

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2004-08-12** | Period of Report: **2004-08-07**
SEC Accession No. **0000893750-04-000418**

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FILER

DILLARDS INC

CIK: **28917** | IRS No.: **710388071** | State of Incorporation: **DE** | Fiscal Year End: **0201**
Type: **8-K** | Act: **34** | File No.: **001-06140** | Film No.: **04970607**
SIC: **5311** Department stores

Business Address
1600 CANTRELL RD
LITTLE ROCK AR 72201
5013765200

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): August 7, 2004

DILLARD'S, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other
jurisdiction of
incorporation)

1-6140
(Commission File Number)

71-0388071
(IRS Employer
Identification Number)

1600 CANTRELL ROAD, LITTLE ROCK, ARKANSAS
(Address of principal executive offices)

72201
(Zip Code)

(501) 376-5200
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Item 2. Acquisition or Disposition of Assets.

On August 7, 2004, Dillard's, Inc. ("Dillard's") and Dillard National Bank, the private label credit card subsidiary of Dillard's ("DNB"), entered into a Purchase, Sale and Servicing Transfer Agreement (the "Purchase Agreement") with General Electric Capital Corporation ("GECC") and GE Capital Consumer Card Co. ("GE Consumer"). Pursuant to the Purchase Agreement, Dillard's and DNB will sell substantially all of the assets of DNB to GE Consumer for approximately \$1.25 billion, which amount includes the assumption of \$400 million of securitization liabilities, the purchase of owned accounts receivable and a premium. Dillard's and GE Consumer will also form a long-term marketing and servicing alliance under a Private Label Credit Card Program

Agreement (the "Program Agreement") having an initial term of ten years. The transaction has been approved by both companies and is expected to close by the end of the current fiscal year, subject to customary regulatory review and closing conditions. A copy of the Dillard's press release announcing the execution of the Purchase Agreement is filed with this report as Exhibit 99.1 and is incorporated herein by reference. The schedules and annexes to each of the Purchase Agreement and the Program Agreement have been omitted from Exhibits 2.1 and 10.1 hereto, respectively. Dillard's hereby agrees to furnish supplementally a copy of any omitted schedule or annex to the Purchase Agreement or the Program Agreement to the Securities and Exchange Commission upon its request.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

(c) Exhibits.

- 2.1 Purchase, Sale and Servicing Transfer Agreement, dated as of August 7, 2004, among Dillard's, Inc., Dillard National Bank, General Electric Capital Corporation and GE Capital Consumer Card Co.
- 10.1 Private Label Credit Card Program Agreement, dated as of August 7, 2004, by and between Dillard's, Inc. and GE Capital Consumer Card Co.
- 99.1 Press release dated August 8, 2004

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 hereunto duly authorized.

Date: August 12, 2004

DILLARD'S, INC.

By: /s/ James I. Freeman

Name: James I. Freeman
Title: Senior Vice-President and Chief
Financial Officer

EXHIBIT INDEX

Exhibit No. Description

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- 99.1 Press release dated August 8, 2004

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PURCHASE, SALE AND SERVICING TRANSFER AGREEMENT

AMONG

GE CAPITAL CONSUMER CARD CO.,

GENERAL ELECTRIC CAPITAL CORPORATION,

DILLARDS, INC.

AND

DILLARD NATIONAL BANK

DATED AS OF AUGUST 7, 2004

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PURCHASE, SALE AND SERVICING TRANSFER AGREEMENT, dated as of August 7, 2004 (this "Agreement"), among Dillard's, Inc., a Delaware corporation (the "Parent"), Dillard National Bank, a national banking association (the "Bank"), GE Capital Consumer Card Co., a federal savings bank (the "Purchaser"), and General Electric Capital Corporation, a Delaware corporation (the "Purchaser Parent").

RECITALS

WHEREAS, the Parent is, among other things, (i) engaged in the business of selling merchandise through retail stores and by other means and (ii) directly and indirectly through certain of its Subsidiaries, including the Bank, engaged in the Business (as defined herein);

WHEREAS, the Dillard Credit Card Master Trust I was formed pursuant to that certain Amended and Restated Pooling and Servicing Agreement, dated as of June 28, 2000, as amended and/or supplemented through the date of this Agreement and as it may be further amended and/or supplemented through the Closing Date to the extent permitted by this Agreement, including all series supplements thereto (the "Pooling and Servicing Agreement"), by and among Dillard Asset Funding Company, a Delaware business trust ("DAF"), as transferor, the Bank, as servicer, and JPMorgan Chase Bank, as trustee;

WHEREAS, pursuant to this Agreement, the Parent and the Bank desire to sell to the Purchaser, and the Purchaser desires to purchase from the Sellers (as defined below), the Acquired Assets (as defined below) used in the Business pursuant to the terms contained and in the manner described herein;

WHEREAS, on the date hereof, the Parent and the Purchaser are entering into a Program Agreement (the "Program Agreement") in the form attached hereto as Annex A, to become effective as of the Closing under this Agreement, that provides for, among other things, the issuance of Dillard proprietary cards, the issuance of existing and new credit related products to be developed with the Purchaser, the processing and servicing of the related accounts, and the conduct of related marketing activities; and

WHEREAS, simultaneously with the Closing under this Agreement, the Sellers, the Purchaser and certain of their respective Affiliates desire to enter into other agreements in connection with the transactions contemplated hereby.

NOW, THEREFORE, in consideration of the premises, and of the mutual representations and agreements contained in this Agreement, the parties agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1 Definitions of Certain Terms. (a) In this Agreement, the following terms are used with the meanings assigned below:

"Account" means, as of the Cut-Off Time, any account identified by name and account number under which a purchase or credit transaction may be or has been

made by a Cardholder by means of a Credit Card, which is recorded as an Account on the computer system of the Service Provider or the Sellers' internal processing system, and for which an Account Agreement is in effect as of the Closing Date, including any such account that is a Written-Off Account.

"Account Agreement" means an agreement (including related disclosure) between the Bank, Parent or its Affiliates and a Person or Persons under which Accounts are established and pursuant to which Credit Cards are issued to or on behalf of such Person or Persons, as such agreement may be amended, modified or otherwise changed from time to time (including pursuant to change of terms notices).

"Accrued Interest" means the aggregate amount of all finance charges that were accrued and earned, but not posted on the Accounts as of the Cut-Off Time.

"Acquired Assets" means all right, title and interest of the Sellers in and to the following assets and properties, except to the extent they constitute Excluded Assets:

- (1) the Accounts and the Gross Receivables (other than Securitization Receivables) accrued as of the Cut-Off Time related to the Accounts;
- (2) the applications for Accounts pending and solicitations for Accounts outstanding;
- (3) the Account Agreements, the Cardholder List and the Master File;
- (4) the Securitization Assets;
- (5) the Assigned Contracts;
- (6) the Books and Records;
- (7) the Personal Property;

(8) the Credit Cards;

(9) rights, claims, credits, causes of action and rights of set-off against third parties relating principally to the Business or any Acquired Assets; and

(10) the Scoring Models.

"Action" means any claim, action, complaint, investigation, petition, suit or other proceeding, whether civil, criminal or administrative, in law or in equity, or before any arbitrator or Governmental Authority.

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person.

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"Ancillary Agreements" means the Program Agreement, the Securitization Transfer Agreement, the Instrument of Assignment and Assumption and the Lease Agreement.

"Applicable Order" means, with respect to any Person, a judgment, injunction, writ, decree or order of any Governmental Authority, in each case legally binding on that Person or on any of its property.

"Assigned Contracts" means the Contracts to the extent used in connection with the Business other than the Securitizations (including all Contracts listed on Schedule A), but excluding intercompany Contracts between the Sellers and any of their Affiliates.

"Assumed Liabilities" means the following Liabilities of the Sellers (other than Liabilities of the type described in clauses (1) through (5) of the definition of Excluded Liabilities):

(1) all obligations to Cardholders from and after the Closing Date in respect of Accounts to perform under Account Agreements, including payment of credit balances as of the Cut-Off Time;

(2) all fees, normal operating assessments and other charges relating to the Accounts that are incurred or accrue on or after the Closing Date;

(3) all of the obligations of the Sellers, as servicer, originator, transferor, or in any other capacity to the Master Trust and under any Securitization Documents arising from the conduct of the Purchaser or its designee after the Cut-Off Time, including all

obligations to accept reassignment of receivables pursuant to the terms of the Pooling and Servicing Agreement;

(4) all obligations of the Sellers arising under the Assigned Contracts from and after the Closing Date;

(5) all obligations related to the Employees and employee benefit plans and programs to the extent set forth in Article VI; and

(6) all Liabilities for Taxes relating to the Business or the Acquired Assets to the extent set forth in Sections 6.1(d) and 6.1(e).

"Books and Records" means books, records, original documents, files and papers maintained by or for the Sellers, whether in hard copy or electronic format, including those relating to the Master Trust, in each case to the extent within any Seller's control and/or possession and principally used in the Business, other than any relating principally to the Excluded Assets and other than Tax returns or Tax workpapers.

"Business" means the proprietary Credit Card business relating to the Accounts, including the extension of credit to Cardholders, the servicing of the Accounts (including servicing under the Pooling and Servicing Agreement), billings, collections,

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processing of Account transactions and the administration of the Accounts and Gross Receivables (including the Securitization Receivables).

"Business Day" means any day other than a Saturday, a Sunday or a day on which banks located in Arizona, New York or Ohio generally are required or authorized by law or executive order to close.

"Cardholder" means a Person or Persons (i) to whom a Credit Card is or has been issued by the Bank and in whose name(s) an Account, in connection with which the Credit Card may be used, has been established pursuant to an Account Agreement or (ii) who is authorized to have a Credit Card by a Person described in clause (i).

"Cardholder List" means a list of the names, addresses, telephone numbers and, taxpayer identification numbers and social security numbers of all Cardholders as of the Cut-Off Time if and to the extent within the possession or control of the Parent or its Affiliates.

"Code" means the Internal Revenue Code of 1986.

"Constituent Documents" means the articles of association, articles

of incorporation, certificate of incorporation, by-laws and/or other organizational documents, as appropriate, of any Person.

"Contract" means, with respect to any Person, any agreement, undertaking, contract, indenture, deed of trust or other instrument, document or agreement by which that Person, or any amount of its properties, is bound and/or subject.

"Conversion Date" has the meaning assigned to such term in the Program Agreement.

"Credit Card" means a proprietary card that may be used by the related Cardholder to purchase goods and services at Parent or other Persons authorized by Parent through open-end revolving credit, commonly known as a credit, store or charge card.

"Cut-Off Time" means 11:59 PM Pacific time on the date immediately preceding the Closing Date.

"Deductible Amount" has the meaning set forth on Schedule I.

"De Minimis Claim Amount" has the meaning set forth on Schedule I.

"Disclosure Schedule" means, with respect to the Sellers or the Purchaser, a schedule delivered to the other party on or before the date of this Agreement setting forth, among other things, items the disclosure of which is required under this Agreement either in response to an express disclosure requirement contained in a provision of this Agreement or as an exception to one or more of the representations or covenants contained in this Agreement; provided that the mere inclusion of an item in a Disclosure Schedule as an exception to a representation will not be considered an admission by the disclosing party that such item (or any non-disclosed item or information of comparable or greater significance) represents a material exception or fact, event or circumstance

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or that such item has had or is reasonably expected to result in a Material Adverse Effect with respect to the disclosing party or the Business.

"Eligible Receivables" means all Gross Receivables other than receivables under Written-Off Accounts.

"Employees" means all full-time and part-time employees of the Sellers or any of their Affiliates (whether or not on vacation, military leave, sick leave, maternity leave, disability or other leave of absence) who are employed principally in connection with the Business, other than those excluded by mutual agreement of the parties hereto.

"Estimated Closing Statement" means a statement prepared by the Sellers, substantially in the form of Schedule B, showing in reasonable detail the calculation of the Estimated Purchase Price, based on data available as of the close of business on the fifth Business Day preceding the Closing Date.

"Estimated Purchase Price" means the amount payable by the Purchaser on the Closing Date in accordance with the Estimated Closing Statement.

"Excluded Assets" means the assets of the Sellers and their Affiliates not being acquired by the Purchaser hereunder, including the following:

(1) cash and cash equivalents on hand and cash and cash equivalents in bank accounts maintained by the Sellers or any of their Affiliates other than in the Securitization Bank Accounts;

(2) insurance policies maintained by or for the benefit of the Sellers and all claims accrued thereunder;

(3) Intellectual Property Rights other than rights to the Cardholder List or the Master File;

(4) assets of any Seller or any of its Affiliates sold or otherwise disposed of, or otherwise becoming no longer a part of the Business, without violation of this Agreement during the period prior to the Closing Date;

(5) assets relating to the Seller's employee benefit agreements, plans or other arrangements, except as provided in Article VI;

(6) rights, claims, credits, causes of action, or rights of set-off against third parties not relating principally to the conduct of the Business or the Acquired Assets or which relate principally to an Excluded Liability;

(7) the national association charter of the Bank, and all licenses, permits or other authorizations of any Governmental Authorities held or used by the Sellers;

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(8) interests in real property (other than pursuant to the Lease Agreement);

(9) personal property of the Sellers other than the Personal Property;

(10) all right, title and interest of the Sellers in and to any and all other assets and properties, of any kind whatsoever, that are not principally used in the conduct of the Business as of the Closing Date;

(11) all customer data relating to customers of the Sellers and their Affiliates (whether or not duplicated in the Cardholder List, the Master File and the Books and Records (all of which constitute Acquired Assets));

(12) prepaid Taxes, Tax payments due from any of the Sellers' Affiliates, and entitlements to refunds, credits, offsets or other benefits for overpayment of Taxes relating to any period (or portion thereof) prior to the Closing Date;

(13) Loan loss reserves; and

(14) Intercompany Contracts between the Sellers and any of their Affiliates.

"Excluded Liabilities" means Liabilities of the Sellers (or any of their respective predecessors), other than the Assumed Liabilities, of any kind whatsoever, whether presently in existence or arising hereafter, including:

(1) Except as provided in Sections 6.1(d) and (e), all Liabilities for Taxes with respect to the Business, the Acquired Assets or the Master Trust for any period (or portion thereof) prior to the Closing Date;

(2) Liabilities that result from an act, or failure to act, by any of the Sellers prior to the Closing Date that relate to any claims by any current, former or putative employee of any of the Sellers or any Employee, whether or not such claims are brought prior to, on or after the Closing Date, and, except to the extent provided in Article VI, Liabilities relating to employee benefits (including any accrued vacation benefits) or compensation arrangements existing prior to the Closing Date, including Liabilities under any of the employee benefit agreements, plans or other arrangements of the Sellers or in connection with workers compensation or other medical claims made at any time against any of the Sellers with respect to an illness or injury arising prior to the Closing Date;

(3) the portion of any Liability principally related to an Excluded Asset;

(4) any Liability of any Seller (or any of its Affiliates) relating to or arising from the operation of the Business at or prior to the Cut-Off Time or from

any facts, circumstances or events existing or occurring at or prior to the Cut-Off Time; and

(5) Liabilities related to the Variable Rate Certificates, Series 1998-1 and 2002-1 (or the transaction documents entered into in connection with the issuance thereof), each to be terminated in accordance with Section 7.1(k).

"Federal Funds Rate" means the offered rate as reported in The Wall Street Journal in the "Money Rates" section for reserves traded among commercial banks for overnight use in amounts of one million dollars or more or, if no such rate is published for a day, the rate published for the preceding Business Day.

"Final Closing Statement" means a statement prepared by the Purchaser, substantially in the form of Schedule B, showing in reasonable detail the Purchaser's calculation of the Purchase Price, based on the Accounts and the Acquired Assets as of the Cut-Off Time.

"GAAP" means generally accepted accounting principles in the United States.

"Governmental Authority" means any domestic or foreign governmental, regulatory or self-regulatory authority, agency, court, tribunal, commission or other governmental, regulatory or self-regulatory entity exercising legislative, judicial, regulatory or administrative functions.

"Gross Receivables" means all amounts owing (after deduction of credit balances scheduled as of the Cut-Off Time and unapplied cash) to the Sellers or to the Master Trust from Cardholders with respect to Accounts (including outstanding loans, cash advances and other extensions of credit; billed or posted but unbilled finance charges and late charges; Accrued Interest; and any other fees, charges and interest assessed on the Accounts) as of the Cut-Off Time (or, solely with respect to the Estimated Closing Statement, as of the close of business on the fifth Business Day preceding the Closing Date).

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Indemnity Cap Amount" has the meaning set forth on Schedule I.

"Instrument of Assignment and Assumption" means the Instrument

of Assignment and Assumption in the form attached as Annex B, to be entered into at Closing.

"Intellectual Property Right" means any intellectual property right, including any trademark, service mark or other source indicator, invention, patent, copyright, trade secret, know-how, and any registration or application for registration of any of the foregoing.

"Interim Servicing Amount" has the meaning set forth on Schedule J.

"Knowledge" means, with respect to the Sellers, the actual knowledge of the executive officers of the Parent and the Bank who have managerial responsibility for

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conducting the Business and, with respect to the Purchaser, the actual knowledge of the executive officers of the Purchaser and the Purchaser Parent who have managerial responsibility for the relevant area of the Purchaser's business or operations.

"Lease Agreement" means the Lease Agreement in the form attached as Annex C, to be entered into at Closing, provided that such Annex shall be amended to provide that the landlord shall indemnify the tenant for pre-Closing environmental liabilities.

"Liability" means any debt, liability, commitment or obligation, of any kind whatsoever, whether due or to become due, known or unknown, accrued or fixed, absolute or contingent, or otherwise.

"Lien" means, with respect to any property, any lien, security interest, mortgage, pledge, charge or encumbrance relating to that property, including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such property.

"Master File" means the master file maintained by the Sellers and the Service Provider with respect to the Accounts, including identification and other customer data and Account information, the names and addresses of Cardholders with respect to the Accounts and any and all Account adjustments made by or on behalf of the Sellers.

"Master Trust" means the Dillard Credit Card Master Trust I.

