be the only Person authorized to make a demand for payments on the Series 2004-2 Demand Notes.

### ARTICLE III

#### AMORTIZATION EVENTS

In addition to the Amortization Events set forth in Section 9.1 of the Base Indenture, any of the following shall be an Amortization Event with respect to the Series 2004-2 Notes and collectively shall constitute the Amortization Events set forth in Section 9.1(n) of the Base

Indenture with respect to the Series 2004-2 Notes (without notice or other action on the part of the Trustee or any holders of the Series 2004-2 Notes):

- (a) a Series 2004-2 Enhancement Deficiency shall occur and continue for at least two (2) Business Days; provided, however, that such event or condition shall not be an Amortization Event if during such two (2) Business Day period such Series 2004-2 Enhancement Deficiency shall have been cured in accordance with the terms and conditions of the Indenture and the Related Documents;
- (b) the Series 2004-2 Liquidity Amount shall be less than the Series 2004-2 Required Liquidity Amount for at least two (2) Business Days; provided, however, that such event or condition shall not be an Amortization Event if during such two (2) Business Day period such insufficiency shall have been cured in accordance with the terms and conditions of the Indenture and the Related Documents;
- (c) the Collection Account, the Series 2004-2 Collection Account, the Series 2004-2 Excess Collection Account or the Series 2004-2 Reserve Account shall be subject to an injunction, estoppel or other stay or a Lien (other than Liens permitted under the Related Documents);
- (d) all principal of and interest on the Class A-1 Notes and the Class A-2 Notes is not paid in full on or before the Three-Year Notes Expected Final Distribution Date or all principal of and interest on the Class A-3 Notes is not paid in full on or before the Class A-3 Expected Final Distribution Date;
- (e) the Trustee shall make a demand for payment under the Surety Bond;
- (f) the occurrence of an Event of Bankruptcy with respect to the Surety Provider;
- (g) the Surety Provider fails to pay a demand for payment in accordance with the requirements of the Surety Bond;
- (h) any Series 2004-2 Letter of Credit shall not be in full force and effect for at least two (2) Business Days and (x) either a Series 2004-2 Enhancement Deficiency would result from excluding such Series 2004-2 Letter of Credit from the Series 2004-2 Enhancement Amount or (y) the Series 2004-2 Liquidity Amount, excluding therefrom the available amount under such Series 2004-2 Letter of Credit, would be less than the Series 2004-2 Required Liquidity Amount;
- (i) from and after the funding of the Series 2004-2 Cash Collateral Account, the Series 2004-2 Cash Collateral Account shall be subject to an injunction, estoppel or other stay or a Lien (other than Liens permitted under the Related Documents) for at least two (2) Business Days and either (x) a Series 2004-2 Enhancement Deficiency would result from excluding the Series 2004-2 Available Cash Collateral Account Amount from the Series 2004-2 Enhancement Amount or (y) the Series 2004-2 Liquidity Amount, excluding therefrom the Series 2004-2 Available Cash Collateral Amount, would be less than the Series 2004-2 Required Liquidity Amount; and

(j) an Event of Bankruptcy shall have occurred with respect to any Series 2004-2 Letter of Credit Provider or any Series 2004-2 Letter of Credit Provider repudiates its Series 2004-2 Letter of Credit or refuses to honor a proper draw thereon and either (x) a Series 2004-2 Enhancement Deficiency would result from excluding such Series 2004-2 Letter of Credit from the Series 2004-2 Enhancement Amount or (y) the Series 2004-2 Liquidity Amount, excluding therefrom the available amount under such Series 2004-2 Letter of Credit, would be less than the Series 2004-2 Required Liquidity Amount.

