

## TWO-YEAR DISPOSITION AGREEMENT

**WHEREAS, CERBERUS FIM, LLC**, a Delaware limited liability company, (“CF”) is the sole managing member of **CERBERUS FIM INVESTORS, LLC**, a Delaware limited liability company, (“CF Investors”), which in turn is the sole managing member of **FIM HOLDINGS LLC**, a Delaware limited liability company, (“FIM”); and

**WHEREAS**, the Federal Deposit Insurance Act, 12 U.S.C. § 1811 et seq. (the “FDI Act”) established the Federal Deposit Insurance Corporation (the “FDIC”) to, among other things, insure the deposits of all banks and savings associations; and

**WHEREAS**, the FDIC is generally charged by section 7(j) of the FDI Act, 12 U.S.C. § 1817(j) (“Section 7(j)”) with the responsibility for acting upon all notices of change in bank control with respect to insured state nonmember banks, including insured industrial banks; and

**WHEREAS**, on May 31, 2006 CF, CF Investors, and FIM (collectively, the “Acquirors”), along with the other notificants,<sup>1</sup> filed with the FDIC, an Interagency Notice of Change in Control (as later amended and updated, the “Notice”) regarding the proposed acquisition of control of GMAC Automotive Bank, Midvale, Utah, an industrial bank (to be known as GMAC Bank, and herein referred to as the “Bank”); and

**WHEREAS**, the Acquirors request that prior to the expiration of the six-month moratorium imposed by the FDIC on July 28, 2006 (*See* 71 Fed. Reg. 43482 (August 1, 2006)), the FDIC issue a letter of intent not to disapprove the acquisition described in the Notice (the “Non-Disapproval”);

**WHEREAS**, the Acquirors have offered certain commitments to the FDIC in order to induce the FDIC to issue the Non-Disapproval; and

**WHEREAS**, the FDIC may not issue the Non-Disapproval if the Acquirors do not enter into this Agreement and make the commitments described herein;

**NOW, THEREFORE**, in consideration of the terms and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the Acquirors and the FDIC agree as follows:

1. If the FDIC issues the Non-Disapproval and if the Acquirors consummate the proposed acquisition, the Acquirors will complete one of the following actions no later than November 30, 2008:

- (A) become registered with the appropriate federal banking agency as depository institution holding companies pursuant to the Bank Holding

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<sup>1</sup> The other notificants are Mr. Stephen A. Feinberg, Citigroup Inc., Aozora Bank Limited, and by later amendment to the Notice, The PNC Financial Services Group, Inc.

Company Act, 12 U.S.C. §§ 1841 -- 1850, or the Home Owners' Loan Act, 12 U.S.C. §§ 1461 -- 1470;

- (B) divest control (as that term is used in Section 7(j) and in the presumption of control in 12 C.F.R. § 303.82(b)(2)) of the Bank to one or more persons or entities other than prohibited transferees; for purposes of the preceding clause, prohibited transferees include the Acquirors, Stephen A. Feinberg, Citicorp Inc., Aozora Bank Limited and The PNC Financial Services Group, Inc. (collectively, the "Notificants") and each company that controls, is controlled by, or is under common control with, one or more of the Notificants, provided that notwithstanding the foregoing, any Notificant or company that is or upon such transfer will become a registered depository institution holding company is not a prohibited transferee;
- (C) cause the Bank's status as an FDIC-insured depository institution to be terminated pursuant to section 8 of the FDI Act, 12 U.S.C. § 1818; or
- (D) obtain from the FDIC a waiver of the requirements of this sentence on the ground that applicable law and FDIC policy permit similarly situated companies to acquire control of FDIC-insured industrial banks, provided any such request for waiver is in writing and is based upon the applicable law and FDIC policy in effect on the date the waiver request is filed with the FDIC; notwithstanding the foregoing, no waiver request may be filed prior to January 31, 2008 unless, prior to that date, Congress enacts new legislation permitting, or the FDIC by new regulation or order authorizes, similarly situated companies to acquire control of FDIC-insured industrial banks after January 31, 2007.

2. Filing Deadline. Any application, request, or notice desirable or necessary to effect any of the above actions must be received, in substantially complete form, by the appropriate federal banking agency no later than May 30, 2008.