"Material Adverse Effect" means:

(a) With respect to the Business, a material adverse change in, or a material adverse effect upon, the results of operations or financial condition of the Business, taken as a whole, excluding any effect or change attributable to or resulting from (1) events, conditions or occurrences in economic, business or financial conditions generally affecting the credit card services, consumer credit business, or banking industry, (2) financial market conditions, including interest rates or changes therein, (3) changes in laws, GAAP or regulatory accounting principles, (4) any action, omission, change, effect, circumstance or condition contemplated by this Agreement, or attributable to the signing and announcement of this Agreement or the transactions contemplated by this Agreement and the Ancillary Agreements or (5) any actions or omissions required by the terms of this Agreement or the Ancillary Agreements; and

(b) With respect to the Sellers or the Purchaser, a material impairment of the ability of the relevant Person or Persons to perform its or their material obligations under this Agreement.

"Permissible Liens" means (a) with respect to those Acquired Assets that are Personal Property, restrictions or imperfections of title that do not materially detract from the value or impair the use of any Acquired Asset and (b) Liens for taxes,

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assessments and other governmental charges or levies not yet due or which are being contested in good faith by appropriate action.

"Person" means any individual, corporation, business trust, partnership, association, limited liability company or similar organization, or any Governmental Authority.

"Personal Property" means the tangible assets listed on Schedule C.

"Premium" means the amount designated as the premium on the Final Closing Statement, determined in accordance with Schedule B.

"Previously Disclosed" means, with respect to the Seller or the Purchaser, information set forth in a Disclosure Schedule, whether in response to an express informational requirement or as an exception to one or more representations or covenants.

"Purchase Price" means the purchase price payable in accordance with the Final Closing Statement, as finally determined in accordance with Section 2.4.

"Rating Agency Condition" has the meaning specified in the Pooling and Servicing Agreement.

"Requirement of Law" means, with respect to any Person, any law, ordinance, statute, treaty, rule or regulation or determination of an arbitrator or of a Governmental Authority, in each case binding on that Person or any material amount of its property.

"Required Amendments and Confirmations" means all amendments to the Securitization Documents (in the form set forth on Annex D, subject to changes required by any rating agency in connection with the transactions contemplated by this Agreement) and the satisfaction of all applicable Rating Agency Conditions and receipt of all other consents required in order to consummate the transactions contemplated hereby and by the Securitization Transfer Agreement without violation of the terms of any Securitization Document.

"Requisite Regulatory Approvals" means the consents, registrations, approvals, permits or authorizations referred to in clause (i) of Section 7.1(a).

"Residual Assets" means all of the assets relating to the Master Trust that are owned by any Seller or any of their Affiliates.

"Scoring Models" means the customer underwriting scorecard and the customer behavioral scorecard developed on behalf of the Sellers relating to the Accounts.

"Securitization" means, generally, any transaction in which any Person transferred loans, other debt instruments or interests therein to a trust, either taking back or selling securities or other similar interests evidencing the ownership of such trust.

"Securitization Assets" means the collective reference to (i) the Transferor Certificate, as defined in the Securitization Documents, and any other certificate or interest retained by DAF or any other Affiliate of the Parent in the Master Trust; (ii) all interests of the Sellers in the Securitization Bank Accounts; (iii) all interests of the Sellers in and to the Securitization Receivables; and (iv) all other rights and interests under each of the Securitization Documents, including the Servicing Rights, all other cash or proceeds, all other rights arising from certificated or uncertificated securities and interests or rights purchased or retained by a Seller in connection with a Securitization, including repurchase options or similar rights arising in connection with a

Securitization.

"Securitization Assignment and Assumption" means the assignment by the Sellers to the Purchaser (or, in the case of the Transferor Interest, the Purchaser's Assignee) of the Sellers' rights and interests in or relating to, and the assumption by the Purchaser of the Sellers' obligations under or relating to, the Master Trust pursuant to the Securitization Transfer Agreement.

"Securitization Bank Accounts" means any spread account, reserve account, collection account, principal funding account or other similar accounts created pursuant to the Securitization Documents.

"Securitization Documents" means the Pooling and Servicing Agreement and the other documents designated as such on Schedule D.

"Securitization Receivables" means, as of any date, the Gross Receivables that have been transferred to the Master Trust and that have not been reassigned to the transferor under the Pooling and Servicing Agreement.

"Securitization Transfer Agreement" means the Assignment and Assumption Agreement dated as of the Closing Date among DAF, the Purchaser, a special purpose entity that is an affiliate of the Purchaser and the trustee of the Master Trust, in the form attached hereto as Annex E.

"Sellers" means the Parent, the Bank and DAF.

"Service Provider" means any data processing service provider used by the Sellers in connection with the Accounts.

"Servicing Rights" means all rights, privileges and benefits of acting as servicer under the Pooling and Servicing Agreement or that are incidental thereto including: (a) any and all rights to service any Securitization Receivable; (b) all servicing fees or other compensation payable to the servicer under the Pooling and Servicing Agreement with respect to all periods after the Closing; and (c) any late fees, investment income or similar payments or penalties with respect to each Securitization Receivable payable to the servicer.

"Special Excluded Liabilities" means any Excluded Liabilities that result from an act, or failure to act, by any of the Sellers prior to the Closing Date and (a) that relate to any Action by any Cardholder brought on or after the Closing Date or (b) that arise

under any of the Securitization Documents prior to the Closing Date and are asserted on or after the Closing Date.

"Special Representation" means any representation or warranty set forth in Section 4.1(g) (except with respect to Personal Property set forth on Schedule C).

"Subsidiary" means, with respect to any Person, any other Person a majority of the outstanding voting securities of which are owned directly or indirectly by such Person.

"Tax Return" means any return, declaration, report or similar statement required to be filed with respect to any Taxes (including any attached schedules) including any information return, claim for refund, amended return and declaration of estimated Tax.

"Taxes" means (A) any income, alternative or add-on minimum tax, gross receipts, sales, use, transfer, gains, ad valorem, franchise, profits, license, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge, together with any interest or any penalty, addition to tax or additional amount imposed by any Governmental Authority responsible for the imposition of any such tax (domestic or foreign), and (B) any liability of the Sellers for the payment of any amounts of the type described in clause (A) above as a result of being a member of an affiliated, consolidated, combined or unitary group for any period.

"Transferor Interest" has the meaning assigned to such term in the Pooling and Servicing Agreement.

"Written-Off Accounts" means all Accounts that (i) have been charged-off or written-off as of the Cut-Off Time or (ii) are eligible for charge off or write-off as of the Cut-Off Time in accordance with the write-off policy attached hereto as Schedule E.

(b) Each of the following terms is defined in the section of this Agreement set forth opposite such term:

Term	Section
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Agreement.....	Preamble
Allocation Statement.....	2.5(a)
Bank.....	Preamble
Business.....	Recitals
Closing.....	3.1(a)
Closing Date.....	3.1(a)
Confidentiality Agreement.....	5.3(c)
Credit Card Marks.....	5.7

DAF.....	Recitals
DSSI.....	5.15
Employee Notification Acts.....	6.2 (b)
Employee Plans.....	4.1 (m)
Exchange Act.....	4.1 (e)
Indemnified Party.....	9.4 (a)
Indemnifying Party.....	9.4 (a)
Losses.....	9.2
Parent.....	Preamble
Pooling and Servicing Agreement.....	Recitals
Program Agreement.....	Recitals
Purchase and Assumption.....	3.1 (a)
Purchaser.....	Preamble
Purchaser Benefit Plans.....	6.2 (a)
Purchaser Parent.....	Preamble
Purchaser Severance Plan.....	6.3 (d)
SEC.....	4.1 (e)
SEC Documents.....	4.1 (e)
Securities Act.....	4.1 (e)
Transferred Employee.....	6.2 (a)
Vacation Policy.....	6.3 (f)

SECTION 1.2 Interpretation. (a) In this Agreement, unless the context otherwise requires, references to:

(i) the Preamble or the Recitals, Sections, Annexes or Schedules refer to the Preamble or a Recital or Section of, or Annex or Schedule to, this Agreement;

(ii) any Contract (including this Agreement) refer to the Contract as amended, modified, supplemented or replaced from time to time;

(iii) any statute or regulation refer to the statute or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and to any section of any statute or regulation include any successor to the section;

(iv) any Governmental Authority include any successor to the Governmental Authority; and

(v) this Agreement are to this Agreement, the Schedules, the Disclosure Schedule and to the Annexes hereto.

(b) The table of contents and headings contained in this Agreement are for reference purposes only and do not limit or otherwise affect any of the provisions of this Agreement.

(c) Whenever the word "include," "includes" or "including" is used in this Agreement, it will be deemed to be followed by the words "without limitation."

(d) Unless the context otherwise requires, the word "or" when used in this Agreement will be deemed to have the inclusive meaning represented by the phrase "and/or."

(e) This Agreement is the product of negotiation by the parties having the assistance of counsel and other advisers. It is the intention of the parties that this Agreement not be construed more strictly with regard to one party than with regard to the other.

ARTICLE II PURCHASE, SALE AND ASSUMPTION

SECTION 2.1 Purchase and Sale of Assets. On the terms and subject to the conditions of this Agreement at the time of the Closing and effective from and after the Closing Date, the Sellers shall sell, convey and assign (or cause their Subsidiaries to sell, convey and assign) to the Purchaser, free and clear of all Liens, except Permissible Liens, the Acquired Assets, and the Purchaser agrees to purchase all such Acquired Assets.

SECTION 2.2 Assumption of Liabilities. On the terms and subject to the conditions of this Agreement from and after the Closing Date, the Purchaser agrees to assume, pay, defend, discharge and perform as and when due the Assumed Liabilities.

SECTION 2.3 Excluded Liabilities. Notwithstanding any provision in this Agreement or any other writing to the contrary, the Purchaser is assuming only the Assumed Liabilities and not any Excluded Liabilities. The Excluded Liabilities will be retained by the Sellers.

SECTION 2.4 Purchase Price; Purchase Price Adjustment. (a) On the second Business Day before the Closing, the Parent, on behalf of the Sellers, will deliver to the Purchaser the Estimated Closing Statement reflecting the Sellers' calculation of the Estimated Purchase Price to be paid by the Purchaser at the Closing.

(b) Within sixty (60) Business Days after the Closing, Purchaser will deliver to Parent the Final Closing Statement prepared based on the information in the Master File and the other Acquired Assets as of the Cut-Off Time and copies of the Master File as of the Cut-Off Time and all material working papers relating to the Final Closing Statement.

(c) The Parent shall, within fifteen (15) days after receipt of the Final Closing Statement, advise the Purchaser in writing and in reasonable detail of any inaccuracies it believes were reflected in the Final Closing Statement. In the event no such objection is delivered to the Purchaser within such time period, the Final Closing Statement, as delivered to the Parent, shall be final and binding upon the parties. In the event the Parent delivers such an objection, the Sellers and the Purchaser shall attempt in good faith to resolve their differences. In the event all differences are not resolved within thirty (30) days following receipt of the Final Closing Statement by the Parent, then the issues remaining unresolved shall be determined by an independent public accountant mutually acceptable to the Parent and the Purchaser (the "Accountant"). The Accountant shall resolve all disputed items in accordance with the provisions of this Agreement. In making its determination, the Accountant may only consider

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those items and amounts as to which the Purchaser and the Sellers have disagreed within the time periods and the permitted grounds specified. The Accountant's determination will be conclusive and binding on the Purchaser and the Sellers absent manifest error. The fees of the Accountant will be shared by the Purchaser and the Sellers in proportion to the relative differences between their respective calculations of the Purchase Price and the amount determined by the Accountant.

(d) If the Estimated Purchase Price exceeds the Purchase Price, then the Parent, on behalf of the Sellers, shall, within five (5) Business Days after the Purchase Price has been finally determined pursuant to Section 2.4(c), pay such excess to the Purchaser, together with interest on such excess for the period from and including the Closing Date to but excluding the date of such payment at a rate per annum equal to the Federal Funds Rate. If the Estimated Purchase Price is less than the Purchase Price, then the Purchaser shall, within five (5) Business Days after the Purchase Price has been finally determined pursuant to Section 2.4(c), pay such deficiency to pay to the Parent on behalf of the Sellers, together with interest on such deficiency for the period from and including the Closing Date to but excluding the date of such payment at a rate per annum equal to the Federal Funds Rate. Each party to this Agreement will make available to the other parties, and to the Accountant, its and its accountants work papers, schedules and other supporting data as may be reasonably requested by such party to enable it to verify the amounts set forth in the Final Closing Statement.

SECTION 2.5 Allocation of Purchase Price. (a) The Purchase Price (including Assumed Liabilities) shall be allocated among the acquired assets as set forth on Schedule F (the "Allocation Statement"), which will be modified appropriately to take into account subsequent adjustments or additional payments which are properly treated as purchase price for US federal income Tax purposes.

(b) The Purchaser and the Sellers shall report the allocation of the total consideration among the Acquired Assets in a manner consistent with the Allocation Statement and shall act in accordance with the Allocation Statement in the preparation and filing of all Tax Returns (including filing Form 8594 with their respective Federal income tax returns for the taxable year that includes the Closing Date and any other forms or statements required by the Code, Treasury regulations, the Internal Revenue Service or any applicable state or local taxing authority) and in the course of any Tax audit, Tax review or Tax litigation relating thereto; provided, however, that the Sellers will not be obligated to litigate any challenge to such allocation of the Purchase Price by a Governmental Authority and shall cooperate, at Purchaser's expense, with Purchaser in litigating any such challenge.

(c) The Purchaser and the Sellers will promptly inform each other of any challenge by any Governmental Authority to any allocation made pursuant to this Section 2.5 and shall to consult with and keep each other informed with respect to the status of, and any discussion, proposal or submission with respect to, such challenge.

SECTION 2.6 Third-Party Consents. (a) To the extent that any consent needed to assign to the Purchaser any Assigned Contract has not been obtained on or prior to the Closing Date, this Agreement and any document delivered pursuant hereto will not constitute an assignment or attempted assignment thereof if such assignment or attempted assignment would constitute a material breach of such Assigned Contract or would give rise to a valid right of

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termination thereof. If any such third-party consent will not be obtained on or prior to the Closing Date, then the parties will cooperate in entering into alternative arrangements at the Closing pursuant to which the Purchaser would obtain all of the benefits and assume all of the obligations under such Assigned Contract.

(b) The Purchaser will, and the Parent and the Bank will and will cause DAF to, use commercially reasonable efforts (which for purposes of this Section 2.6 shall not require any payment of money by the Sellers or the Purchaser, except as agreed between them in writing) to seek any required consents to the assignment of the Assigned Contracts which have not been obtained as of the Closing Date, and any required consents to the assignment of the Assigned Contracts which have not been obtained as of the Closing Date, and promptly upon receipt of such consents will effect such assignments.

ARTICLE III CLOSING; ASSIGNMENT

SECTION 3.1 The Closing. (a) The closing (the "Closing") of the purchase and sale of the Acquired Assets and assumption of the Assumed Liabilities hereunder (collectively, the "Purchase and Assumption") will take

place at the offices of Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York, on the second Business Day after the last of the conditions set forth in Sections 7.1, 7.2 and 7.3 (other than conditions relating solely to the delivery of documents to be dated the Closing Date) has been satisfied or waived in accordance with the terms of this Agreement or at such other date as the parties hereto jointly designate in writing (the "Closing Date").

(b) At the Closing, the Purchaser will, and the Parent and the Bank will and will cause DAF to deliver or cause to be delivered to each other instruments of sale, assignment, transfer and conveyance of the Acquired Assets and the Assumed Liabilities, respectively, in substantially the forms set forth in Annexes B, C, D and E, as appropriate, and such other instruments as are necessary or appropriate to reflect any alternative arrangements described in Section 2.6, appropriately executed by the Sellers and the Purchaser.

(c) At the Closing, the Purchaser will pay the Estimated Purchase Price by initiating a wire transfer of immediately available funds (in U.S. dollars) prior to 11:00 a.m. Eastern time on the Closing Date to an account or accounts specified by the Parent at least one Business Day prior to the Closing Date.

ARTICLE IV REPRESENTATIONS OF THE PARTIES

SECTION 4.1 Representations of the Parent and the Bank. Except as Previously Disclosed, the Parent and the Bank jointly and severally represent to the Purchaser as follows:

(a) Existence and Authority. The Bank is a national banking association, validly existing and in good standing under the laws of the United States of America. Each other Seller is duly organized and validly existing under its jurisdiction of organization. Each Seller has the requisite power and authority to own the Acquired Assets and to carry on the Business as

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currently conducted, and is duly qualified to do business in each jurisdiction where the ownership or operation of the Acquired Assets or the conduct of the Business requires such qualification, except for any failure to have such authority or be so qualified that would not reasonably be expected to have a Material Adverse Effect on the Business or the Sellers.

(b) Authorization and Validity. Each Seller has the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and each of the Ancillary Agreements to which it is a party. Each of this Agreement and each Ancillary Agreement has been duly authorized by each Seller party thereto. This Agreement has been duly executed

and delivered by each Seller and each Ancillary Agreement has been, or shall have been at the Closing Date, duly executed and delivered by each Seller party thereto. Assuming that this Agreement has been, and that the Ancillary Agreements have been or will be on or prior to the Closing Date duly authorized, executed and delivered by the Purchaser, this Agreement is, and the Ancillary Agreements are or will be at the Closing Date, the legal, valid and binding obligations of the Sellers party thereto, enforceable against such Sellers in accordance with their respective terms, subject to applicable bankruptcy, insolvency, moratorium, reorganization, fraudulent transfer and other laws affecting creditors' rights generally and to general equitable principles.

(c) Governmental and Third-Party Consents. No notices, reports or other filings are required to be made by the Sellers with, nor are any consents, registrations, approvals, permits or authorizations required to be obtained by the Sellers from, any Governmental Authority or any other third party in connection with the execution, delivery or performance of this Agreement and the Ancillary Agreements by the Sellers or the consummation by them of the transactions contemplated by this Agreement or the Ancillary Agreements, except for such notices, reports, filings, consents, registrations, approvals, permits or authorizations the failure to obtain which would not have a Material Adverse Effect on the Business or the Sellers.

(d) No Conflicts. The execution, delivery and performance by the Sellers of this Agreement and the Ancillary Agreements do not, and (subject to obtaining the Previously Disclosed governmental and third-party consents referred to in Section 4.1(c)) the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements will not:

(i) Breach or violate the Constituent Documents of the Sellers;

(ii) Breach or violate any Requirement of Law or Applicable Order applicable to the Sellers;

(iii) Breach, violate or result in a default under the terms, conditions or provisions of any Contract of any Seller, or give any third party the right to terminate or cancel any right of any Seller under any Contract of such Seller, or accelerate the performance of its obligations thereunder, in each case where such Contract relates to the Business or is binding upon the Acquired Assets; or

(iv) Result in the creation of any Lien on any Acquired Asset other than a Permissible Lien (with or without the giving of notice or the lapse of time, or both);

except in each case described in clause (ii), (iii) or (iv), for any breach, violation, default, termination, cancellation, acceleration or Lien that would not reasonably be expected to have a Material Adverse Effect on the Business or the Sellers.