#### ARTICLE IV

##### RIGHT TO WAIVE PURCHASE RESTRICTIONS

Notwithstanding any provision to the contrary in the Indenture or the Related Documents, but subject in all respects to the Surety Provider's rights under Section 6.11, upon the Trustee's receipt of notice from any Lessee, any Borrower or AFC-II (i) to the effect that a Manufacturer Program is no longer an Eligible Manufacturer Program and that, as a result, the Series 2004-2 Maximum Non-Program Vehicle Amount is or will be exceeded or (ii) that the Lessees, the Borrowers and AFC-II have determined to increase any Series 2004-2 Maximum Amount, (such notice, a "Waiver Request"), each Series 2004-2 Noteholder may, at its option, waive the Series 2004-2 Maximum Non-Program Vehicle Amount or any other Series 2004-2 Maximum Amount (collectively, a "Waivable Amount") if (i) no Amortization Event exists, (ii) the Requisite Noteholders and the Surety Provider consent to such waiver and (iii) 60 days' prior written notice of such proposed waiver is provided to the Rating Agencies by the Trustee.

Upon receipt by the Trustee of a Waiver Request (a copy of which the Trustee shall promptly provide to the Rating Agencies), all amounts which would otherwise be allocated to the Series 2004-2 Excess Collection Account (collectively, the "Designated Amounts") from the date the Trustee receives a Waiver Request through the Consent Period Expiration Date will be held by the Trustee in the Series 2004-2 Collection Account for ratable distribution as described below.

Within ten (10) Business Days after the Trustee receives a Waiver Request, the Trustee shall furnish notice thereof to the Series 2004-2 Noteholders and the Surety Provider, which notice shall be accompanied by a form of consent (each a "Consent") in the form of Exhibit B hereto by which the Series 2004-2 Noteholders may, on or before the Consent Period Expiration Date, consent to waiver of the applicable Waivable Amount. If the Trustee receives the consent of the Surety Provider and Consents from the Requisite Noteholders agreeing to waiver of the applicable Waivable Amount within forty-five (45) days after the Trustee notifies the Series 2004-2 Noteholders of a Waiver Request (the day on which such forty-five (45) day period expires, the "Consent Period Expiration Date"), (i) the applicable Waivable Amount shall be deemed waived by the consenting Series 2004-2 Noteholders, (ii) the Trustee will distribute the Designated Amounts as set forth below and (iii) the Trustee shall promptly (but in any event within two days) provide the Rating Agency with notice of such waiver. Any Series 2004-2 Noteholder from whom the Trustee has not received a Consent on or before the Consent Period Expiration Date will be deemed not to have consented to such waiver.

If the Trustee receives Consents from the Requisite Noteholders on or before the Consent Period Expiration Date, then on the immediately following Distribution Date, the Trustee will pay the Designated Amounts as follows:

- (i) to the non-consenting Series 2004-2 Noteholders, if any, pro rata up to the amount required to pay all Series 2004-2 Notes held by such non-consenting Series 2004-2 Noteholders in full; and
- (ii) any remaining Designated Amounts to the Series 2004-2 Excess Collection Account.

If the amount paid pursuant to clause (i) of the preceding paragraph is not paid in full on the date specified therein, then on each day following such Distribution Date, the Administrator will allocate to the Series 2004-2 Collection Account on a daily basis all Designated Amounts collected on such day. On each following Distribution Date, the Trustee will withdraw a portion of such Designated Amounts from the Series 2004-2 Collection Account and deposit the same in the Series 2004-2 Distribution Account for distribution as follows:

- (a) to the non-consenting Series 2004-2 Noteholders, if any, pro rata an amount equal to the Designated Amounts in the Series 2004-2 Collection Account as of the applicable Determination Date up to the aggregate outstanding principal balance of the Series 2004-2 Notes held by the non-consenting Series 2004-2 Noteholders; and
- (b) any remaining Designated Amounts to the Series 2004-2 Excess Collection Account.

If the Requisite Noteholders or the Surety Provider do not timely consent to such waiver, the Designated Amounts will be re-allocated to the Series 2004-2 Excess Collection Account for allocation and distribution in accordance with the terms of the Indenture and the Related Documents.

In the event that the Series 2004-2 Rapid Amortization Period shall commence after receipt by the Trustee of a Waiver Request, all such Designated Amounts will thereafter be considered Principal Collections allocated to the Series 2004-2 Noteholders.