3. Prohibition on Transfer. If the FDIC issues the Non-Disapproval, and if the Acquirors consummate the proposed acquisition of the Bank, no Acquiror may sell, assign, transfer, pledge, or dispose of any, direct or indirect, interest in the Bank without the prior written agreement of the FDIC.

4. Authority of the Parties. The board of directors, the board of managers, or the managing member(s), as the case may be, of each Acquiror has (have) adopted a resolution (the "Resolution") authorizing its entry into this Agreement. A certified copy of the Resolution for each Acquiror is attached hereto as Exhibit A and incorporated herein by reference.

5. Miscellaneous.

- A. Enforceability As A Written Agreement. In addition to any other remedies provided by law, this Agreement is enforceable by the FDIC as a written agreement pursuant to section 8 of the FDI Act, 12 U.S.C. § 1818, against the Acquirors, their successors and assigns.
- B. Definitions. Except for the term “control” which is defined as indicated in paragraph 1.B. above, terms used herein that are not otherwise defined herein have the meanings given them in section 3 of the FDI Act, 12 U.S.C. § 1813.
- C. Governing Laws. This Agreement and the rights and obligations hereunder shall be governed by, and shall be construed in accordance with the Federal law of the United States and, in the absence of controlling Federal law, in accordance with the laws of the State of Utah.
- D. No Waiver. No failure to exercise, and no delay in the exercise of, any right or remedy on the part of any of the parties hereto shall operate as a waiver or termination thereof, nor shall any exercise or partial exercise of any right or remedy preclude any other or further exercise of such right or remedy or any other right or remedy.
- E. No Oral Changes. This Agreement may not be modified, amended, discharged, terminated, released, renewed or extended in any manner except by a writing signed by all of the parties.
- F. Addresses for Receipt of Notice. Any request or notice hereunder shall be in writing and shall be delivered by hand, or sent by United States express mail or commercial express mail, postage prepaid, and addressed as follows:

If to **CERBERUS FIM, LLC:**

CERBERUS FIM, LLC  
Attn: Mark A. Neporent  
c/o Cerberus Capital Management, L.P.  
299 Park Avenue, 22d Floor  
New York, New York 10171

If to **CERBERUS FIM INVESTORS, LLC:**

CERBERUS FIM INVESTORS, LLC  
Attn: Mark A. Neporent  
c/o Cerberus Capital Management, L.P.  
299 Park Avenue, 22d Floor  
New York, New York 10171

If to **FIM HOLDINGS LLC**:

FIM HOLDINGS LLC  
Attn: Mark A. Neporent  
c/o Cerberus Capital Management, L.P.  
299 Park Avenue, 22d Floor  
New York, New York 10171

If to the **FDIC**:

Regional Director  
Federal Deposit Insurance Corporation  
20 Exchange Place, Fourth Floor  
New York, NY 10005

- G. No Assignment. This agreement may not be assigned or transferred, in whole or in part, without the prior written consent of the FDIC.
- H. Joint and Several Liability. The obligations, liabilities, agreements and commitments of the Acquirors contained herein are joint and several, and the FDIC may pursue any of the rights or remedies that it may have against one or more of the other Acquirors without releasing or discharging any other Acquiror.
- I. No Third Party Beneficiaries. This Agreement shall inure to the benefit of the Acquirors and the FDIC alone and is not intended to benefit any third-parties.
- J. Complete Agreement. This Agreement is the complete and exclusive statement of the agreement among the parties, and supersedes all prior

[CONTINUED ON THE NEXT PAGE]

written or oral communications, representations, understandings, and agreements relating to the subject matter of this Agreement.

**FEDERAL DEPOSIT INSURANCE CORPORATION**

By: 

Date: 11/16/06

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

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

**CERBERUS FIM, LLC**

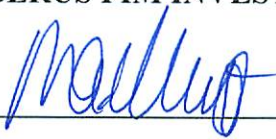
By: 

Date: 11/15/06

Name: Mark A. Neporent

Title: Managing Director

**CERBERUS FIM INVESTORS, LLC**

By: 

Date: 11/15/06

Name: Mark A. Neporent

Title: Managing Director

**FIM HOLDINGS LLC**

By: 

Date: 11/15/06

Name: Mark A. Neporent

Title: Managing Director