(e) SEC Reports. The Master Trust and DAF have each filed with the Securities and Exchange Commission ("SEC") all forms, reports and other documents (including all prospectuses and registration statements) required to be filed by it with respect to all periods commencing on or after January 1, 2002 (the "SEC Documents"). As of their respective filing dates (or effective dates, in the case of prospectuses and registration statements), the SEC Documents complied in all material respects with the requirements of the Securities Act of 1933 (the "Securities Act") or the Securities Exchange Act of 1934 (the "Exchange Act"), as applicable, and the rules and regulations of the SEC promulgated thereunder, as modified by SEC staff no-action positions relating to credit card securitizations.

(f) Absence of Certain Changes.

(i) Since December 31, 2003, the Business has been conducted in the ordinary course and there has not been any change in the financial condition or results of operations of the Business that has had or would reasonably be expected to have a Material Adverse Effect on the Business or the Sellers.

(ii) Set forth on Schedule E hereto is a true and complete copy of the write-off policy of each of the Sellers as in effect on March 1, 2004. Since March 1, 2004 (A) the Accounts and Gross Receivables have been underwritten, established, administered, serviced, collected, terminated and charged-off in the ordinary course consistent with Sellers' past practice, and (B) Sellers have not materially amended, modified or supplemented or otherwise made any material changes to the policies and procedures as in effect on such date.

(iii) As of the date hereof, there has been no early amortization event or payout event under the Securitization Documents (or any event which, with notice of time or lapse of time or both, would constitute an early amortization event or payout event).

(g) Title to Properties; Encumbrances. A Seller has good title to or a valid leasehold interest in, or is licensed or otherwise entitled to use, all of the Acquired Assets (other than the Accounts, to which Section 4.1(1) is applicable), free and clear of all Liens other than Permissible Liens.

(h) Litigation. There are no Actions pending in arbitration or before any Governmental Authority, against a Seller in connection with the Business or any Acquired Asset, or to the Sellers' Knowledge, threatened

against any of the Sellers with respect to the Business or Acquired Assets, in each case that would reasonably be expected to have a Material Adverse Effect on the Business or the Sellers.

(i) Contracts. Except to the extent that any of the following would not have a Material Adverse Effect on the Business or the Sellers, each Assigned Contract is a valid, legally

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binding agreement of the Seller party thereto and neither such Seller nor, to the Sellers' Knowledge, any other party thereto is in default under the terms of any such Contract. Schedule A sets forth a complete list of all material Contracts primarily related to the Business or the Acquired Assets (other than the Securitization Documents)

(j) Books and Records. All Books and Records of the Sellers relating to the Business, including personnel files of any Transferred Employee of the Sellers and the Business, have been maintained accurately and in accordance with GAAP (where applicable) and with all Requirements of Law applicable to the Sellers and the Business, except for any instances of inaccuracy or noncompliance that would not reasonably be expected to have a Material Adverse Effect on the Business or the Sellers.

(k) Compliance with Laws. Except to the extent that the following would not reasonably be expected to have a Material Adverse Effect on the Business or the Sellers:

(i) the Sellers are in compliance with all Requirements of Law relating to the Business and the Acquired Assets; and

(ii) the Sellers are not subject to any capital plan or supervisory agreement, order or memorandum between any of them and any Governmental Authority.

(l) Account Agreements; Accounts; Gross Receivables. Except to the extent that any of the following would not have a Material Adverse Effect on the Business or the Sellers:

(i) A Seller is the sole owner of and has good title to the Accounts, the Gross Receivables and the Securitization Assets (subject in each case to (i) the rights, claims and interests arising under the Securitization Documents and (ii) prior to the Closing Date, the documents entered into in connection with the Variable Rate Certificates, Series 1998-1 and 2002-1). This Agreement shall, following the Closing Date, and subject to the filing of appropriate financing statements and all required continuations, amendments and replacements

thereof, vest in the Purchaser all right, title and interest of the Sellers in and to the Accounts, the Gross Receivables and the Securitization Assets, free and clear of all Liens (but subject in each case to the rights, claims and interests arising under the Securitization Documents).

(ii) Each Account Agreement (other than any Account Agreement with respect to any Written-Off Account) is a valid and legally binding obligation of each obligor thereunder, including any cosigner, guarantor or surety, in the full amount thereof set forth in the Books and Records of the Business, and is enforceable against such obligors in accordance with its terms, subject to (A) claims and defenses on disputed card transactions asserted by a Cardholder as indicated on the Master File or the Books and Records, (B) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other laws relating to or affecting creditors' rights generally and the effect of general equitable principles, and (C) the Soldiers' and Sailors' Civil Relief Act of 1940,

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as amended. Representative forms of Cardholder Agreements are set forth in Section 4.1(1) of the Disclosure Schedule, and those forms contain all material terms of the Cardholder Agreements as in effect as of the date of this Agreement; provided that no representation or warranty is hereby given as to the capacity, authority or any other factor relating to the identity or status of the obligor which may effect the enforceability of the Account Agreement to which it is party.

(iii) Each Gross Receivable is not subject to offset, refund, recoupment, reversal, adjustment or any claim or defense by any Person (other than claims or defenses on disputed card transactions and refunds of credit balances, as indicated on the Master File). No Gross Receivable and none of the Accounts related thereto have been reaffirmed by the applicable obligor in connection with or following any bankruptcy, insolvency or similar Action involving such obligor.

(iv) Other than the Written-Off Accounts, each Account complies with the applicable Account Agreement.

(v) All Account applications have been taken and evaluated and applicants notified in a manner that complied with all

applicable Requirements of Law.

(vi) All Accounts have been originated, maintained and serviced in all material respects in compliance with all applicable Requirements of Law.

(vii) All disclosures made in connection with the Accounts complied in all material respects with all applicable Requirements of Law.

(m) Employees.

(i) A complete list of each material "employee benefit plan" (within the meaning of section 3(3) of the Employee Retirement Income Security Act of 1974, as amended), and all stock purchase, stock option, severance, employment, stay-pay, retention, change-in-control, fringe benefit, collective bargaining, bonus, incentive, deferred compensation and all other employee benefit plans, agreements, programs, policies or other arrangements under which any Employee has any present or future right to benefits sponsored or maintained by the Sellers or any of their Affiliates (such plans, agreements, programs, policies and arrangements, whether or not material, shall be referred to hereinafter collectively as the "Employee Plans") has been Previously Disclosed to the Purchaser. The Sellers have made available to the Purchaser copies of all Employee Plans and all amendments and summary plan descriptions, if applicable, thereto.

(ii) None of the Employees is represented in his or her capacity as an employee of Sellers by any labor organization, nor have Sellers recognized any labor organization as the collective bargaining agent of any Employees. As of the date hereof, there are no pending proceedings for the certification of a labor union involving any of the Employees or, to Sellers' Knowledge, any union

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organization activity involving any of the Employees. Sellers are in compliance in all material respects with all laws, regulations and orders relating to the employment of labor with respect to the Business.

(n) Personal Property. Except as would not have a Material Adverse Effect on the Sellers or the Business, all Personal Property is in satisfactory operating condition to permit its use in the continuing operations of the Business as such operations are presently conducted, subject

to normal wear and tear.

(o) No Brokers or Finders. The Assumed Liabilities do not include, and the Sellers are solely responsible for and shall pay, any Liability incurred by any of them or any of their Affiliates for any financial advisory fees, brokerage fees, commissions or finder's fees directly or indirectly in connection with this Agreement or the transactions contemplated hereby or by the Ancillary Agreements.

(p) Tax Matters.

(i) To the extent any Securitizations are outstanding at the Cut-Off Time, no elections have been made to treat any Securitizations, or parts thereof, as "financial asset securitization investment trusts" within the meaning of Section 860L(a) of the Code.

(ii) With respect to the Securitizations: (A) the Master Trust is not an association taxable as a corporation, a publicly traded partnership or a taxable mortgage pool, for U.S. federal income Tax purposes; (B) no employer identification number has ever been issued to the Master Trust by the Internal Revenue Service; (C) the Master Trust certificates issued to the public and any other securities representing an interest in the Master Trust which was issued to any Person other than Sellers and their Affiliates are properly characterized as indebtedness for federal income Tax purposes; and (D) none of the Sellers has (i) received written notice from any taxing authority asserting a characterization different than those in (A) and (C) hereof or (ii) entered into any agreement with a taxing authority to change the characterization described in (A) and (C) hereof.

(q) Accuracy of Information. The information contained in the Master File, the Books and Records, and the Cardholder List delivered to Purchaser prior to the date hereof was, and the information contained in the Master File, the Cardholder List and the Books and Records delivered to Purchaser on the Closing Date will be, complete and accurate in all material respects as of the date of delivery and the Cut-Off Time, respectively.

SECTION 4.2 Representations of the Purchaser. Except as Previously Disclosed, the Purchaser represents to the Sellers as follows:

(a) Existence and Authority. The Purchaser is a federal savings bank, validly existing and in good standing under the laws of the United States of America, and has the corporate power and authority to carry on its business as now conducted and to acquire and

operate the Business. The Purchaser and its deposits are insured by the Federal Deposit Insurance Corporation to the fullest extent permitted by law.

(b) Authorization and Validity. The Purchaser has the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and each of the Ancillary Agreements. This Agreement and each Ancillary Agreement have been duly authorized by the Purchaser. This Agreement has been duly executed and delivered by the Purchaser and each Ancillary Agreement has been or shall have been, at the Closing Date, duly executed and delivered by the Purchaser. Assuming that this Agreement has been, and the Ancillary Agreements have been or will be on or prior to the Closing Date, duly authorized, executed and delivered by the Sellers party thereto, this Agreement is, and the Ancillary Agreements will be at the Closing Date, the legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, subject to applicable bankruptcy, insolvency, moratorium, reorganization, fraudulent transfer and other laws affecting creditors' rights generally and to general equitable principles.

(c) Governmental and Third-Party Consents. No notices, reports or other filings are required to be made by the Purchaser with, nor are any consents, registrations, approvals, permits or authorizations required to be obtained by it from, any Governmental Authority or any other third party in connection with the execution, delivery and performance of this Agreement and the Ancillary Agreements by the Purchaser or the consummation by the Purchaser of the transactions contemplated by this Agreement or the Ancillary Agreements, except for such notices, reports, filings, consents, registrations, approvals, permits or authorizations the failure to obtain which would not have a Material Adverse Effect on the Purchaser or on the Business following the Closing Date.

(d) No Conflicts. The execution, delivery and performance by the Purchaser of this Agreement and the Ancillary Agreements do not, and (subject to obtaining the Previously Disclosed governmental and third-party consents referred to in Section 4.2(c)) the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements will not:

(i) Breach or violate the Purchaser's Constituent Documents;

(ii) Breach or violate any Requirement of Law or Applicable Order applicable to the Purchaser;

(iii) Breach, violate or result in a default under the terms, conditions or provisions of any Contract of the Purchaser, or give any third party the right to terminate or cancel any right of the Purchaser under any such Contract, or accelerate the performance of its obligation thereunder; or

(iv) Result in the creation of any Lien on the properties or assets of the Purchaser;

except in each case described in clause (ii), (iii) or (iv), for any breach, violation, default, termination, cancellation, acceleration or Lien that would not reasonably be expected to have a

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Material Adverse Effect with respect to the Purchaser or on the Business following the Closing Date.

(e) Absence of Certain Changes. Since December 31, 2003, there has not been any change in the financial condition or results of operations of the Purchaser that has had or would reasonably be expected to have a Material Adverse Effect with respect to the Purchaser or on the Business following the Closing Date.

(f) Compliance with Laws. Except to the extent that the following would not reasonably be expected to have a Material Adverse Effect with respect to the Purchaser or the Business after the Closing Date:

(i) the Purchaser is in compliance with all Requirements of Law relating to its credit card business; and

(ii) the Purchaser is not subject to any capital plan or supervisory agreement, order or memorandum between it and any Governmental Authority.

(g) Servicing Qualifications. The Purchaser is, or as of the Closing Date will be, licensed and qualified in all jurisdictions necessary to service the Accounts in accordance with all applicable Requirements of Law, except where the failure to be so qualified would not have a Material Adverse Effect on the Purchaser or the Business or on the ability of the Purchaser to perform its duties as servicer under the Pooling and Servicing Agreement following the Closing Date.

(h) Financing. The Purchaser has sufficient cash, available lines of credit or other sources of immediately available funds to enable it to pay the Estimated Purchase Price as required by Section 3.1(c) and to timely pay any other amounts to be paid by it under this Agreement. The Purchaser is not subject to any capital plan or supervisory agreement, order or memorandum between it and any Governmental Authority with jurisdiction over it that could reasonably be expected to affect its ability to consummate the purchase of the Business from the Sellers and fulfill its obligations under this Agreement and the Ancillary Agreements.

(i) Litigation. There are no Actions pending, in arbitration or

before any Governmental Authority, against the Purchaser or any of its assets that would be reasonably expected to have a Material Adverse Effect with respect to the Purchaser or on the Business following the Closing Date.

(j) No Brokers or Finders. Any liability incurred by the Purchaser or its Affiliates for any financial advisory fees, brokerage fees, commissions or finder's fees directly or indirectly in connection with this Agreement or the transactions contemplated hereby or by the Ancillary Agreements will be borne by the Purchaser.

(k) Restricted Securities. The Purchaser understands that certain of the Securitization Assets are "restricted securities" under applicable U.S. federal and state securities laws and that, pursuant to such laws, Purchaser must hold those securities indefinitely unless they are registered with the SEC and qualified by applicable state Governmental Authorities or an exemption from such registration and qualification is available.

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SECTION 4.3 No Other Representations or Warranties. Except as expressly set forth in this Article IV and Article VI or in any of the Ancillary Agreements, neither the Sellers nor the Purchaser have made or make any other express or implied representations, or any express or implied warranty, either written or oral, with respect to the Acquired Assets, the Assumed Liabilities or the Sellers, the Business or the Purchaser, respectively.

ARTICLE V COVENANTS

SECTION 5.1 Conduct of Business. (a) Except as otherwise contemplated hereby or by the Ancillary Agreements, and except for transactions in the ordinary course of business, until the Closing Date, the Parent and the Bank will, and will cause DAF to, use their respective commercially reasonable efforts to preserve intact the business organizations and relationships with third parties relating to the Business, to keep available the services of required employees of the Business and to preserve beneficial relationships with customers in connection with the Business, following substantially the same material practices and standards, including collection practices and accounting practices for charge-offs and reserves, as in effect on March 1, 2004.

(b) Except as otherwise contemplated hereby or by the Ancillary Agreements, and except for transactions in the ordinary course of business, until the Closing Date, the Purchaser will use its respective commercially reasonable efforts to preserve intact the business organizations and relationships with third parties relating to its credit card business, to keep available the services of required employees of its credit card business and

to preserve beneficial relationships with customers in connection with its credit card business, following substantially the same material practices and standards, including collection practices and accounting practices for charge-offs and reserves, as in effect on the date hereof.

SECTION 5.2 Certain Changes. Without limiting Section 5.1, and except as otherwise contemplated hereby or by the Ancillary Agreements or required by applicable Requirements of Law, from the date hereof until the Closing Date, without the prior written consent of the Purchaser (which consent will not be unreasonably withheld or delayed), the Parent and Bank will not, and will cause DAF not to:

(a) Enter into or amend any Contract except in the ordinary course of the Business consistent with past practice and only to the extent such entry or amendment would not have a Material Adverse Effect;

(b) Acquire, except in the course of collection, a material amount of assets from any other Person or all or substantially all of the business or assets of any Person if such business or assets would constitute Acquired Assets;

(c) Increase the compensation or benefits of the Employees, except for (i) increases in the ordinary course of business consistent with past practice or as required by any Contract or Employee Plan or commitment in effect on the date of this Agreement, (ii) new hires and promotions in the ordinary course of business and (iii) payment of stay-pay and similar retention compensation arrangements;

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(d) Change in any material respect its credit and underwriting, posting, collection, charge-off or operating policies and procedures (or the manner of application thereof) with respect to the Business as in effect on March 1, 2004;

(e) Sell, lease or otherwise dispose of any of the Acquired Assets except (1) in the ordinary course of business consistent with past practice and in transactions that individually or in the aggregate with all such other dispositions would not have a Material Adverse Effect on the Sellers or the Business, (2) in connection with securitizations of receivables arising under the Accounts (provided that the benefits thereof are transferable to the Purchaser at the Closing), including the addition of receivables to the Master Trust, (3) pursuant to the terms of Contracts or commitments existing as of the date hereof or (4) as Previously Disclosed;

(f) Change any of the Cardholder Agreements;

(g) Breach or otherwise fail to perform any of their material duties

under the Securitization Documents; or

(h) Agree with any Person or otherwise commit themselves to do any of the foregoing.

If Sellers contemplate taking any of the permitted actions set forth in clauses (a) through (e) above, they shall provide prior notice of such action to Purchaser.

SECTION 5.3 Access and Confidentiality.

(a) Until the Closing Date, upon reasonable prior notice and subject to applicable Requirements of Law relating to the exchange of information, the Parent and the Bank will and will cause DAF to, permit the Purchaser and its authorized representatives to have reasonable access, during regular business hours for purposes consistent with this Agreement (including reasonable access to the servicing reports, systems and procedures of the Bank and DAF), to the personnel (including the Employees), properties and financial Books and Records relating to the Business, to the extent that such access does not interfere with the business of the Sellers; provided, that the Purchaser and such representatives comply with the confidentiality obligations contained herein and in the Confidentiality Agreement; and provided, further that the foregoing shall not (1) require the Sellers to permit any inspection, or to disclose any information, that in their reasonable judgment would result in the disclosure of any trade secrets of third parties or trade secrets of the Sellers or their Affiliates unrelated to the Business or violate any obligations of the Sellers to any third party with respect to confidentiality if the Sellers shall have used commercially reasonable efforts to obtain the consent of such third party to such inspection or disclosure or (2) require any disclosure by the Sellers that could, as a result of such disclosure, have the effect of causing the waiver of any attorney-client privilege.