## ARTICLE V

### FORM OF SERIES 2004-2 NOTES

Section 5.1 Restricted Global Series 2004-2 Notes. The Series 2004-2 Notes to be issued in the United States will be issued in book-entry form and represented by one or more permanent global Notes in fully registered form without interest coupons (each, a "Restricted Global Class A-1 Note", a "Restricted Global Class A-2 Note" or a "Restricted Global Class A-3 Note", as the case may be), substantially in the forms set forth in Exhibit A-1-1, A-2-1 and A-3-1 hereto, with such legends as may be applicable thereto as set forth in the Base Indenture, and will be sold only in the United States (1) initially to institutional accredited investors within the meaning of Regulation D under the Securities Act in reliance on an exemption from the registra-

tion requirements of the Securities Act and (2) thereafter to qualified institutional buyers within the meaning of, and in reliance on, Rule 144A under the Securities Act and shall be deposited on behalf of the purchasers of the Series 2004-2 Notes represented thereby, with the Trustee as custodian for DTC, and registered in the name of Cede as DTC's nominee, duly executed by AFC-II and authenticated by the Trustee in the manner set forth in Section 2.4 of the Base Indenture.

Section 5.2 Temporary Global Series 2004-2 Notes; Permanent Global Series 2004-2 Notes. The Series 2004-2 Notes to be issued outside the United States will be issued and sold in transactions outside the United States in reliance on Regulation S under the Securities Act, as provided in the applicable note purchase agreement, and shall initially be issued in the form of one or more temporary notes in registered form without interest coupons (each, a "Temporary Global Class A-1 Note", a "Temporary Global Class A-2 Note" or a "Temporary Global Class A-3 Note", as the case may be), substantially in the forms set forth in Exhibits A-1-2, A-2-2 and A-3-2 hereto, which shall be deposited on behalf of the purchasers of the Series 2004-2 Notes represented thereby with a custodian for, and registered in the name of a nominee of DTC, for the account of Euroclear Bank S.A./N.V., as operator of the Euroclear System ("Euroclear") or for Clearstream Banking, société anonyme ("Clearstream"), duly executed by AFC-II and authenticated by the Trustee in the manner set forth in Section 2.4 of the Base Indenture. Interests in a Temporary Global Class A-1 Note, a Temporary Global Class A-2 Note or a Temporary Global Class A-3 Note will be exchangeable, in whole or in part, for interests in one or more permanent global notes in registered form without interest coupons (each, a "Permanent Global Class A-1 Note", a "Permanent Global Class A-2 Note" or a "Permanent Global Class A-3 Note", as the case may be), substantially in the form of Exhibits A-1-3, A-2-3 and A-3-3 hereto, in accordance with the provisions of such Temporary Global Class A-1 Note, Temporary Global Class A-2 Note or Temporary Global Class A-3 Note and the Base Indenture (as modified by this Supplement). Interests in a Permanent Global Class A-1 Note, a Permanent Global Class A-2 Note or a Permanent Global Class A-3 Note will be exchangeable for definitive Class A-1 Notes, definitive Class A-2 Notes or definitive Class A-3 Notes, as the case may be, in accordance with the provisions of such Permanent Global Class A-1 Note, Permanent Global Class A-2 Note or Permanent Global Class A-3 Note and the Base Indenture (as modified by this Supplement).

## ARTICLE VI

### GENERAL

Section 6.1 Optional Repurchase. Each Class of the Series 2004-2 Notes shall be subject to repurchase by AFC-II at its option in accordance with Section 6.3 of the Base Indenture on any Distribution Date after the Class A-1 Invested Amount, the Class A-2 Invested Amount or the Class A-3 Invested Amount, as the case may be, is reduced to an amount less than or equal to 10% of the Class A-1 Initial Invested Amount, the Class A-2 Initial Invested Amount or the Class A-3 Initial Invested Amount, as the case may be (the "Series 2004-2 Repurchase Amount"); provided, however, that as a condition precedent to any such optional repurchase on any Distribution Date on which no Surety Default has occurred and is continuing, AFC-II shall have received the consent of the Surety Provider. The repurchase price for any Series 2004-2

Note shall equal the aggregate outstanding principal balance of such Series 2004-2 Note (determined after giving effect to any payments of principal and interest on such Distribution Date), plus accrued and unpaid interest on such outstanding principal balance.