(b) If this Agreement is terminated, the Purchaser, at its own expense, will promptly deliver (without retaining any copies) to the applicable Seller or (at the Sellers' option) confirm in writing to the Sellers that it has completely destroyed, all information furnished to the Purchaser or its representatives by the Sellers or any of their agents, employees or representatives in connection with this Agreement, whether so obtained before or after the

execution hereof, and all analyses, compilations, forecasts, studies or other documents prepared by the Purchaser or its representatives that contain or reflect any such information. The Purchaser will cause any information so obtained to be kept confidential and will not use, or permit the use of, such information in its business or in any other manner or for any other purpose except as contemplated by this Agreement.

(c) In addition to the confidentiality arrangements contained herein, all information provided or obtained in connection with the transactions contemplated by this Agreement and by the Ancillary Agreements (including pursuant to clause (a) above) will be held by the Purchaser in accordance with the Confidentiality Agreement between the Purchaser and the Parent (the "Confidentiality Agreement"). In the event of a conflict or inconsistency between the terms of this Agreement and the Confidentiality Agreement, the terms of this Agreement will govern.

(d) The Sellers and their Affiliates shall be entitled to specific performance of the foregoing provisions of this Section 5.3 and the provisions of the Confidentiality Agreement, in addition to any other remedies that they may have at law or in equity.

SECTION 5.4 Reasonable Efforts; Other Filings. (a) Subject to the terms and conditions of this Agreement, the Purchaser will, and the Parent and the Bank will and will cause DAF to, use commercially reasonable efforts to take, or cause to be taken, all actions and will do, or cause to be done, all things necessary, proper or advisable under applicable Requirements of Law, so as to permit consummation of the Purchase and Assumption as promptly as reasonably practicable and otherwise to enable consummation of the transactions contemplated by this Agreement and the Ancillary Agreements, and will cooperate fully to that end.

(b) Without limiting Section 5.4(a), the Parent and Bank will, and will cause DAF to, and the Purchaser will, use reasonable best efforts to prepare all documentation, to effect all filings and to obtain all permits, consents, approvals and authorizations of all Governmental Authorities necessary to consummate the transactions contemplated by this Agreement and the Ancillary Agreements, including taking any action necessary to defend vigorously, lift, mitigate or rescind the effect of any litigation or administrative proceeding involving any Governmental Authority adversely affecting the transactions contemplated by this Agreement or this Agreement, including promptly appealing any adverse court or administrative decision. Each of the Sellers, on the one hand, and the Purchaser, on the other hand, shall consult with the other with respect to the obtaining of such permits, consents, approvals and authorizations and to keep the other apprised of the status thereof. Subject to appropriate confidentiality protections, the Sellers, the Purchaser and the Purchaser Parent shall each furnish to the others such necessary information and reasonable assistance as any of the other parties may request in connection with the foregoing and shall each provide counsel for the other parties with copies of all filings made by such party, and all correspondence between such party (and its advisors) with any Governmental Authority and any other information supplied by such party and such party's Affiliates to a Governmental Authority in connection with this Agreement and the transactions contemplated hereby. Each party shall, subject to applicable Requirements of Law, permit counsel for the other party to review in advance any such proposed written communication to any Governmental Authority.

(c) Without limiting the foregoing, the Parent and Bank will, and will cause DAF to, and the Purchaser will, use reasonable best efforts to obtain the Requisite Regulatory Approvals in time to permit the Closing Date to occur on or before December 31, 2004 or, if the Closing Date has not occurred, as promptly after December 31, 2004 as reasonably practicable. Each of the Parent and the Bank, on the one hand, and the Purchaser, on the other hand further agrees, without any request or demand by the other, to complete all necessary filings related to the Requisite Regulatory Approvals no later than ten (10) Business Days from the execution and delivery of this Agreement and to prosecute actively all such filings and pursue the receipt of each Requisite Regulatory Approval.

(d) Each of the Parent and Bank, on the one hand, and the Purchaser, on the other hand, agrees to take such actions with respect to the Securitization Assets and Securitization Documents prior to the Closing Date as may be reasonably necessary to obtain ratings confirmations from the rating agencies in connection with the assumption by the Purchaser and the Purchaser's Assignee of the roles of servicer and transferor, respectively, thereunder.

(e) The Purchaser will promptly notify the Sellers in writing, and the Parent and the Bank will and will cause DAF to promptly notify the Purchaser in writing, upon (i) becoming aware of any order or decree or any complaint praying for an order or decree restraining or enjoining the execution of this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereunder and thereunder, or (ii) receiving any notice from any Governmental Authority of its intention to (A) institute an Action to restrain or enjoin the execution of this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereunder and thereunder or (B) nullify or render ineffective this Agreement or the Ancillary Agreements if such transactions are consummated.

(f) The filing fees under the HSR Act or any foreign antitrust merger control laws shall be borne by Purchaser.

SECTION 5.5 Additional Instruments. At the reasonable request of the Parent or the Bank, on the one hand, or the Purchaser, on the other hand, at or after the Closing, the Person receiving such request will promptly execute and deliver, or cause to be executed and delivered, to the requesting party such assignments, bills of sale, assumption agreements, consents and other similar instruments in addition to those required by this Agreement, in form and substance satisfactory to the requesting party, as may be reasonably necessary to carry out or implement any provision of this Agreement or any Ancillary Agreement.

SECTION 5.6 Non-Solicitation. Except as contemplated by Section 6.2,

the Purchaser shall continue to comply with the provisions of the Confidentiality Agreement during the two year period following the Closing Date with respect to the Persons listed in Schedule G. The Sellers and their Affiliates shall be entitled to specific performance of such provisions in addition to any other remedies that they may have at law or in equity.

SECTION 5.7 Credit Card Mark; Branding. (a) It is expressly agreed that, except for the limited license granted in the Program Agreement, the Purchaser is not purchasing or acquiring any right, title or interest in the name "Dillards" or any variation thereof or any

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trademarks or service marks of the Sellers or their Affiliates as the Sellers have used prior to the date of this Agreement (or will use or own thereafter) in connection with the Accounts or the Business (collectively, the "Credit Card Marks"). The Purchaser acknowledges that the Sellers or their Affiliates own the Credit Card Marks and goodwill related thereto and symbolized thereby.

(b) Within sixty (60) days following the Conversion Date, the Purchaser will replace, for active Cardholders, all plastics branded with the Credit Card Marks with new plastics not, except as permitted by the Ancillary Agreements, using any Credit Card Marks.

SECTION 5.8 Notice to Cardholders. (a) Promptly following the Closing Date, the Purchaser will, and the Parent and the Bank will and will cause DAF to, prepare jointly a form or forms of notice to each Cardholder to the effect that such Cardholder's Account has been acquired by the Purchaser. Such notice shall be in the form approved by both parties, which approval will not be unreasonably withheld or delayed, and will comply with all applicable Requirements of Law. The costs of preparation and mailing of such notices shall be borne by the Purchaser. The mailing shall be made in such manner and at such time as the Sellers and the Purchaser may mutually agree.

(b) From and after the date of this Agreement and until the Closing, the Purchaser and its Affiliates shall not communicate with the Cardholders (whether by mail, by telephone or otherwise) without the prior written consent of the Sellers.

SECTION 5.9 Cooperation in Obtaining Approval and Consents. The Purchaser agrees to cause Purchaser Parent or one or more of its Subsidiaries to assume or to join as joint and several indemnitors, and irrevocable and unconditional guarantor and surety of the obligations of the Purchaser (i) to the extent requested by the applicable trustees or rating agencies and any other party whose consent, approval or action is required in connection with transfer of the Securitization Assets and related Liabilities of the Sellers and (ii) with respect to any Assumed Liabilities.

SECTION 5.10 Post-Closing Access. The Purchaser will upon reasonable notice afford to the Sellers, their Affiliates and their representatives reasonable access (including the right to copy), without charge, during normal business hours, to the Acquired Assets, the Books and Records relating thereto, the Transferred Employees (to the extent then employed by the Purchaser or any of its Affiliates) and any third party who maintains or controls any of the foregoing for the Purchaser or its Subsidiaries, all as may be reasonably requested by the Sellers or any Affiliate in order to enable the Sellers to (i) perform any covenants required to be performed under this Agreement and the Ancillary Agreements after the Closing Date by them; (ii) permit the preparation of any Tax Return or other document required to be filed with any Governmental Authority; (iii) respond to any Action by any Governmental Authority or any other Person, including any Cardholder with respect to matters that may constitute Excluded Liabilities; and (iv) permit the processing of or response to any claim made under this Agreement or the Ancillary Agreements, and the Purchaser shall reasonably cooperate with the Sellers, if requested, in connection with the foregoing.

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SECTION 5.11 Cooperation in Litigation. (a) The Purchaser agrees to take commercially reasonable actions necessary to make Transferred Employees who are then employed by the Purchaser and knowledgeable with respect to the matter in question available to the Sellers after the Closing Date with respect to any Action to which a Seller is or becomes a party or is otherwise involved with regard to the Business, commenced after the Closing Date. The Purchaser agrees to use commercially reasonable efforts to provide that any such employees who terminate their employment with the Purchaser or any of its Affiliates and enter into termination agreements or similar agreements, arrangements or understandings, will be obligated to continue to assist the Sellers in the investigation, evaluation or defense of any such matters, whether as consultants, expert witnesses, or otherwise. The Parent and Bank will, and will cause DAF to, jointly and severally, reimburse the Purchaser for reasonable out-of-pocket expenses incurred by the Purchaser in connection with requests by any Seller pursuant to this Section 5.11 (excluding salary and fringe benefits paid to such employees and related direct or indirect overhead).

(b) The Sellers and the Purchaser shall cooperate, to the extent reasonably requested by the other, in the handling and disposition of any Actions, whether or not listed on the Disclosure Schedules and whether or not pending or threatened prior to the Closing, that arise out of or are related to any event or occurrence with respect to the Business prior to the Closing; provided, however, that the party ultimately responsible for discharging such Action shall have the authority to take such actions as it deems necessary or advisable, in its sole discretion, to discharge such Action, subject, however, to the provisions of this Agreement.

(c) The Sellers shall be entitled to keep copies of all litigation

filings, correspondence, Books and Records and other documentation of any kind that the Sellers reasonably determine are necessary or desirable in connection with its handling and disposition of Actions.

SECTION 5.12 Preservation of and Access to Books and Records. The Purchaser shall preserve and keep all Books and Records of the Business and all information relating to the accounting, business, financial and Tax affairs of the Business in existence on the Closing Date or that come into existence after the Closing Date but relate to the Business prior to the Closing Date for a period of seven (7) years thereafter, or for any longer period (i) as may be required by any federal, state, local or foreign governmental body or agency, (ii) as may be reasonably necessary with respect to the prosecution or defense of any audit or other Action that is then pending or threatened, or (iii) that is equivalent to the period established by any applicable statute of limitations (or any extension or waiver thereof) with respect to matters pertaining to Taxes. For a period of four (4) years following the seven (7) year period specified above, if the Purchaser wishes to destroy such records, the Purchaser shall first provide the Sellers the opportunity to take possession of the same.

SECTION 5.13 Bulk Sales Law. Purchaser hereby acknowledges that Sellers do not intend to comply, in connection with the transactions contemplated hereby, with the provisions of any applicable bulk sale or similar Requirement of Law (including the Uniform Commercial Code Bulk Transfer provisions).

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SECTION 5.14 DAF. The Parent shall take all lawful actions to cause DAF to comply with all agreements and covenants applicable to it.

SECTION 5.15 Interim Processing. After the Closing, the Parent shall cause Dillard Store Services, Inc. ("DSSI") to provide the Purchaser the same services it currently provides to the Bank. Sellers acknowledge and agree that the services referred to in the prior sentence shall be sufficient, when taken together with the Acquired Assets and Assumed Liabilities, and assuming the employment by Purchaser of the current employees of the Business, to permit the Purchaser to conduct the Business following the Closing Date substantially as such Business is currently being conducted. Such services to be provided by DSSI may be terminated by the Purchaser at any time upon 5 business days' notice. DSSI shall not be obligated to provide such services after the later of the Conversion Date and March 31, 2005. The Purchaser shall pay monthly in advance the Interim Servicing Amount per month for such services, with the first such payment to be made on the Closing (appropriately adjusted based on the number of days remaining in such month). If the services are terminated prior to the end of a month, the Parent shall cause DSSI to return a pro rata portion of the monthly fee based on the number of days after termination

remaining in such month. The Purchaser shall indemnify and hold harmless DSSI and its Affiliates from any and all Losses arising from the performance of such services, except to the extent any of the foregoing acted with gross negligence or willful misconduct in performing such services.

SECTION 5.16 Securitization Transfer Covenant. The Purchaser shall make or cause the transferee of the Securitization Assets to make such representations and covenants as shall be required pursuant to the terms of the Securitization Documents in order to effectuate the transfer of the Securitization Assets pursuant to the terms thereof.

ARTICLE VI
TAX AND EMPLOYEE MATTERS

SECTION 6.1 Taxes. (a) Each of the Parent and the Bank hereby represent and warrant to the Purchaser that the Sellers and the Master Trust have timely filed all Tax Returns relating to the Business, the Acquired Assets or the Securitization Receivables that they were required to file on or before the date hereof (taking into account all applicable extensions), and have timely paid all Taxes shown thereon as due and owing. There are no Liens with respect to Taxes upon any of the Acquired Assets or the Securitization Receivables other than with respect to Taxes not yet due and payable or which are being contested in good faith by appropriate action.

(b) At the requesting party's expense, the parties hereto shall furnish or cause to be furnished to each other, promptly upon reasonable request, any information and assistance relating to the Acquired Assets and the Business as the requesting party deems reasonably necessary in connection with the filing of any Tax Returns, the preparation for any audit by any Taxing authority, the response to any inquiry by a Taxing authority, the mailing or filing of any notice and the prosecution or defense of any claim, suit or proceeding relating to any Tax Returns or any other filing required to be made with any Taxing authority or any other matter related to Taxes. The Purchaser will, and the Parent and the Bank will and will cause DAF to,

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cooperate with each other in the conduct of any audit or other proceeding related to Taxes involving the Business prior to the Closing Date.

(c) Notwithstanding anything in this Agreement to the contrary, all Tax Returns filed by the Sellers for periods ending on or before the Closing Date shall remain the property of the Sellers.

(d) Notwithstanding anything in this Agreement to the contrary, all excise, sales, use, transfer, documentary, stamp or similar Taxes that are payable or that arise as a result of the consummation of the transactions

contemplated by this Agreement and the Ancillary Agreements and any recording or filing fees with respect thereto will be borne by the Purchaser. Such Taxes shall not be considered Excluded Liabilities.

(e) For all purposes of this Agreement, all property and ad valorem Tax liabilities with respect to the Acquired Assets for taxable periods that begin on or before the Closing Date and end after the Closing Date shall be allocated to the Sellers, on the one hand, and to Purchaser on the other hand, on a per diem basis. For Tax Returns with respect to such property and ad valorem Taxes which are due on or prior to the Closing Date, Parent will file or cause to be filed such Tax Returns. For Tax Returns with respect to such property and ad valorem Taxes which are due after the Closing Date, the Purchaser will file or cause to be filed such Tax Returns. The non-filing party shall remit to the party filing such property or ad valorem Tax Returns the portion of such Taxes allocated to such non-filing party

(f) The Purchaser shall, if the Sellers so request and at the Sellers' expense (for reasonable out-of-pocket costs and expenses), cooperate with the Sellers to file for and obtain any Tax refund that relates to any period prior to the Closing Date.

SECTION 6.2 Employees. (a) The parties intend that there will be continuity of employment with respect to all of the Employees. It is agreed that prior to, or in connection with, the Closing, the Purchaser shall take no action to cause the Sellers or their Affiliates to terminate the employment of any Employee, and no Seller shall be under any obligation to terminate any Employee prior to or on the Closing Date. The Purchaser shall offer employment to, and will use its best efforts to hire, the Employees effective as of the Closing Date, provided, that each Employee on short- or long-term disability as of the Closing Date shall be offered employment as of the date such Employee actually reports for active employment. The Purchaser will communicate offers of employment in accordance with all applicable Requirements of Law and on a schedule mutually acceptable to the Sellers and the Purchaser. Each Employee who accepts the Purchaser's offer of employment will be a "Transferred Employee" for purposes of this Agreement upon the date such Employee commences employment with the Purchaser or one of its Affiliates. With respect to Employees on short- or long-term disability as of the Closing Date, references to the Purchaser's obligation to make offers of employment as of the Closing Date shall be deemed to refer to the date such Employee reports for active employment with the Purchaser. Except as required by applicable Requirements of Law, as of the Closing Date (or such later date, as applicable for Employees on disability) the Transferred Employees shall cease to accrue further benefits under the Employee Plans and shall commence participation in those employee benefit plans and arrangements maintained by the Purchaser and its Affiliates (including as provided herein). All such

Transferred Employees will be employed commencing on the Closing Date in a position requiring comparable skills and abilities as, and with base salary, or weekly or hourly rate of pay, and cash bonus target or opportunity, which is at least equal to, such Employee's position and pay immediately prior to the Closing Date. Except as otherwise expressly provided in this Article VI, during the twenty-four (24) month period following the Closing Date, the Purchaser will provide the Transferred Employees with benefits under employee benefit plans, programs, and arrangements that are no less favorable, in the aggregate, than the Employee Plans and other employee benefit plans, programs and arrangements provided to such employees by the Sellers and their Affiliates immediately prior to the Closing Date (the "Purchaser Benefit Plans"). The Purchaser shall be liable for any amounts to which any Employee becomes entitled under any benefit or severance policy, plan, agreement, retention letter, arrangement or program set forth on Section 6.3(e) of the Disclosure Schedule, or may be deemed to exist or arise, under any applicable Requirement of Law, as a result of or in connection with the sale of the Acquired Assets and the Business hereunder. Notwithstanding any provision hereof, none of the Purchaser or any of its Affiliates will have any obligation to continue the employment of any Transferred Employee for any period following the Closing Date.

(b) The Purchaser acknowledges and agrees that for purposes of the Worker Adjustment and Retraining Notification Act, 29 U.S.C. ss.ss. 2101 et seq., or any other employee notification mandated by applicable laws (collectively, the "Employee Notification Acts"), any Transferred Employee shall be considered to be an employee of the Purchaser from and after the Closing Date. The Purchaser shall comply with all Employee Notification Acts regarding any terminations of employment of Transferred Employees on or following the Closing Date. Notwithstanding Article IX or any other provision of this Agreement, the Purchaser shall indemnify and defend the Sellers and their Affiliates against all Losses under all Employee Notification Acts with respect to any Transferred Employee, occurring or arising on or after the Closing Date, that may be triggered in connection with this transaction. The Purchaser will have no responsibility to comply with any Employee Notification Acts or liability under this Agreement for any terminations of Employees that occur prior to the Closing Date. The Parent and the Bank will and will cause DAF to provide to the Purchaser on the Closing Date such personnel and benefits files (other than medical records) for any Transferred Employee as may be provided under applicable Requirements of Law without liability to the Purchaser or the Sellers and their Affiliates, and the Purchaser shall provide the Sellers and their Affiliates with reasonable access to such files for up to two years following the Closing Date.

SECTION 6.3 Certain Obligations of the Purchaser. (a) The Purchaser will recognize each Employee's service with the Sellers and their Affiliates (and any other entity for which any such Seller or Affiliate recognizes service for such purposes) for purposes of eligibility, vesting, benefit commencement and level of benefits (but not benefit accruals under any defined benefit pension plan) under the Purchaser Benefit Plans and for all purposes with respect to severance benefits described in Section 6.3(d).

(b) Transferred Employees (and their covered dependents) will be given credit under the Purchaser Benefit Plans in which they participate for applicable deductibles, co-payments and out-of-pocket expenses incurred during the portion of the plan year prior to such participation as though such amounts had been incurred in accordance with the terms and conditions of the Purchaser Benefit Plans. All waiting periods and pre-existing condition

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limitations (if any) under such Purchaser Benefit Plans will be waived for the Transferred Employees.

(c) The Sellers and their Affiliates will retain the responsibility and liability for payment of all medical, dental, health and disability claims incurred by any Transferred Employee (and their covered dependents) prior to the Closing Date. The Purchaser will be responsible for all medical, dental, health and disability claims incurred by Transferred Employees (and their covered dependents) on or after the Closing Date. For purposes of this paragraph (c), a claim is deemed to have been incurred when the medical or other service giving rise to the claim is performed, except that disability claims shall be deemed to have been incurred on the date the Transferred Employee became disabled.

(d) In addition to the Purchaser's obligations under Section 6.2(a), for the twenty-four (24) month period immediately following the Closing Date, the Purchaser will provide severance benefits to all Employees equal to or greater than the benefits determined under the severance plan applicable to comparable employees in the Purchaser Parent's GE Consumer Finance-Americas division (the "Purchaser Severance Plan") including with respect to severance incurred as a result of the transactions contemplated by this Agreement and the Ancillary Agreements. Severance benefits will be payable under the circumstances set forth in the Purchaser Severance Plan.

(e) The Purchaser shall assume each employment, retirement, severance or other agreement to which any Transferred Employee is a party and under which such Transferred Employee (or any of his or her dependents or beneficiaries) is entitled to current or future compensation or benefits, in each case as set forth on Section 6.3(e) of the Disclosure Schedule, as well as all liabilities and obligations thereunder (and shall release the Sellers and their Affiliates from all liabilities and obligations thereunder).

(f) With respect to any accrued but unused vacation time to which any Transferred Employee is entitled pursuant to the vacation policy applicable to such Employee immediately prior to the Closing Date (the "Vacation Policy"), the Purchaser shall allow such Employee to use such accrued vacation; provided, however, that if the Purchaser deems it necessary

to disallow such employee from taking such accrued vacation, the Purchaser shall be liable for and pay in cash to each such Employee an amount equal to such vacation time in accordance with terms of the Vacation Policy; provided, further, that Purchaser shall be liable for and pay in cash an amount equal to such accrued vacation time to any Transferred Employee whose employment terminates for any reason other than "cause" (as defined in Section 6.3(f) of the Disclosure Schedule) prior to the close of business on the last calendar day of the year during which the Closing Date occurs.

ARTICLE VII
CONDITIONS

SECTION 7.1 Conditions to Each Party's Obligations to Effect the Purchase and Assumption. The respective obligations of the Parent, the Bank and the Purchaser to effect the Purchase and Assumption are subject to the fulfillment or written waiver, at or prior to the Closing Date, of the following conditions:

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(a) Governmental and Regulatory Approvals. (i) The HSR waiting period shall have expired or have been earlier terminated, applicable bank regulatory approvals shall have been obtained, the applicable approval under the Bank Merger Act shall have been obtained and (ii) all other authorizations of, filings and registrations with, and notifications to, all Governmental Authorities required to effect the transactions contemplated by this Agreement (other than the Requisite Regulatory Approvals) shall have been obtained or made and shall be in full force and effect and all waiting periods required by applicable Requirements of Law in connection therewith shall have expired or been terminated except to the extent that the failure to obtain any such other approvals or authorizations would not be reasonably expected to have a Material Adverse Effect on the Business, the Purchaser or the Sellers.

(b) Third Party Consents. The consents and approvals of third Persons set forth in Schedule H shall have been obtained and shall be in full force and effect.

(c) No Injunction or Prohibition. No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, by-law, judgment, decree, injunction or other order (whether temporary, preliminary or permanent) that is in effect and prohibits or makes illegal consummation of the transactions contemplated by this Agreement or the Ancillary Agreements.

(d) Program Agreement. The Program Agreement shall have been duly executed and delivered by the other party thereto.

(e) [Reserved]

(f) Lease Agreement. The Lease Agreement shall have been duly executed and delivered by the other party thereto.

(g) Instrument of Assignment and Assumption. The Instrument of Assignment and Assumption shall have been duly executed and delivered by the other party thereto.

(h) Financing Statements. The Sellers shall have executed and delivered UCC-1 financing statements to be filed in the Offices of the Secretaries of State of the states of Arizona and Delaware and any other state necessary to perfect the sale of Receivables purchased pursuant to the terms and conditions hereof.

(i) Securitization Transfer Agreement. The Securitization Transfer Agreement shall have been duly executed and delivered by the other party thereto and all of the conditions to the effectiveness of the assignment and assumption shall have been satisfied or, where permissible, waived prior to or concurrently with the Closing Date.

(j) Required Amendments and Confirmations. The Required Amendments and Confirmations shall have been obtained and shall have become effective in accordance with their terms.

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(k) Variable Rate Certificates. Sellers shall have given all notices and satisfied all conditions necessary to pay, and shall have paid in full, the Variable Rate Certificates, Series 1998-1 and 2002-1.

SECTION 7.2 Conditions to Obligations of the Purchaser. The obligations of the Purchaser to effect the Purchase and Assumption are subject to the fulfillment or written waiver, at or prior to the Closing Date, of the following additional conditions:

(a) Performance of Obligations. The Sellers shall have performed in all material respects all their covenants and agreements set forth in this Agreement, to the extent required at or prior to the Closing Date.

(b) Representations. The representations of the Sellers set forth in this Agreement shall be true and correct as of (1) the date of this Agreement, and (2) the Closing Date, except that representations that by their terms speak as of the date of this Agreement or some other date shall be true and correct only as of such date (in each case, without giving any effect to any qualifications or limitations as to materiality or Material Adverse Effect contained therein), except to the extent that any failure to be so true and

correct has not had, or is not reasonably likely to have, a Material Adverse Effect on the Parent, the Bank or the Business.

(c) Certificate. The Purchaser shall have received a certificate signed on the Sellers' behalf by an executive officer of the Parent, dated the Closing Date, to the effect that the conditions set forth in Sections 7.2(a) and 7.2(b) have been satisfied.

(d) Securitization Conditions.

(i) The Purchasers shall have received copies of any Tax Opinions or opinion to the trustee required by the Securitization Documents to be delivered on behalf of Sellers in order to consummate the transactions contemplated hereby.

(ii) The duty of DAF to file reports under the Exchange Act shall have been suspended and DAF shall have filed a Form 15 with the SEC.

(iii) Securitization Rights. The Purchaser shall be recognized by the Trustee, as defined in the Securitization Documents, as (i) the servicer with respect to all Servicing Rights and, (ii) the transferee of the Residual Assets.

(iv) Closing Sets. The Sellers shall furnish to the Purchaser a complete set of closing documents relating to the Master Trust Series 2000-1, the Master Trust Series 2002-2 transactions and any other securitizations of the Sellers, including all amendments, supplements and waivers related thereto.

(e) Each Seller shall have delivered to the Purchaser a non-foreign affidavit dated as of the Closing Date, sworn under penalties of perjury and in form and substance required under Treasury regulations issued pursuant to Section 1445 of the Code stating that such Seller is not a foreign person as defined in Section 1445 of the Code.

SECTION 7.3 Conditions to Obligations of the Parent and the Bank. The obligations of the Parent and the Bank to effect the Purchase and Assumption are subject to the fulfillment or waiver in writing, at or prior to the Closing Date, of the following additional conditions:

(a) Performance. The Purchaser shall have performed in all material respects all its covenants and agreements set forth in this Agreement to the extent required at or prior to the Closing Date.

(b) Representations. The representations of the Purchaser set forth

in this Agreement shall be true and correct as of (1) the date of this Agreement, and (2) the Closing Date, except that any representations that by their terms speak as of the date of this Agreement or some other date shall be true and correct only as of such date (in each case, without giving any effect to any qualifications or limitations as to materiality or Material Adverse Effect contained therein), except to the extent that any failure to be so true and correct has not had, or is not reasonably likely to have, a Material Adverse Effect on the Purchaser and would not reasonably be expected to have a Material Adverse Effect on the Business following the Closing Date.

(c) Certificate. The Sellers shall have received a certificate signed on the Purchaser's behalf by an executive officer of the Purchaser, dated the Closing Date, to the effect that the conditions set forth in Sections 7.3(a) and 7.3(b) have been satisfied.

ARTICLE VIII TERMINATION

SECTION 8.1 Termination. This Agreement may be terminated and the transactions contemplated by this Agreement and the Ancillary Agreements may be abandoned at any time before the Closing Date only:

(a) By the written consent of the parties hereto;

(b) By either the Purchaser, the Parent or the Bank, if (i) any approval of a Governmental Authority, the lack of which would result in the failure to satisfy the condition set forth in Section 7.1(a), has been denied by the Governmental Authority, and (ii) in each case such party has no opportunity to cure the fault giving rise to such denial, including through reapplication or appeal;

(c) By either the Purchaser, the Parent or the Bank, if (i) any permanent injunction or Action by any Governmental Authority of competent jurisdiction prohibiting consummation of the transactions contemplated by this Agreement or the Ancillary Agreements becomes final and nonappealable; (ii) any law or regulation makes consummation of the transactions contemplated by this Agreement or the Ancillary Agreements illegal or otherwise prohibited; or (iii) consummation of the transactions contemplated by this Agreement or the Ancillary Agreements would violate any nonappealable final order, decree or judgment of any Governmental Authority having competent jurisdiction;

(d) By either the Purchaser, the Parent or the Bank if the transactions contemplated by this Agreement and the Ancillary Agreements are not consummated by

February 28, 2005; provided, however, that neither Purchaser, on the one hand, nor the Parent or the Bank, on the other hand, may terminate this

Agreement pursuant to this Section 8.1(d) if its (or one of its Affiliate's) breach of any representation, warranty or covenant contained herein has been the cause of or resulted in the failure to consummate such transactions by such date; or

(e) By either the Purchaser, on the one hand, or the Parent or the Bank, on the other hand, in the event of a breach or default in the performance by another party (other than any of its Affiliates) of any representation, warranty, covenant or agreement hereunder, which breach or default (i) would, individually or in the aggregate with all other uncured breaches and defaults of such other party, constitute grounds for the conditions set forth in Section 7.2(a) or (b) or Section 7.3(a) or (b), as the case may be, not to be satisfied at the Closing Date and (ii) has not been, or cannot be, cured within thirty (30) days after written notice, describing such breach or default in reasonable detail, is given by the terminating party to the breaching or defaulting party.

SECTION 8.2 Effect of Termination. If this Agreement is terminated, no party hereto (or any of its Affiliates, directors, officers, representatives or agents) will have any liability or further obligation to any other party to this Agreement, except for (1) obligations which survive termination as expressly provided for in Section 9.1 and (2) liabilities or obligations arising out of or related to any knowing, willful or intentional breach of this Agreement prior to such termination.

ARTICLE IX SURVIVAL; INDEMNIFICATION

SECTION 9.1 Survival. (a) The representations or warranties of the parties in this Agreement will survive the Closing until April 30, 2006; provided, that the Special Representations and the representations contained in Section 4.1(p) and Section 6.1 shall survive until the expiration of the applicable statute of limitations.

(b) No agreement or covenant in this Agreement will survive the Closing Date, other than (i) the covenants in Section 5.1 and 5.2 which shall survive until April 30, 2006 and (ii) the covenants set forth in Sections 2.4, 2.5, 2.6, 5.3, 5.5, 5.6, 5.7, 5.8, 5.10, 5.11, 5.12, and 8.2, Article VI, this Article IX and Article X.

(c) No claim for indemnification pursuant to this Article IX for breach of any representation, warranty or covenant may be brought after the date on which such representation, warranty or covenant no longer survives; provided, that if any reasonably specific indemnification claim is validly made prior to the termination of the applicable survival period, the indemnifying party's obligation hereunder with respect to such indemnification claim shall survive until such claim has been finally resolved.

SECTION 9.2 Indemnification by the Parent and the Bank. The Parent and the Bank jointly and severally agree to indemnify the Purchaser and its Affiliates against, and agree to hold each of them harmless from, any and all

damage, loss, liability, expense, judgment, settlement, claim, cost or penalty (including reasonable expenses of investigation and reasonable

attorneys' fees and expenses in connection with any Action and enforcement of any rights of indemnification against any Indemnifying Party or with respect to any appeal) ("Losses") incurred or suffered by the Purchaser or any of its Affiliates arising out of or resulting from, without duplication, (1) any breach of a representation or warranty of the Parent or the Bank contained in this Agreement or in any certificate delivered by the Parent or the Bank pursuant to this Agreement, (2) any breach of an agreement or covenant made by the Parent or the Bank in this Agreement, (3) any failure of the Parent, the Bank or any of their Affiliates to comply with any applicable "bulk sales" or similar Requirement of Law in connection with the consummation of the transactions contemplated hereby or (4) any Excluded Liability.

Notwithstanding the foregoing, except for Special Representations, the Purchaser and its Affiliates will not be entitled to indemnity pursuant to clause (1) of this Section 9.2 or in respect of Special Excluded Liabilities: (i) in respect of any individual Action or individual claim, fact or occurrence or any series of related Actions, claims, facts or occurrences (including any class action), until Losses in respect of such individual or related Actions, claims, facts or occurrences are greater than the De Minimis Claim Amount; or (ii) for any Losses, until the aggregate amount of all such Losses incurred or suffered by the Purchaser or any of its Affiliates exceeds the Deductible Amount, in which case the Purchaser and its Affiliates shall be entitled to indemnification for the full amount of such Losses in excess of such threshold; provided that, except in respect of any breach of the Special Representations, in no event will Purchaser and its Affiliates be entitled to indemnity for Losses pursuant to clause (1) of this Section 9.2 to the extent that the amount of Losses, in the aggregate, incurred or suffered by the Purchaser or any of its Affiliates exceeds the Indemnity Cap Amount.

SECTION 9.3 Indemnification by the Purchaser. The Purchaser and the Purchaser Parent jointly and severally agree to indemnify each Seller and each of their respective Affiliates against, and agree to hold each of them harmless from, any and all Losses incurred or suffered by a Seller or any such Affiliate arising out of or resulting from without duplication, (1) any breach of a representation or warranty of the Purchaser contained in this Agreement or in any certificate delivered by the Purchaser pursuant to this Agreement, (2) any breach of an agreement or covenant made by the Purchaser in this Agreement, (3) any Assumed Liability or (4) the operation of the Business from and after the Closing. Notwithstanding the foregoing, the Sellers and their Affiliates will not be entitled to indemnity pursuant to clause (1) of this Section 9.3: (i) in respect of any individual Action or individual claim, fact or occurrence or any series of related Actions, claims, facts or occurrences (including any class action), until Losses in respect of such individual or related Actions, claims, facts or occurrences are greater than the De Minimis Claim Amount; or (ii) for any Losses, until the aggregate amount of all such

Losses incurred or suffered by the Sellers or any of their Affiliates exceeds the Deductible Amount, in which case the Sellers and their Affiliates shall be entitled to indemnification for the full amount of Losses in excess of such threshold; provided that in no event will Sellers or their Affiliates be entitled to indemnity for Losses pursuant to clause (1) of this Section 9.3 to the extent that the amount of such Losses, in the aggregate, incurred or suffered by the Sellers or their Affiliates exceeds the Indemnity Cap Amount.

SECTION 9.4 Notice, Settlements and Other Matters. (a) A party seeking indemnification pursuant to Section 9.2 or 9.3 (an "Indemnified Party") must give prompt written notice to the party from whom such indemnification is sought (the "Indemnifying Party") of the assertion or commencement of any Action, in respect of which indemnity may be sought hereunder specifying in reasonable detail the individual items of such Losses including the

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amount, the date each such item was paid, or properly accrued or arose, and the specific details of the breach of representation, warranty or covenant or other claim or matter to which such item is related. Notwithstanding the foregoing, the failure of the Indemnified Party to furnish the written notice referred to in the preceding sentence in a prompt manner shall not effect its right to indemnification to the extent the Indemnifying Party's right to defend the matter is not materially prejudiced by such failure to give prompt notice. In the event that any third party claim is made against the Indemnified Party and the Indemnified Party notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party may elect at any time to negotiate a settlement or a compromise of such Action or to defend such Action, in each case at its sole cost and expense (subject to the limitations set forth in Section 9.2, if the Sellers are the Indemnifying Party, or Section 9.3, if the Purchaser is the Indemnifying Party) and with its own counsel. If, within thirty (30) days of receipt from an Indemnified Party of the notice referred to above the Indemnifying Party (i) advises the Indemnified Party in writing that it will not elect to defend, settle or otherwise compromise or pay such Action or (ii) fails to make such an election in writing, the Indemnified Party may (subject to the Indemnifying Party's continuing right of election in the preceding sentence), at its option, defend, settle, compromise or pay such Action; provided that any such settlement or compromise shall be permitted hereunder only with the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld. Unless and until the Indemnifying Party makes an election in accordance with this Section to defend, settle, compromise or pay such action or claim, all of the Indemnified Party's reasonable costs arising out of the defense, settlement, compromise or payment thereof will be Losses subject to indemnification by the Indemnifying Party (subject to the provisions and limitations of Sections 9.2 and 9.3, as applicable). Each Indemnified Party shall make available to the Indemnifying Party all information reasonably available to such Indemnified Party relating to such Action. If the

Indemnifying Party elects to defend any such Action, the Indemnified Party may participate in such defense with counsel of its choice at the Indemnified Party's sole cost and expense. If the Indemnifying Party elects to assume the defense of (or otherwise elects to negotiate, settle or compromise) any Action as described above, the Indemnified Party will reimburse the Indemnifying Party for all costs and expenses incurred by the Indemnifying Party in connection with such defense to the extent such costs and expenses do not total an amount indemnifiable pursuant to Section 9.2 or Section 9.3, as applicable.