Section 6.2 Information. The Trustee shall provide to the Series 2004-2 Noteholders, or their designated agent, and the Surety Provider copies of all information furnished to the Trustee or AFC-II pursuant to the Related Documents, as such information relates to the Series 2004-2 Notes or the Series 2004-2 Collateral. In connection with any Preference Amount payable under the Surety Bond, the Trustee shall furnish to the Surety Provider its records evidencing the distributions of principal of and interest on the Series 2004-2 Notes that have been made and subsequently recovered from Series 2004-2 Noteholders and the dates on which such payments were made.

Section 6.3 Exhibits. The following exhibits attached hereto supplement the exhibits included in the Indenture.

|                       |  |
|-----------------------|--|
| <u>Exhibit A-1-1:</u> | Form of Restricted Global Class A-1 Note |
| <u>Exhibit A-1-2:</u> | Form of Temporary Global Class A-1 Note  |
| <u>Exhibit A-1-3:</u> | Form of Permanent Global Class A-1 Note  |
| <u>Exhibit A-2-1</u>  | Form of Restricted Global Class A-2 Note |
| <u>Exhibit A-2-2</u>  | Form of Temporary Global Class A-2 Note  |
| <u>Exhibit A-2-3</u>  | Form of Permanent Global Class A-2 Note  |
| <u>Exhibit A-3-1</u>  | Form of Restricted Global Class A-3 Note |
| <u>Exhibit A-3-2</u>  | Form of Temporary Global Class A-3 Note  |
| <u>Exhibit A-3-3</u>  | Form of Permanent Global Class A-3 Note  |
| <u>Exhibit B:</u>     | Form of Consent                          |
| <u>Exhibit C:</u>     | Form of Series 2004-2 Demand Note        |
| <u>Exhibit D:</u>     | Form of Letter of Credit                 |
| <u>Exhibit E:</u>     | Form of Lease Payment Deficit Notice     |
| <u>Exhibit F:</u>     | Form of Demand Notice                    |

Section 6.4 Ratification of Base Indenture. As supplemented by this Supplement, the Base Indenture is in all respects ratified and confirmed and the Base Indenture as so supplemented by this Supplement shall be read, taken, and construed as one and the same instrument.

Section 6.5 Counterparts. This Supplement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of such counterparts shall together constitute but one and the same instrument.

Section 6.6 Governing Law. This Supplement shall be construed in accordance with the law of the State of New York, and the obligations, rights and remedies of the parties hereto shall be determined in accordance with such law.

Section 6.7 Amendments. This Supplement may be modified or amended from time to time with the consent of the Surety Provider and in accordance with the terms of the Base Indenture; provided, however, that if, pursuant to the terms of the Base Indenture or this

Supplement, the consent of the Required Noteholders is required for an amendment or modification of this Supplement, such requirement shall be satisfied if such amendment or modification is consented to by the Series 2004-2 Noteholders representing more than 50% of the aggregate outstanding principal amount of the Series 2004-2 Notes affected thereby; provided, further, that if that consent of the Required Noteholders is required for a proposed amendment or modification of this Supplement that (i) affects only the Class A-1 Notes (and does not affect in any material respect the Class A-2 Notes or the Class A-3 Notes, as evidenced by an opinion of counsel to such effect), then such requirement shall be satisfied if such amendment or modification is consented to by the Class A-1 Noteholders representing more than 50% of the aggregate outstanding principal amount of the Class A-1 Notes (without the necessity of obtaining the consent of the Required Noteholders in respect of the Class A-2 Notes or the Class A-3 Notes), (ii) affects only the Class A-2 Notes (and does not affect in material respect the Class A-1 Notes or the Class A-3 Notes, as evidenced by an opinion of counsel to such effect), then such requirement shall be satisfied if such amendment or modification is consented to by the Class A-2 Noteholders representing more than 50% of the aggregate outstanding principal amount of the Class A-2 Notes (without the necessity of obtaining the consent of the Required Noteholders in respect of the Class A-1 Notes or the Class A-3 Notes) and (iii) affects only the Class A-3 Notes (and does not affect in any material respect the Class A-1 Notes or the Class A-2 Notes, as evidenced by an opinion of counsel to such effect), then such requirement shall be satisfied if such amendment or modification is consented to by the Class A-3 Noteholders representing more than 50% of the aggregate outstanding principal amount of the Class A-3 Notes (without the necessity of obtaining the consent of the Required Noteholders in respect of the Class A-1 Notes or the Class A-2 Notes).