(b) The Indemnified Party will have the right to reject any settlement approved by the Indemnifying Party if the Indemnified Party is not fully and unconditionally released from any liability resulting from that claim or is required to pay any costs, expenses or damages to any Person as a result of the Action that are not covered by the indemnity provided herein. The Indemnified Party will not have the right to settle any third party Action without the written consent of the Indemnifying Party if the Indemnifying Party is contesting such Action in good faith and has assumed the defense of such Action from the Indemnified Party or if the period for determining whether or not to assume the defense of such Action from the Indemnified Party has not expired.

(c) In calculating the amount of any Losses of an Indemnified Party under this Article IX, there will be subtracted the amount of any (1) insurance proceeds (net of Taxes actually incurred), and other than proceeds received through self-insurance or insurance provided by Affiliates of such Indemnified Party) actually received by the Indemnified Party with respect to such Losses and (2) third-party payments actually received by the Indemnified Party with

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respect to such Losses. In the event that the Indemnifying Party reimburses the Indemnified Party for any Losses prior to the occurrence of any events contemplated by clauses (1) or (2) above, the Indemnified Party will remit to the Indemnifying Party any such amounts that the Indemnified Party subsequently receives or realizes with respect to such Losses. Upon the payment in full of any claim hereunder, the Indemnifying Party will be subrogated to the rights of the Indemnified Party against any Person with respect to the subject matter of such claim.

(d) Without limitation of their respective rights and obligations as set forth elsewhere in this Article IX, and subject to the procedures for indemnification claims set forth in this Article IX, the Indemnified Party will act in good faith, will use commercially reasonable efforts to mitigate any Losses, will use similar discretion in the use of personnel and the incurring of expenses as the Indemnifying Party would use if they were engaged and acting entirely at their own cost and for their own account, and will consult regularly with the Indemnifying Party regarding the conduct of any Actions or the taking of any action for which indemnification may be sought.

(e) The Parent, the Bank and the Purchaser agree to treat and report all indemnity payments as additional adjustments to the amount of the total consideration paid for the Acquired Assets for all Tax purposes unless required by applicable Requirements of Law.

(f) For purposes of this Article IX, all representations and warranties herein shall be read to exclude any materiality or "Material Adverse Effect" qualifiers appearing therein.

(g) Notwithstanding anything to the contrary contained herein, the indemnification provided for herein shall not cover, and in no event shall any party hereto be liable for, any indirect damages, including consequential, incidental, exemplary or special damages, or punitive damages (except to the extent necessary to reimburse an Indemnified Party for judgments actually awarded to third parties in respect of such types of damages).

(h) After the Closing Date, other than as provided in Section 2.4 and except with respect to claims based on fraud and/or claims seeking equitable remedies, this Article IX will constitute the Sellers' and the Purchaser's exclusive remedy for any of the matters addressed herein or other claim arising out of or relating to this Agreement.

ARTICLE X MISCELLANEOUS

SECTION 10.1 Notices. All notices and other communications by the Purchaser or the Sellers hereunder will be in writing to the other party and will be deemed to have been duly given when delivered in person, when received via facsimile or overnight courier, or when posted by United States registered or certified mail, with postage prepaid, addressed as follows:

if to the Purchaser to:
GE Consumer Finance - Americas
1600 Summer Street
Stamford, Connecticut 06905
Attention: CEO and President

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Facsimile: (203) 585-6103

with a copy to:

GE Consumer Finance - Americas
1600 Summer Street
Stamford, Connecticut 06905
Attention: Office of General Counsel
Facsimile: (203) 585-6297

with a copy to:

GE Capital Consumer Card Co.
5300 Kings Island Drive
Mason, Ohio 45040
Attention: President
Facsimile: (678) 518-3134

if to the Sellers to:

c/o Dillard's, Inc.
1600 Cantrell Road
Little Rock, Arkansas 72201
Attention: Chief Financial Officer
Facsimile: (501) 376-5980

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Gary I. Horowitz, Esq.
Maripat Alpuche, Esq.
Facsimile: (212) 455-2502

Notices and other communications may also be sent to such other address or addresses as the Purchaser or the Sellers may from time to time designate by notice as provided herein, except that notices of change of address will be effective only upon receipt.

SECTION 10.2 Expenses. (a) Except as otherwise provided herein, all legal and any other third-party costs and expenses incurred in connection herewith and the transactions contemplated by this Agreement and the Ancillary Agreements will be paid by the party incurring such expenses, except that all fees or other amounts payable to any Governmental Authority in connection with any Requisite Regulatory Approval shall be paid by the Purchaser.

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(b) Collection efforts and related expenses on all Accounts made or incurred by the Sellers prior to the Closing Date will be the responsibility of the Sellers, and all monies collected thereon prior to the Closing Date (and all monies collected on Written-Off Accounts prior to the Closing Date) shall be retained by the Sellers subject to their contractual obligations under the Securitization Documents.

(c) The Purchaser shall be responsible for all fees of the rating agencies in connection with confirming ratings and providing approvals for the contemplated assumptions and any proposed amendments of the Securitization Documents by the Purchaser.

(d) Subject to the Interim Processing Agreement, rents under any leases assumed by the Purchaser and other items customarily apportioned in the jurisdiction in which the real estate is situated, shall be apportioned between the Sellers and the Purchaser on a per diem basis as of the opening of business on the Closing Date.

SECTION 10.3 Successors and Assigns. This Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement and the rights and obligations hereunder may not be assigned by any party to any Person without the prior written consent of the other party hereto, and any purported assignment without such consent shall be void; provided, however, that the Purchaser may assign its rights to purchase all or any portion of the Acquired Assets hereunder to one or more of its Affiliates.

SECTION 10.4 Entire Agreement; Amendment; Waiver. This Agreement and the Ancillary Agreements, including the Disclosure Schedule, Annexes and Schedules hereto and thereto, embody the entire agreement of the parties hereto with respect to the subject matter hereof and supersede all prior agreements with respect thereto, other than the Confidentiality Agreement. No representation, warranty, inducement, promise, understanding or condition not set forth in this Agreement (or the other documents referred to in the preceding sentence) has been made or relied on by any party in entering into this Agreement. This Agreement may be amended, and any provision hereof waived, but only in writing signed by the party against whom such amendment or waiver is sought to be enforced.

SECTION 10.5 Counterparts. This Agreement may be executed in two or more counterparts any of which may be delivered by facsimile transmission and all of which will together constitute one and the same instrument.

SECTION 10.6 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO ITS CONFLICT OF LAWS PROVISIONS (OTHER THAN SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW), AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

SECTION 10.7 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR THE ANCILLARY AGREEMENTS.

SECTION 10.8 Severability. In case any one or more of the provisions contained herein will be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby.

SECTION 10.9 No Petition. The Purchaser covenants and agrees that it will not, prior to the date that is one year and one day after the final payment of any series of investor certificates or any other series issued by the Master Trust, acquiesce, petition or otherwise invoke the process of any Governmental Authority for the purpose of commencing or sustaining a case against DAF or the Master Trust under any federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of DAF or the Master Trust or any substantial part of its property or ordering the winding up or liquidation of the affairs of DAF or the Master Trust.

SECTION 10.10 Public Announcement. Except for any notice which is required by law or regulation, each of the Purchaser, on the one hand, and each Seller, on the other hand, agrees that it will not issue a press release, make any other public statement or make any statement to the Employees with respect to the transactions contemplated by this Agreement or the Ancillary Agreements without the prior written consent of the other, which consent will not be unreasonably withheld or delayed. Each of the Purchaser, on the one hand, and each Seller, on the other hand, agrees, if possible, to notify and consult with the other at least one Business Day in advance of filing any notice required by law or regulation.

SECTION 10.11 Third-Party Beneficiaries. Nothing in this Agreement, expressed or implied, will confer on any Person, other than the parties hereto and DAF or their respective successors, any rights, remedies, obligations or liabilities; provided that the provisions of Article IX will inure to the benefit of the Indemnified Parties.

SECTION 10.12 Post-Closing Amounts Received and Paid. From and after the Closing Date, all amounts which are received by the Sellers or any of their Affiliates in respect of any of the Acquired Assets shall be received by such Person as agent, in trust for and on behalf of the Purchaser, and following the Closing, the Parent shall, on a weekly basis, pay, or cause to be paid, by wire transfer of immediately available funds to the Purchaser all such amounts received by or paid to the Sellers or any of their Affiliates, and shall provide Purchaser information as to the nature and source of all such payments, including any invoice related thereto. All amounts received by the Purchaser or any of its Affiliates following the Closing in respect of any Excluded Assets shall be received by the Purchaser as agent, in trust for and on behalf of Sellers, and the Purchaser shall, on a weekly basis, pay or cause to be paid all such amounts over to the Parent by wire transfer of immediately available funds and shall provide the Parent information as to the nature and source of all such payments, including any invoice relating thereto.

SECTION 10.13 Further Assurances. Each of the parties hereto shall, whenever and as often as reasonably requested to do so by another party hereto, execute, acknowledge and deliver any and all such other and further acts, assignments, endorsements, transfers and any instruments of further assurance, approvals and consents as are necessary or proper in order to complete, ensure and perfect (i) the Purchase and Assumption as contemplated hereby, and (ii) the consummation of the other transactions contemplated hereby.

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IN WITNESS WHEREOF, this Agreement has been executed on behalf of each of the parties hereto as of the day and year first above written.

GE CAPITAL CONSUMER CARD CO.

By /s/ Donald R. Ramon

Name: Donald R. Ramon
Title: Chief Operating Officer

GENERAL ELECTRIC CAPITAL
CORPORATION, solely for
purposes of Section 5.4,
Article IX and Article X

By /s/ Mark W. Begor

Name: Mark W. Begor
Title: Vice President

DILLARDS, INC.

By /s/ James I. Freeman

Name: James I. Freeman

Title: Senior Vice President

DILLARD NATIONAL BANK

By /s/ Charles O. Unfried

Name: Charles O. Unfried

Title: Chief Executive Officer

PRIVATE LABEL CREDIT CARD PROGRAM AGREEMENT

This Program Agreement is made as of the 7th day of August, 2004, by and between DILLARD'S, INC. ("Dillard's"), a Delaware corporation with its principal offices at 1600 Cantrell Road, Little Rock, Arkansas 72201, and GE CAPITAL CONSUMER CARD CO. ("Bank"), a Federal savings bank with its home office at 5300 Kings Island Drive, Mason, Ohio 45040.

W I T N E S S E T H :
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WHEREAS, Bank has established programs to extend private label card credit to qualified customers for the purchase of goods and services;

WHEREAS, Dillard's is engaged, among other activities, in operating retail department stores and a Private Label Credit Card Business;

WHEREAS, concurrently with the execution of this Agreement, Bank and Dillard's are entering a purchase, sale and servicing transfer agreement (the "Purchase Agreement") pursuant to which Bank shall purchase Dillard's Private Label Credit Card Business, including certain credit card accounts and associated receivables ("Purchased Accounts");

WHEREAS, it is a condition precedent to the obligations of Dillard's under the Purchase Agreement that Dillard's and Bank enter into this Agreement;

WHEREAS, Dillard's has requested that Bank establish a program pursuant to which Bank shall issue Private Label Credit Cards, which shall be accepted only by Dillard's Channels; and

WHEREAS, the parties agree that the goodwill associated with the "Dillard's" mark contemplated for use hereunder is of substantial value which is dependent upon the maintenance of high quality services and appropriate use of the mark pursuant to this Agreement;

NOW, THEREFORE, in consideration of the terms, conditions and mutual covenants contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Dillard's and Bank agree as follows:

ARTICLE 1

DEFINITIONS

1.1 Generally.

The following terms shall have the following meanings when used in this Agreement:

- o "Account" means a Private Label Credit Card accessed open end credit account established in favor of a Cardholder, pursuant to which such Cardholder may finance the purchase of Goods and/or Services from Dillard's Channels and other charges that may be made using the Private Label Credit Card, all subject to the terms of a Credit Card Agreement. The term Account includes Purchased Accounts.
- o "Account Documentation" means, with respect to an Account, any and all documentation relating to that Account, including, without limitation, Credit Card Documentation, checks or other forms of payment with respect to an Account, credit bureau reports (to the extent not prohibited from transfer by contract with the credit bureau), adverse action notices, change of terms notices, other notices, correspondence, memoranda, documents, stubs, instruments, certificates, agreements, magnetic tapes, disks, hard copy formats or other computer-readable data transmissions, any microfilm, electronic or other copy of any of the foregoing, and any other written, electronic or other records or materials of whatever form or nature, including, without limitation, tangible and intangible information, arising from or relating or pertaining to any of the foregoing to the extent related to the Program; provided that Account Documentation shall not include Dillard's register tapes, invoices, sales or shipping slips, delivery and other receipts or other indicia of the sale of Goods and/or Services.
- o "Accountants" has the meaning set forth in Section 10.2 hereof.
- o "Affiliate" means, with respect to any Person, each Person that controls, is controlled by, or is under common control with, such Person.
- o "Agreement" means this Program Agreement, together with all of its schedules and exhibits, and, if modified, altered, supplemented, amended and/or restated, as the same may be so modified, altered, supplemented, amended and/or restated from time to time.
- o "Applicable Law" means all federal, state and local laws, statutes, regulations, written regulatory guidance, orders or directives, as may be amended and in effect from time to time during the Term of this Agreement, including, but not limited to: (i) the Truth in Lending Act and Regulation Z; (ii) the Equal Credit Opportunity Act

and Regulation B; (iii) the Fair Debt Collection Practices Act; (iv) the Fair Credit Reporting Act; (v) the Gramm-Leach-Bliley Act and its implementing regulations ("GLBA"); (vii) the PATRIOT Act and its implementing regulations; and (vii) the Unfair and Deceptive Trade Practices Act.

- o Approval Rate Threshold" means the approval rates set forth in Schedule 3.4(a)-1.
- o "Average Daily Club Plan Receivables" means, for any calendar year or Program Year, as appropriate, the quotient obtained by dividing (a) the sum of Club Plan Cardholder Indebtedness as of the end of the day for each day of such year by (b) the number of days in the such year.
- o "Average Daily Receivables" means, for any calendar month, calendar year or Program Year, the quotient obtained by dividing (a) the sum of Cardholder Indebtedness as of the end of day for each day of the calendar month, calendar year or Program Year, as the

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case may be, by (b) the number of days in the calendar month, calendar year or Program Year, as the case may be.

- o "Bank" has the meaning set forth on page 1.
- o "Bank Event of Default" means the occurrence of any one of the events listed in Section 12.2 hereof or an Event of Default of Bank.
- o "Bank Licensed Marks" means the trademarks, tradenames, service marks, logos and other proprietary designations of Bank listed on Schedule B and licensed to Dillard's under Section 8.2 hereof.
- o "Bankruptcy Code" means Title 11 of the United States Code, as amended, or any other applicable state or federal bankruptcy, insolvency, moratorium or other similar law and all laws relating thereto.
- o "Billing Cycle" means the interval of time between regular periodic Billing Dates for an Account.
- o "Billing Date" means, for any Account, the last day of a Billing Cycle as of when the Account is billed.
- o "Billing Statement" means a summary of Account credit and debit transactions for a Billing Cycle including a descriptive statement covering purchases of Goods and/or Services and a statement with only past-due account information.

- o "Business Day" means any day, other than a Saturday, Sunday or legal holiday, on which Dillard's and Bank both are open for business.
- o "Cardholder" means any Person who has been issued a Credit Card and includes any authorized user(s).
- o "Cardholder Indebtedness" means all amounts charged and owing to Bank by Cardholders with respect to Accounts (including finance charges, NSF fees, late charges, pay-by-phone fees and any other fees and charges), whether or not billed, less the amount of any credit balances owing by Bank to Cardholders, including any credits associated with returns of Goods and/or Services and similar credits and adjustments, whether or not billed.
- o "Cardholder Data" means all personally identifiable information about a Cardholder received by Bank in connection with the Cardholder's application for or use of a Private Label Credit Card or Account.
- o "Cardholder List" means any list in electronic form that identifies or provides a means of differentiating Cardholders, including any such electronic listing that includes the names, addresses, email addresses (as available), telephone numbers or social security numbers of any or all Cardholders.

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- o "Change in Control" means any acquisition of Control of Dillard's by an entity other than an Affiliate of Dillard's, or acquisition of Control of Bank by an entity other than an Affiliate of Bank, as the case may be.
- o "Charge Transaction Data" means the transaction information with regard to each purchase of Goods and/or Services by a Cardholder on credit and each return of Goods and/or Services for credit in the form of electronic information as more particularly set forth in the Operating Procedures.
- o "Club Plans" has the meaning set forth in Schedule 2.3(b).
- o "Club Plan Cardholder Indebtedness" means Cardholder Indebtedness related to Club Plan purchases.
- o "Co-Branded Credit Card" means a credit card that bears a Dillard's Licensed Mark and the trademarks, tradenames, service marks, logos and other proprietary designations of VISA U.S.A., Inc., MasterCard International Inc., American Express, Discover or any other payment system that is generally accepted by sellers in the general purpose department store business.