Section 6.8 Discharge of Indenture. Notwithstanding anything to the contrary contained in the Base Indenture, no discharge of the Indenture pursuant to Section 11.1(b) of the Base Indenture will be effective as to the Series 2004-2 Notes without the consent of the Required Noteholders.

Section 6.9 Notice to Surety Provider and Rating Agencies. The Trustee shall provide to the Surety Provider and each Rating Agency a copy of each notice, opinion of counsel, certificate or other item delivered to, or required to be provided by, the Trustee pursuant to this Supplement or any other Related Document. Each such opinion of counsel shall be addressed to the Surety Provider, shall be from counsel reasonably acceptable to the Surety Provider and shall be in form and substance reasonably acceptable to the Surety Provider. All such notices, opinions, certificates or other items delivered to the Surety Provider shall be forwarded to Financial Guaranty Insurance Company, 125 Park Avenue, New York, New York 10017, Attention: General Counsel, Telephone: (212) 312-3077.

Section 6.10 Certain Rights of Surety Provider. The Surety Provider shall be deemed to be an Enhancement Provider entitled to receive confirmation of the rating on the Series 2004-2 Notes (without regard to the Surety Bond) pursuant to the definition of "Rating Agency Confirmation Condition." In addition, the Surety Provider shall be deemed to be an Enhancement Provider entitled to exercise the consent rights described in clause (ii) of the definition of "Rating Agency Consent Condition."



Section 6.11 Surety Provider Deemed Noteholder and Secured Party. Except for any period during which a Surety Default is continuing, the Surety Provider shall be deemed to be the holder of 100% of the Series 2004-2 Notes for the purposes of giving any and all consents, waivers (including, without limitation, pursuant to Article IV and Section 6.7), approvals, instructions, directions, requests, declarations and/or notices pursuant to the Base Indenture and this Supplement. Any reference in the Base Indenture or the Related Documents (including, without limitation, in Sections 2.3, 8.14, 9.1, 9.2 or 12.1 of the Base Indenture) to materially, adversely, or detrimentally affecting the rights or interests of the Noteholders, or words of similar meaning, shall be deemed, for purposes of the Series 2004-2 Notes, to refer to the rights or interests of the Surety Provider. The Surety Provider shall constitute an "Enhancement Provider" with respect to the Series 2004-2 Notes for all purposes under the Indenture and the other Related Documents. Furthermore, the Surety Provider shall be deemed to be a "Secured Party" under the Base Indenture and the Related Documents to the extent of amounts payable to the Surety Provider pursuant to this Supplement and the Insurance Agreement shall constitute an "Enhancement Agreement" with respect to the Series 2004-2 Notes for all purposes under the Indenture and the Related Documents. Moreover, wherever in the Related Documents money or other property is assigned, conveyed, granted or held for, a filing is made for, action is taken for or agreed to be taken for, or a representation or warranty is made for the benefit of the Noteholders, the Surety Provider shall be deemed to be the Noteholder with respect to 100% of the Series 2004-2 Notes for such purposes.

Section 6.12 Capitalization of AFC-II. AFC-II agrees that on the Series 2004-2 Closing Date it will have capitalization in an amount equal to or greater than 3% of the sum of (x) the Series 2004-2 Invested Amount and (y) the invested amount of the Series 1998-1 Notes, the Series 2000-2 Notes, the Series 2000-4 Notes, the Series 2001-1 Notes, the Series 2001-2 Notes, the Series 2002-1 Notes, the Series 2002-2 Notes, the Series 2002-3 Notes, the Series 2003-1 Notes, the Series 2003-2 Notes, the Series 2003-3 Notes, the Series 2003-4 Notes, the Series 2003-5 Notes and the Series 2004-1 Notes.

Section 6.13 Series 2004-2 Required Non-Program Enhancement Percentage. AFC-II agrees that it will not make any Loan under any Loan Agreement to finance the acquisition of any Vehicle by AESOP Leasing, AESOP Leasing II or ARAC, as the case may be, if, after giving effect to the making of such Loan, the acquisition of such Vehicle and the inclusion of such Vehicle under the relevant Lease, the Series 2004-2 Required Non-Program Enhancement Percentage would exceed 25.0%.

Section 6.14 Third Party Beneficiary. The Surety Provider and each Series 2004-2 Interest Rate Swap Counterparty is an express third party beneficiary of (i) the Base Indenture to the extent of provisions relating to any Enhancement Provider and (ii) this Supplement.

Section 6.15 Prior Notice by Trustee to Surety Provider. Subject to Section 10.1 of the Base Indenture, the Trustee agrees that, so long as no Amortization Event shall have occurred and be continuing with respect to any Series of Notes other than the Series 2004-2 Notes, it shall not exercise any rights or remedies available to it as a result of the occurrence of an Amortization Event with respect to the Series 2004-2 Notes (except those set forth in clauses (f) and (g) of Article III) or a Series 2004-2 Limited Liquidation Event of Default until after the Trustee has given prior written notice thereof to the Surety Provider and obtained the direction of

the Required Noteholders with respect to the Series 2004-2 Notes. The Trustee agrees to notify the Surety Provider promptly following any exercise of rights or remedies available to it as a result of the occurrence of any Amortization Event or a Series 2004-2 Limited Liquidation Event of Default.

Section 6.16 Effect of Payments by the Surety Provider. Anything herein to the contrary notwithstanding, any distribution of principal or interest on the Series 2004-2 Notes that is made with moneys received pursuant to the terms of the Surety Bond shall not (except for the purpose of calculating the Principal Deficit Amount) be considered payment of the Series 2004-2 Notes by AFC-II. The Trustee acknowledges that, without the need for any further action on the part of the Surety Provider, (i) to the extent the Surety Provider makes payments, directly or indirectly, on account of principal or interest on the Series 2004-2 Notes to the Trustee for the benefit of the Series 2004-2 Noteholders or to the Series 2004-2 Noteholders (including any Preference Amounts as defined in the Surety Bond), the Surety Provider will be fully subrogated to the rights of such Series 2004-2 Noteholders to receive such principal and interest and will be deemed to the extent of the payments so made to be a Series 2004-2 Noteholder and (ii) the Surety Provider shall be paid principal and interest in its capacity as a Series 2004-2 Noteholder until all such payments by the Surety Provider have been fully reimbursed, but only from the sources and in the manner provided herein for the distribution of such principal and interest and in each case only after the Series 2004-2 Noteholders have received all payments of principal and interest due to them hereunder on the related Distribution Date.

Section 6.17 Series 2004-2 Demand Notes. Other than pursuant to a demand thereon pursuant to Section 2.5, AFC-II shall not reduce the amount of the Series 2004-2 Demand Notes or forgive amounts payable thereunder so that the outstanding principal amount of the Series 2004-2 Demand Notes after such reduction or forgiveness is less than the Series 2004-2 Letter of Credit Liquidity Amount. AFC-II shall not agree to any amendment of the Series 2004-2 Demand Notes without first satisfying the Rating Agency Confirmation Condition and the Rating Agency Consent Condition.

Section 6.18 Subrogation. In furtherance of and not in limitation of the Surety Provider's equitable right of subrogation, each of the Trustee and AFC-II acknowledge that, to the extent of any payment made by the Surety Provider under the Surety Bond with respect to interest on or principal of the Series 2004-2 Notes, including any Preference Amount, as defined in the Surety Bond, the Surety Provider is to be fully subrogated to the extent of such payment and any additional interest due on any late payment, to the rights of the Series 2004-2 Noteholders under the Indenture. Each of AFC-II and the Trustee agree to such subrogation and, further, agree to take such actions as the Surety Provider may reasonably request in writing to evidence such subrogation.