- o "Competing Program" has the meaning set forth in Section 2.5(a) hereof.
- o "Comparable Private Label Credit Card Programs" means private label credit card programs operated by Bank involving department store, specialty apparel and other soft line retailers listed in Schedule 1.1, or as the parties may otherwise from time to time mutually agree.
- o "Confidential Information" has the meaning set forth in Section 11.1 hereof.
- o "Control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise.
- o "Conversion Date" means a date between the Effective Date and March 31, 2005, mutually agreed between Dillard's and Bank.
- o "Credit Card Agreement" means the credit card agreement between Bank and a Cardholder, including those assigned to Bank by Dillard's under the Purchase Agreement (and any replacement of such agreement) governing the use of an Account, together with any amendments, modifications or supplements which now or hereafter may be made to such Credit Card Agreement (and any replacement of such agreement).
- o "Credit Card Application" means the credit application which must be completed and submitted by individuals who wish to become Cardholders.

- o "Credit Card Documentation" means, with respect to Accounts, all Credit Card Applications, Credit Card Agreements, Credit Cards, Value Proposition agreements and Billing Statements relating to such Accounts.
- o "Debt Cancellation Revenue" means the aggregate gross premiums and revenue associated with the Bank's sale of debt cancellation products to Cardholders.
- o "Default Adjustment" has the meaning set forth in Schedule 14.2 (d) -1.
- o "Dillard's Channels" means all retail establishments owned or operated by Dillard's in the United States (including Licensee departments therein) and all mail order, catalog, electronic mail outlets (including websites operated by Dillard's or its Licensees) and other direct access media within the United States that are

owned or operated by Dillard's or its Licensees.

- o "Dillard's Event of Default" means the occurrence of any one of the events listed in Section 12.3 hereof or an Event of Default of Dillard's.
- o "Dillard's Licensed Marks" means the trademarks, tradenames, service marks, logos and other proprietary designations of Dillard's listed on Schedule A and licensed to Bank by Dillard's under Section 8.1 hereof.
- o "Dillard's Operating Procedures" shall mean the operating procedures employed by Dillard's prior to the Effective Date, a copy of which is attached hereto as Schedule 3.1.
- o "Dillard's Shopper" shall mean any Person who makes purchases of Goods and/or Services.
- o "Dillard's Shopper Data" shall mean all personally identifiable information regarding a Dillard's Shopper that is obtained by Dillard's in connection with the Dillard's Shopper making a purchase of Goods and/or Services.
- o "Disclosing Party" has the meaning set forth in Section 11.1 hereof.
- o "Effective Date" means the Closing Date, as that term is defined in the Purchase Agreement. If the Purchase Agreement terminates without consummation of the Closing, this Agreement shall be null and void.
- o "Enhancement Products" means the Credit Card enhancement products (other than debt cancellation product) listed in Schedule 4.11, or such other products as shall be approved by the Marketing Committee from time to time.
- o "Event of Default" means the occurrence of any one of the events listed in Section 12.1 hereof.
- o "Fair Market Value" has the meaning set forth in Section 14.3 hereof.

- o "Federal Funds Rate" means the offered rate as reported in The Wall Street Journal in the "Money Rates" section for reserves traded among commercial banks for overnight use in amounts of one million dollars or more, as published in the most recent Friday edition prior to any required payment or settlement date in which such offered rate is reported, and if such rate is not so reported in any Friday edition of The Wall Street Journal during the thirty day period preceding such required payment or settlement date, such

offered rate as reported in another publication reasonably acceptable to parties.

- o "Financing Income" means, with respect to any period, an amount equal to (a) the sum of assessed or accrued finance charges, late charges, NSF fees, pay-by-phone fees and other similar fees under the Program during such period, minus (b) the sum of concessions, reversals and write-offs of such finance charges, late charges, NSF fees, pay-by-phone fees and other similar fees and other adjustments during such period in the normal course of business (other than fraud losses).
- o "Funding Costs" has the meaning set forth in Schedule 7.3.
- o "GAAP" means generally accepted accounting principles, consistently applied.
- o "Goods and/or Services" means the products and services sold by or through Dillard's Channels, including for personal, family, household or business purposes.
- o "Governmental Authority" means any federal, state or local domestic, foreign or supranational governmental, regulatory or self-regulatory authority, agency, court, tribunal, commission or other governmental, regulatory or self-regulatory entity.
- o "Indemnified Party" has the meaning set forth in Section 15.3 hereof.
- o "Indemnifying Party" has the meaning set forth in Section 15.3 hereof.
- o "Initial Term" has the meaning set forth in Section 13.1 hereof.
- o "Inserts" has the meaning set forth in Section 4.8 hereof.
- o "In-Store Payment" means any payment on an Account made to Dillard's by a Cardholder or a person acting on behalf of a Cardholder.
- o "Intellectual Property" means, on a worldwide basis, other than with respect to Dillard's Licensed Marks or Bank Licensed Marks, any and all: (i) rights associated with works of authorship, including copyrights, moral rights and mask-works; (ii) trade marks and service marks and the goodwill associated therewith; (iii) trade secret rights; (iv) patents, designs, algorithms and other industrial property rights; (v) other intellectual and industrial property rights of every kind and nature, however designated, whether arising by operation of law, contract, license or otherwise; and (vi) applications, registrations, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

- o "Internet Services" has the meaning set forth in Section 3.8(a).
- o "Knowledge" means, with respect to either Dillard's or the Bank, the actual knowledge of the executive officers of the organization who have managerial responsibility for the Program.
- o "LIBOR" means the one month London Inter-Bank Offering Rate that appears on the Bloomberg U.S. Government/Swap/Agency Composite screen as of 11 a.m. (London time) each day, expressed as an annual rate, and if such rate is not available from Bloomberg (or its successor), LIBOR shall be determined from such financial reporting service or other information as shall be mutually acceptable to the parties.
- o "Licensee(s)" means any person(s) to the extent such person is authorized by Dillard's to operate in and sell goods and/or services from Dillard's Channels under the Dillard's Licensed Marks.
- o "Marketing Commitment" and "Market Commitment Quotient" have the respective meanings set forth in Schedule 4.1(a).
- o "Marketing Committee" shall mean the committee established pursuant to Section 4.2 hereof.
- o "Marketing Fund" means an accounting entry on the books of Bank representing the unused portion of the Marketing Commitment.
- o "Marketing Plan" means the document that outlines the objectives, strategies and tactics of new account solicitation, usage and awareness programs for the applicable calendar year.
- o "Monthly Settlement Sheet" has the meaning set forth in Section 7.2 hereof.
- o "Net Credit Sales" means, for any calendar year, an amount equal to (a) gross credit sales on Accounts during such calendar year, minus (b) the sum of credits for returned goods and cancelled services and other credits related to the price of Goods and/or Services (such as concessions, discounts and adjustments) on Accounts during such calendar year.
- o "New Mark" has the meaning set forth in Sections 8.1(b) and 8.2(b) hereof.
- o "Nominated Purchaser" has the meaning set forth in Section 14.2(a).
- o "Operating Procedures" has the meaning set forth in Section 3.1(a).

o "Person" means and includes any individual, partnership, joint venture, corporation, company, bank, trust, unincorporated organization, government or any department, agency or instrumentality thereof.

o "POS" means point of sale.

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o "Premium" has the meaning assigned to such term in the Purchase Agreement.

o "Private Label Credit Card" or "Credit Card" means a card issued by Bank to a Cardholder in connection with the Program (or by a subsidiary of Dillard's in connection with a predecessor program), in each case which bears a Dillard's Licensed Mark and may be used to finance purchases of Goods and/or Services.

o "Private Label Credit Card Business" means the Business, as that term is defined in the Purchase Agreement.

o "Program" means the private label credit card program established by Dillard's and Bank and made available to Cardholders and qualified applicants for the purchase of Goods and/or Services through Dillard's Channels, including, without limitation, the extension of credit, billings, collections, customer service, accounting between the parties and all other aspects of the customized credit plan specified herein and in Credit Card Agreements.

o "Program Purchase Date" has the meaning set forth in Section 14.2(c).

o "Program Assets" means the Accounts, Account Documentation, Cardholder List, Solicitation Materials and all Cardholder Indebtedness (whether held by Bank or a third party).

o "Program Net Losses" has the meaning set forth in Schedule 7.3.

o "Program Privacy Policy" shall mean the privacy policy and associated disclosures to be provided by Bank to Cardholders in connection with the Program, in the form consistent with the terms of this Agreement and Applicable Law, as agreed to by the Marketing Committee.

o "Program Purchase Date" has the meaning set forth in Section 14.2(c) hereof.

o "Program Website" has the meaning set forth in Section 3.8(a).

- o "Program Year" shall mean each full twelve calendar month period following the Effective Date, except that, if the Effective Date falls on a date other than the first day of a calendar month, the first Program Year will include the days of such calendar month after the Effective Date and the next full twelve calendar months.
- o "Purchase Agreement" has the meaning set forth on page 1 hereof.
- o "Purchased Accounts" has the meaning set forth on page 1 hereof.
- o "Qualified Dillard's Customer" shall mean customers of Dillard's that Dillard's determines are available to be solicited for Accounts under the Program.

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- o "Qualified Dillard's Customer List" means the list of Qualified Dillard's Customers provided from time to time by Dillard's to Bank for purposes of soliciting such Persons for the Program in accordance with a Marketing Plan.
- o "Receiving Party" has the meaning set forth in Section 11.1 hereof.
- o "Renewal Term" has the meaning set forth in Section 13.1 hereof.
- o "Risk Adjusted Margin" has the meaning set forth in Schedule 7.3.
- o "Risk Management Policies" has the meaning set forth in Section 3.4(a) hereof.
- o "Significant Failure" has the meaning set forth in Schedule 5.5(b).
- o "SLA" means each individual performance standard set forth at Schedule 5.2.
- o "Solicitation Materials" means documentation, materials, artwork, copy, trademarks (excluding the Dillard's Licensed Marks and the Bank Licensed Marks), copyrights and any protectible items, in any format or media (including television and radio), used to promote or identify the Program to Cardholders and potential Cardholders, including, without limitation, direct mail solicitation materials and coupons.
- o "Subsequent Failure" has the meaning set forth in Schedule 5.5(b).
- o "Supported Accounts" has the meaning set forth in Section 3.5 hereof.
- o "Term" means the Initial Term and each Renewal Term.

- o "Termination Period" means the period beginning with the date of any notice of termination pursuant to Article 13 and ending on the Program Purchase Date, if Dillard's or its designee purchases the Program Assets or upon notice that Dillard's will not purchase the Program Assets if it determines not to do so.
- o "Trademark Style Guide" means any rules governing the manner of usage of trademarks, tradenames, service marks, logos and other proprietary designations.
- o "Transaction" means any purchase of Goods and/or Services through a Dillard's Channel using a Private Label Credit Card or Account number.
- o "Unamortized Premium" means (i) the Premium, less 1/120th thereof for each full month that transpires after the Effective Date; plus (ii) unamortized premium related to each retail credit card business portfolio acquired by Bank in connection with an acquisition pursuant to Section 2.6 of this Agreement, based upon an amortization schedule agreed upon by Dillard's and Bank.

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- o "Value Proposition" means Dillard's current POS new account opening day 10% discounts, promotional card event discounts, and any other card-related promotional or rewards programs as may be established by the Marketing Committee from time to time.

1.2 Miscellaneous.

As used herein,

- (a) all references to the plural number shall include the singular number (and vice versa),
- (b) all references to "herein," "hereunder," "hereinabove" or like words shall refer to this Agreement as a whole and not to any particular section, subsection or clause contained in this Agreement, and
- (c) all references to "include," "includes" or "including" shall be deemed to be followed by the words "without limitation."

ARTICLE 2

ESTABLISHMENT OF THE PROGRAM

2.1 Generally.

Pursuant to the terms and conditions of this Agreement, Dillard's and Bank shall establish and participate in the Program commencing on the

Effective Date.

2.2 Credit Program.

- (a) Beginning as of the Effective Date, Bank shall offer Private Label Credit Cards to qualified customers in accordance with this Agreement and the Cardholder Agreement.
- (b) Beginning as of the Effective Date, or such later date as shall be agreed by the Marketing Committee, the terms and conditions for new Accounts shall be those specified in Schedule 2.2 hereto.

2.3 Value Proposition.

- (a) Beginning as of the Effective Date, Bank shall offer to Cardholders the Value Proposition.
- (b) Bank shall offer "Club Plans" as provided in Schedule 2.3(b).

2.4 Conversion of Purchased Accounts.

On the Conversion Date, subject to Applicable Law, Bank shall convert all of the Purchased Accounts to the terms and conditions specified in Schedule 2.2 hereto, provided that

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Bank on the Conversion Date shall not decrease or eliminate (but may increase) any existing credit line assignments. As soon as reasonably practicable after the Effective Date, and in any event prior to the Conversion Date, Bank shall prepare and send a change in terms notice as required by Applicable Law to each Person obligated on a Purchased Account. Descriptions of the terms and conditions of the Account and the Value Proposition, if any, shall be included as part of such notices to the extent required by Applicable Law. All such notices and descriptions shall be reviewed and approved by the Marketing Committee. Bank shall issue new Private Label Credit Cards and shall use its best efforts to maintain existing Account numbers on the Accounts.

2.5 Exclusivity.

- (a) General. Except as otherwise provided in this Section 2.5, during the Term of this Agreement (excluding the Termination Period), Dillard's, on behalf of itself and its Affiliates, agrees not to enter into or be a party to an agreement or arrangement, or act as a partner of a bank or credit card issuer, relating to a program for a private label credit card bearing a Dillard's Licensed Mark or other mark using the Dillard's name in the United States (such a program, a "Competing Program"). In addition, Dillard's, on behalf of itself and its Affiliates, shall not itself or themselves operate or participate in a Competing Program. Bank shall have exclusive rights

with respect to the Program.

- (b) Second-Look Credit Card Program. Notwithstanding Section 2.5(a), Dillard's shall have the right at any time during the Term of this Agreement to establish an unadvertised program for issuing credit cards, including private label credit cards using the Dillard's Licensed Marks, to customers whose Credit Card Applications have been declined by Bank, provided that Dillard's shall ensure that if the Dillard's Licensed Marks are used in connection with such program, they are used in a manner which clearly differentiates them from the use of the Dillard's Licensed Marks in the Program. Notwithstanding the foregoing, Dillard's shall have the right to include references to such credit cards in any materials listing approved forms of payment, and to provide applications and brochures for such program to customers whose Credit Card Applications have been declined by Bank.
- (c) Co-Branded Program. If Dillard's determines to offer Co-Branded Credit Cards during the Term, it shall follow the procedures set forth in Schedule 2.5(c).
- (d) Retail Portfolio Acquisition. Notwithstanding Section 2.5(a), Bank's sole rights with respect to credit card portfolios acquired by Dillard's or its Affiliates are set forth in Section 2.6 below.
- (e) Other Products. For clarity, other than the products set forth in Section 2.5(a), this Agreement does not restrict in any way Dillard's rights with respect to other payment products, including debit cards, gift cards or stored value cards.

2.6 Retail Portfolio Acquisition.

- (a) In the event that Dillard's purchases another retailer, or any stores or other channels thereof, that directly or through a third party has a proprietary or co-branded credit card portfolio, Bank agrees to participate in the purchase of some or all of the credit card business of such retailer in the following manner.
 - (i) Retailer that Operates a Credit Card Business. In connection with Dillard's purchase of any portion of the retail operations of a retailer that directly or through an Affiliate provides a proprietary or co-branded credit card, Bank agrees to negotiate in good faith a joint bid with Dillard's to acquire the related credit card business offered for sale by such retailer in connection with Dillard's acquisition of the retailer, or any of its stores or other channels. In the event that the bid is successful, Bank shall be solely responsible for funding the portion of the purchase price allocable to the credit card

portfolio, taking into account the entire financial terms of this Agreement, including the same revenue share percentage as provided under Section 7.3(a) hereof. If Dillard's and Bank cannot agree on the portion of the purchase price to be allocated to the credit card portfolio, Bank shall nonetheless consummate such purchase on commercially reasonable terms and conditions, and the parties shall promptly submit the dispute regarding purchase price allocation for resolution pursuant to Section 10.2. Pending the outcome of the dispute resolution procedures set forth at Section 10.2, Bank shall fund the portion of the purchase price equal to (A) its last good faith offer, which shall be no less than the book value of any receivables acquired, plus (B) one half (1/2) of the difference between the amounts Dillard's and Bank respectively believe should be allocated to the credit card portfolio purchase price. If Bank fails to acquire such credit card portfolio, Dillard's shall have the right to purchase and operate such retailer's credit card business itself or to engage a third party to do so. If Dillard's, directly or with a third party, acquires the credit card business of another retailer pursuant to this provision and this Agreement otherwise continues in effect, Section 2.5 shall not apply to such acquired credit card business or to the associated acquired retail operations, including any growth thereof. In such event, Bank shall use commercially reasonable efforts to assist Dillard's in the conversion and servicing of the portfolio until such time as Dillard's, itself or through a third party, can provide such servicing, all for servicing fees to be agreed upon by the parties.

- (ii) Retailer that has a Credit Card with another Issuer. In connection with Dillard's purchase of any portion of the retail operations of a retailer that has a proprietary or co-branded credit card through a third-party issuer, Bank agrees that it shall negotiate in good faith for the purchase of the retailer's credit card portfolio from such third party issuer associated with the retail assets being acquired. In the event that Bank is unsuccessful in its bid for the credit card portfolio, Dillard's may offer the credit card

program of such third party issuer until the expiration or other termination of the agreement governing such program, and Bank shall negotiate in good faith for the purchase of the credit card portfolio at that time. In the event that Bank is unable to acquire the credit card portfolio associated with the retail assets acquired by Dillard's, Dillard's shall have the right to purchase and operate such retailer's credit card business itself or to engage a third party to do so. If

Dillard's, directly or with a third party, acquires the credit card business of another retailer pursuant to this provision, Section 2.5 shall not apply to such acquired credit card business or to the associated acquired retail operations, including any growth thereof.