Section 6.19 Termination of Supplement. This Supplement shall cease to be of further effect when all outstanding Series 2004-2 Notes theretofore authenticated and issued have been delivered (other than destroyed, lost, or stolen Series 2004-2 Notes which have been replaced or paid) to the Trustee for cancellation, AFC-II has paid all sums payable hereunder, the Surety Provider has been paid all Surety Provider Fees and all other Surety Provider Reimbursement Amounts due under the Insurance Agreement, the Policy is no longer in effect,

the Series 2004-2 Interest Rate Swaps have been terminated and there are no amounts due and owing thereunder and, if the Series 2004-2 Demand Note Payment Amount on the Series 2004-2 Letter of Credit Termination Date was greater than zero, all amounts have been withdrawn from the Series 2004-2 Cash Collateral Account in accordance with Section 2.8(i).

Section 6.20 Condition to Termination of AFC-II's Obligations. Notwithstanding anything to the contrary in Section 11.1 of the Indenture, so long as this Supplement is in effect, AFC-II may not terminate its obligations under the Indenture unless AFC-II shall have delivered to the Surety Provider an Opinion of Counsel, in form and substance acceptable to the Surety Provider, to the effect that, in the event of a bankruptcy proceeding under the Bankruptcy Code in respect of AFC-II, the Lessor or any Lessee, the bankruptcy court would not avoid any amounts distributed to the Series 2004-2 Noteholders or the Surety Provider in connection with such termination.

IN WITNESS WHEREOF, AFC-II and the Trustee have caused this Supplement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

AESOP FUNDING II L.L.C.

By: /s/ Lori Gebron

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Title: Vice President

THE BANK OF NEW YORK (as successor in interest to the corporate trust administration of Harris Trust and Savings Bank), as Trustee

By: /s/ Eric Lindahl

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Title: Agent

THE BANK OF NEW YORK, as Series 2004-2 Agent

By: /s/ Eric Lindahl

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Title: Agent

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## QuickLinks

[Exhibit 10.1](#)

[PRELIMINARY STATEMENT](#)

[DESIGNATION](#)

[ARTICLE I DEFINITIONS](#)

[ARTICLE II](#)

[SERIES 2004-2 ALLOCATIONS](#)

[ARTICLE III AMORTIZATION EVENTS](#)

[ARTICLE IV RIGHT TO WAIVE PURCHASE RESTRICTIONS](#)

[ARTICLE V FORM OF SERIES 2004-2 NOTES](#)

[ARTICLE VI GENERAL](#)

**Cendant Corporation and Subsidiaries**  
**COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES**  
(Dollars in millions)

|  | <b>Three Months Ended<br/>March 31,</b> |               |
|--|---|---------------|
|  | <b>2004</b>                             | <b>2003</b>   |
| <b>Earnings before fixed charges:</b>  |   |               |
| Income before income taxes and minority interest   | \$ 503                                  | \$ 470        |
| Plus: Fixed charges  | 266                                     | 230           |
| Less: Minority interest (pre-tax) in mandatorily redeemable preferred interest in a subsidiary | —                                       | 3             |
| Minority interest in pre-tax income of subsidiaries that have not incurred fixed charges       | 6                                       | 6             |
|  | <b>\$ 763</b>                           | <b>\$ 691</b> |
| <b>Earnings available to cover fixed charges</b>   |   |               |
|  | <b>\$ 763</b>                           | <b>\$ 691</b> |
| <b>Fixed charges (a):</b>  |   |               |
| Interest, including amortization of deferred financing costs                                   | \$ 228                                  | \$ 193        |
| Minority interest (pre-tax) in mandatorily redeemable preferred interest in a subsidiary       | —                                       | 3             |
| Interest portion of rental payment   | 38                                      | 34            |
|  | <b>\$ 266</b>                           | <b>\$ 230</b> |
| <b>Total fixed charges</b>   |   |               |
|  | <b>\$ 266</b>                           | <b>\$ 230</b> |
| <b>Ratio of earnings to fixed charges</b>  | <b>2.87x</b>                            | <b>3.00x</b>  |

(a) Consists of interest expense on all indebtedness (including amortization of deferred financing costs and capitalized interest) and the portion of operating lease rental expense that is representative of the interest factor. Interest expense on all indebtedness is detailed as follows:

|  | <b>March 31,</b> |             |
|--|------------------|-------------|
|  | <b>2004</b>      | <b>2003</b> |
| Incurred by the Company's PHH subsidiary   | \$ 68            | \$ 48       |
| Related to the debt under management and mortgage programs incurred by the Company's vehicle rental subsidiary | 65               | 59          |
| All other  | 95               | 86          |

The 2004 amounts are not comparable to the 2003 amounts due to the adoption of FASB Interpretation No. 46, "Consolidation of Variable Interest Entities," on July 1, 2003.

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QuickLinks

[Exhibit 12](#)

[Cendant Corporation and Subsidiaries COMPUTATION OF RATIO OF EARNINGS TO FIXED CHARGES \(Dollars in millions\)](#)

May 3, 2004

Cendant Corporation  
9 West 57<sup>th</sup> Street  
New York, New York

We have made reviews, in accordance with standards established by the American Institute of Certified Public Accountants, of the unaudited interim financial information of Cendant Corporation and subsidiaries for the three-month periods ended March 31, 2004 and 2003, as indicated in our report dated May 3, 2004; because we did not perform an audit, we expressed no opinion on that information.

We are aware that our report referred to above, which is included in your Quarterly Report on Form 10-Q for the quarter ended March 31, 2004, is incorporated by reference in Cendant Corporation's Registration Statement Nos. 333-11035, 333-17323, 333-17411, 333-20391, 333-23063, 333-26927, 333-35707, 333-35709, 333-45155, 333-45227, 333-49405, 333-78447, 333-86469, 333-51586, 333-59246, 333-65578, 333-65456, 333-65858, 333-83334, 333-84626, 333-86674 and 333-87464 on Form S-3 and Registration Statement Nos. 33-74066, 33-91658, 333-00475, 333-03237, 33-58896, 33-91656, 333-03241, 33-26875, 33-75682, 33-93322, 33-93372, 33-80834, 333-09633, 333-09637, 333-30649, 333-42503, 333-34517-2, 333-42549, 333-45183, 333-47537, 333-69505, 333-75303, 333-78475, 333-51544, 333-38638, 333-64738, 333-71250, 333-58670, 333-89686, 333-98933, 333-102059, 333-22003 and 333-114744 on Form S-8.

We also are aware that the aforementioned report, pursuant to Rule 436(c) under the Securities Act of 1933, is not considered a part of the Registration Statements prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of Sections 7 and 11 of that Act.

/s/ Deloitte & Touche LLP  
New York, New York

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## QuickLinks

[Exhibit 15](#)

**CERTIFICATIONS**

I, Henry R. Silverman, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cendant Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 3, 2004

/s/ Henry R. Silverman

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Chief Executive Officer

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QuickLinks

[Exhibit 31.1](#)

[CERTIFICATIONS](#)

I, Ronald L. Nelson, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cendant Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - c) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 3, 2004

/s/ Ronald L. Nelson

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Chief Financial Officer

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## QuickLinks

[Exhibit 31.2](#)

**CERTIFICATION OF CEO AND CFO PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Cendant Corporation (the "Company") on Form 10-Q for the period ended March 31, 2004, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Henry R. Silverman, as Chief Executive Officer of the Company, and Ronald L. Nelson, as Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Henry R. Silverman

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Henry R. Silverman  
Chief Executive Officer  
May 3, 2004

/s/ Ronald L. Nelson

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Ronald L. Nelson  
Chief Financial Officer  
May 3, 2004

This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

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## QuickLinks

[Exhibit 32](#)

[CERTIFICATION OF CEO AND CFO PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002](#)