- (iii) Retailer that has a Proprietary or Co-Branded Credit Card with Bank. In connection with Dillard's purchase of a retailer that has a proprietary or co-branded credit card portfolio operated by Bank, Bank agrees to integrate such credit card portfolio with the Program as provided in Section 2.6(b) below.
 - (iv) Co-Branded Credit Card. Neither Bank nor Dillard's shall have any obligation under this Section 2.6(a)(i) or (ii) with respect to any co-branded credit card, except as provided at Section 2.5(c), if Bank is not already providing a Co-Branded Credit Card program for Dillard's at the time of the proposed acquisition.
- (b) Conversion of Purchased Accounts. If Bank acquires any credit card portfolio pursuant to Section 2.6(a)(i) or (ii), or operates a credit card portfolio as set forth in Section 2.6(a)(iii), Bank shall integrate such credit card portfolio with the Program as follows.
- (i) Private label credit card accounts shall be converted to Accounts established under the Program, which converted Accounts shall be subject to the same terms and conditions and to this Agreement, and participate in the Program, as if they were originated under this Agreement.
 - (ii) If Dillard's has a Co-Branded Credit Card program with Bank at the time of such purchase, purchased co-branded credit card accounts shall be converted to Co-Branded Credit Card accounts, which converted accounts shall be subject to the same terms and conditions and participate in such program as if they were originated under the Co-Branded Credit Card program agreement.
 - (iii) If Dillard's does not have a Co-Branded Credit Card program with Bank at the time of such purchase, purchased co-branded credit card accounts shall continue under the same terms and conditions being offered to the purchased retailer's customers, or such other terms and conditions upon which Dillard's and Bank shall mutually agree.
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- (iv) Bank shall cover all costs related to conversions pursuant to this Section 2.6(b), including replacement of credit cards, notices to Cardholders and complying with other requirements of

2.7 Retail Portfolio Disposition.

- (a) In the event that Dillard's arranges for the disposition of any of its retail stores in the United States during the Term of this Agreement, Dillard's shall have the right to dispose of the portion of the Program Assets related to such disposition (provided each Account may be tracked to the market serviced by such retail stores) and Bank shall provide all cooperation necessary to consummate such disposition to the same extent as if such disposition were a transfer of Program Assets upon the expiration of this Agreement as provided in Article 14. If Bank does not believe that the price negotiated with the purchaser of the Program Assets represents the fair market value of such portion of the Program Assets, and Dillard's and Bank are unable to reach agreement, Dillard's and Bank each shall nominate an investment banker who together shall select a third investment banker to determine the fair market value of such portion of the Program Assets, pursuant to the procedure set forth in Section 14.3 hereof. Notwithstanding any such dispute, Bank shall consummate such sale on the terms negotiated with the purchaser of the Program Assets pending the resolution of such dispute.
- (b) In the event that Dillard's sells retail stores and associated Accounts pursuant to Section 2.7(a), Dillard's shall pay Bank the amount, if any, calculated under Schedule 2.7(b).

ARTICLE 3

ADMINISTRATION OF THE PROGRAM

3.1 Operation of the Program.

- (a) Except as modified by agreement of the parties or the Marketing Committee from time to time, the Operating Procedures shall be the Dillard's Operating Procedures. The parties shall cooperate to review and update Operating Procedures as appropriate prior to the Effective Date, but in any event such Operating Procedures shall be at least as favorable, in the aggregate, as operating procedures applicable to Bank's other Comparable Private Label Credit Card Programs.
- (b) Bank shall provide, either directly or indirectly, the services, materials and personnel necessary to operate the Program in accordance herewith and in accordance with the Operating Procedures and any Marketing Plan agreed to by the parties from time to time.

- (c) Dillard's shall participate in the Program in accordance herewith and in accordance with the Operating Procedures and any Marketing Plan agreed to by the parties from time to time.
- (d) In the event of any conflict between the Operating Procedures and this Agreement, this Agreement shall control.

3.2 Ownership of Accounts.

- (a) Except to the extent of Dillard's ownership of the Dillard's Licensed Marks and its option to purchase the Program Assets under Section 14.2, Bank shall be the sole and exclusive owner of all Accounts and Account Documentation and shall have all rights, powers, and privileges with respect thereto as such owner, including, without limitation, the right, power and privilege to review periodically the creditworthiness of Cardholders to determine the range of credit limits or finance charge rates to be made available to individual Cardholders and whether to suspend or terminate the credit privileges of any Cardholder, provided however, that the Bank shall only decrease credit limits or suspend or terminate credit privileges to the extent set forth in Schedule 3.2(a). All purchases of Goods and/or Services in connection with the Accounts and the Cardholder Indebtedness shall create the relationship of debtor and creditor between the Cardholder and Bank, respectively. Dillard's acknowledges and agrees that (i) it has no right, title or interest (except for its right, title and interest in the Dillard's Licensed Marks and its option to purchase the Program Assets under Section 14.2) in or to, any of the Accounts or Account Documentation or any proceeds of the foregoing, and (ii) Bank extends credit directly to Cardholders.
- (b) Except as expressly provided herein, Bank shall be entitled to (i) receive all payments made by Cardholders on Accounts, (ii) retain for its account all Cardholder Indebtedness and such other fees and income authorized by the Credit Card Agreements and collected by Bank with respect to the Accounts and Cardholder Indebtedness, and (iii) retain for its account all income from selling credit card Enhancement Products.
- (c) Bank shall fund all Cardholder Indebtedness on the Accounts.
- (d) Bank shall have the exclusive right to effect collection of Cardholder Indebtedness, except as provided in Section 6.5, and shall notify Cardholders to make payment directly to it in accordance with its instructions; provided, however, that Bank at its option may make all collections for its account using a Program name which includes the name of Dillard's and, if Bank so elects, the name of Bank, and may direct all checks to be made payable to "Dillard's" or, with Dillard's approval, another name combined with the name Dillard's. Dillard's grants to Bank a limited power of

attorney (coupled with an interest) to sign and endorse Dillard's name upon any form of payment that may have been issued in Dillard's name in respect of any Account.

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(e) Notwithstanding the foregoing, Dillard's shall accept payments made with respect to an Account in a Dillard's store as provided in Section 6.3.

3.3 Branding of Accounts/Credit Cards/Credit Card Documentation/Solicitation Materials.

(a) Subject to finalization of any Marketing Plan and approval of the Marketing Committee, Bank shall be responsible for, and bear the cost of, design, development and delivery (other than delivery at Dillard's Channels) of the Credit Card Documentation, Solicitation Materials and Private Label Credit Cards.

(b) Dillard's Licensed Marks shall appear prominently on the face of the Private Label Credit Cards. The Private Label Credit Cards shall not bear Bank's Licensed Marks; provided, however, the Bank's name will appear on the back of the Card in order to identify Bank as the credit provider under the Program, together with any other disclosures required by Applicable Law.

3.4 Risk Management/Credit Standards.

(a) Bank shall be solely responsible for developing and implementing risk management policies, procedures and practices for the Program in accordance with this Agreement, including policies, procedures and practices for credit and Account openings, transaction authorization, collections, credit line management, over-limit decisions, Account closures, payment crediting and charge-offs (collectively, "Risk Management Policies"). Bank shall set Risk Management Policies that, in the aggregate, target the Approval Rate Thresholds for new Accounts opened at in-store point of sale and for new Accounts opened on the basis of mail-in applications. In the event such Approval Rate Thresholds are not achieved, Bank shall take the actions specified in Schedule 3.4(a)-2.

(b) Bank shall communicate to Dillard's its Risk Management Policies and on a monthly basis shall provide either updates of material changes or a statement that no material change has occurred.

(c) Bank shall perform all necessary security functions to minimize fraud in the Program due to lost, stolen or counterfeit cards and fraudulent applications. Dillard's agrees and acknowledges that it shall cooperate with Bank in such functions. All fraud losses other than fraud of Dillard's, its Licensees, employees or agents, shall be

at the Bank's expense.

3.5 Exception Accounts.

- (a) Notwithstanding the foregoing, Bank shall, upon request by Dillard's, offer a Private Label Credit Card and Account to any customer that does not satisfy Bank's credit standards ("Supported Accounts"), provided that Bank shall have no obligation to issue such a Private Label Credit Card and Account if, at the time Dillard's makes such a request to Bank, the aggregate Cardholder Indebtedness associated with Supported Accounts exceeds one percent (1%) of the aggregate Cardholder Indebtedness for all Accounts. By March 1 of each calendar year,

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Bank shall provide to Dillard's a report setting forth (i) the total net amount of write-offs with respect to all Supported Accounts in the preceding calendar year, (ii) the total net amount of charges incurred by Supported Accounts during the same period, (iii) the total net amount of write-offs with respect to all other Accounts in the preceding calendar year, and (iv) the total net amount of charges incurred by all other Accounts during the same period. If the ratio of (i)/(ii) is greater than the ratio of (iii)/(iv), Bank shall include in its next Monthly Settlement Sheet and Dillard's shall pay an amount equal to (i) minus the product of (ii) multiplied by the ratio of (iii)/(iv).

- (b) Notwithstanding the foregoing, Bank or an Affiliate of Bank shall, upon request by Dillard's, offer a product similar to a Private Label Credit Card and Account to any Dillard's employee that does not satisfy Bank's credit standards, provided that the terms of such product shall require that such employee must prepay the amount that can be drawn through the use of a card.

3.6 Changes to Terms and Conditions of Accounts.

- (a) Changes to terms and conditions of Accounts shall only be made in the manner specified in Schedule 3.6.
- (b) Bank shall notify Dillard's in writing at least thirty (30) days prior to a notification to Cardholders of any change to features, terms or conditions required by Applicable Law, unless Bank is required by Applicable Law to implement such change in less than thirty (30) days, in which case Bank shall provide Dillard's with notice as soon as practicable.

3.7 Value Proposition.

Bank shall be responsible for tracking and servicing all rewards under

the Value Proposition associated with the Program, such as printing coupons on monthly Billing Statements subject to any Marketing Plan. The terms and conditions of the Value Proposition may be modified by approval of the Marketing Committee subject to the requirements of Applicable Law.

3.8 Internet Services.

(a) Cardholder Website. Bank shall develop and maintain a Dillard's-branded website for Cardholders and potential Cardholders, with the look and feel consistent with the Dillard's website ("Program Website"). The Program Website shall be accessed solely by means of links from the Dillard's website and shall contain or otherwise be associated with only such material and links as shall be agreed by the Marketing Committee from time to time. Dillard's will provide such links on (i) its home page, (ii) its check-out pages, and (iii) such other pages as the Marketing Committee shall determine from time to time. The Program Website shall also include links back to the Dillard's website, on the Program Website home page and such other pages as the Marketing Committee shall determine from time to time. The Program Website shall include the following

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functions, and such other functions as may be approved by the Marketing Committee from time to time (the Program Website and such functionality, collectively, the "Internet Services").

(i) Applications. The Program Website shall permit potential Cardholders to access a Credit Card Application, and to complete and submit the Credit Card Application online.

(ii) Cardholder Customer Service. The Program Website shall permit Cardholders to (A) view the Cardholder's Account information and Billing Statements; (B) view electronic copies of sales slips of the Cardholder's Dillard's transactions, including the Cardholder's signature; and (C) make payments on the Cardholder's Account via automated clearing house transfer or other payment mechanism approved by the Marketing Committee.

(b) Performance Standards. Bank shall provide the Internet Services free from programming errors and defects in workmanship and materials that materially impact functionality, accuracy or security of the Internet Services or the ability of Cardholders to use the Internet Services and in accordance with industry standards. Bank shall conform the Program Website, in the aggregate, to the performance capabilities, characteristics, specifications, functions and other standards generally applicable to Comparable Private Label Credit Card Program websites and required under this Agreement.

(c) Customer Privacy. Bank shall ensure that the Program Privacy Policy

is clearly and prominently posted on the pages of the Program Website.

- (d) Server Condition. Bank shall use commercially reasonable efforts to cause the server it will use to host the Program Website to (i) be in good operating condition and current with evolving technologies, (ii) contain sufficient operating capability to allow unlimited access to the Program Website, twenty-four (24) hours a day, seven days a week, and (iii) operate and allow access without interruption.
- (e) Internet Services Representations and Warranties. Bank represents and warrants as of the Effective Date and during the Term of this Agreement that:
 - (i) the Program Website is solely under Bank's control; and
 - (ii) Bank has the license, right or privilege to use the hardware, software and content acquired from third parties for use in the Internet Services, and that it is the owner of all other hardware, software and content used in the Internet Services and that neither the Internet Services as a whole, nor any part thereof, infringes upon or violates any patent, copyright, trade secret, trademark, invention, proprietary information, nondisclosure or other rights of any third party.

3.9 Sales Taxes.

Dillard's will pay when due any sales taxes relating to the sale of Goods and/or Services. Bank shall notify Dillard's of any amounts written-off on Accounts by Bank, identified by Account, and shall sign such forms and provide any such other information as requested by Dillard's to enable Dillard's to recover any sales tax charged to any Account that has been written-off by Bank. Bank will pay Dillard's reasonable out-of-pocket costs incurred in connection with Dillard's obtaining such sales tax recovery and Dillard's shall use commercially reasonable efforts to recover such amount. Dillard's shall pay to Bank an amount equal to recovered sales taxes, and such amount shall be treated as a recovery on such written-off Accounts. In the event Dillard's is audited or assessed by a state, and as a result any amount of sales tax previously recovered is repaid to the state, Bank shall repay such amount to Dillard's, and such amount shall be treated as a deduction from recoveries in the next settlement payment for the Program. Bank also shall fully cooperate in any such audit or assessment.

ARTICLE 4

MARKETING OF THE PROGRAM

4.1 Marketing Commitment.

- (a) Bank hereby agrees to credit into a Marketing Fund maintained by the Bank, by the tenth (10th) day of each calendar month, an amount equal to the Marketing Commitment Quotient to be determined pursuant to Schedule 4.1(a), for purposes of funding marketing activities for the Program, as further provided herein.
- (b) The Marketing Commitment shall cover Dillard's costs related to marketing the Program through such promotions as may be established by the Marketing Committee from time to time, including the items specified in Schedule 4.1(b).
- (c) Dillard's shall provide to Bank at the beginning of each month an accounting of its use, if any, of the Marketing Commitment in the prior month, and Bank shall reimburse Dillard's from the Marketing Fund for such amounts as provided in Section 7.3. To the extent that Dillard's expenditures of the Marketing Commitment in any calendar month exceed the amount in the Marketing Fund, Dillard's shall be entitled to reimbursement from the Marketing Fund at such time as additional funds become available. Any amount in the Marketing Fund for a given month that is not spent in that month shall remain available for use during the Term of this Agreement.
- (d) Bank shall be entitled to submit a monthly statement for the prior month's marketing costs it incurs pursuant to this Agreement or as determined by the Marketing Committee, and may seek reimbursement for such prior month's marketing costs, including costs related to funding the Value Proposition. To the extent that Bank's expenditures of the Marketing Commitment in any calendar month exceed the amount in the Marketing Fund, Bank shall be entitled to reimbursement from the Marketing Fund at such time as additional funds become

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available. In the event that both Dillard's and Bank are seeking reimbursement from the Marketing Fund during the same month, Dillard's and Bank shall have equal prioritization and share on a pro rata basis.

- (e) For avoidance of doubt, the Marketing Commitment shall not be used to fund the following activities, which shall be funded by Bank as stated below.
 - (i) Club Plans. Bank shall offer Club Plans as provided in Schedule 2.3(b).
 - (ii) Direct Mail Solicitations. From time to time pursuant to the Marketing Plan then in effect, Bank shall perform direct mail

solicitations at its own cost based on the Qualified Dillard's Customer List provided by Dillard's to Bank. Bank shall determine which Qualified Dillard's Customers are solicited for Accounts on the basis of the Risk Management Policies then in effect. Notwithstanding the foregoing, Bank shall have no obligation to solicit any Qualified Dillard's Customer who has provided to Bank or any other Person any notice that such Qualified Dillard's Customer does not wish to receive solicitations.

- (iii) Other Marketing Initiatives. Any other marketing initiatives as established by the Marketing Committee pursuant to a Marketing Plan that allocates such costs to Bank.

4.2 Establishment of a Marketing Committee.

Dillard's and Bank shall establish the Marketing Committee consisting of 6 members, 3 to be nominated by Dillard's and 3 to be nominated by Bank. The names of the initial appointees are set out in Schedule 4.2 hereto. At least one of Dillard's representatives and at least one of Bank's representatives on the Marketing Committee shall be senior representatives of their respective organizations and shall have overall responsibilities for the Program for their respective organizations. Each party may substitute committee members upon five (5) Business Days' notice to the other party.

4.3 Functions of the Marketing Committee.

The Marketing Committee shall:

- (a) Develop the initial Marketing Plan and thereafter approve subsequent Marketing Plans.
- (b) Coordinate and review the marketing activities and marketing performance for the Program through oversight of the implementation of Marketing Plans.
- (c) Approve Credit Card Documentation, Solicitation Materials and the Credit Card design, subject to changes Bank determines need to be made to comply with Applicable Law.

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- (d) Direct ongoing new product and Value Proposition development and monitor performance of marketing initiatives.
- (e) Direct ongoing research and in-market testing in order to maximize relevance, appeal and productivity of Account acquisition and usage development programs.
- (f) Establish and approve additional marketing initiatives and terms for

employees of Dillard's and its Affiliates.

- (g) Approve additional Enhancement Products.
- (h) Oversee the operational aspects of the Program.
- (i) Review risk management, customer service, and reporting aspects of the Program.
- (j) Approve amendments to customer service and reporting standards established under this Agreement, to the extent that authority to change such aspects of the Program does not reside with a single party to this Agreement, subject to changes Bank determines need to be made to comply with Applicable Law.
- (k) Develop customer service monitoring programs and standards.
- (l) Carry out such other tasks as are assigned to it by this Agreement or jointly by the parties.

4.4 Marketing Committee Meetings.

The Marketing Committee will meet from time to time as its members consider necessary, but in no event less than once per calendar quarter. The first meeting must be held within fifteen (15) days of the Effective Date for the purpose of developing an initial Marketing Plan. It will then determine when it will meet after that date to conduct other business required by this Agreement. Meetings may be held in person or wholly or partly by way of telephone or video conference.

4.5 Proceedings in Marketing Committee Meetings.

All decisions of the Marketing Committee must be unanimous decisions. A quorum of the Marketing Committee will be made up of at least one representative of Dillard's and one representative of Bank.

4.6 Procedural Matters.

The Marketing Committee must determine the frequency, place and agenda for its meetings, the manner in which meetings will be called and all procedural matters. With the exception of the matters specified in Section 4.5, any procedural or other matter specified in this Article concerning the Marketing Committee is subject to amendment in writing by the Marketing Committee.

4.7 Marketing Plans.

- (a) Within 30 days after the Effective Date, the Marketing Committee

shall approve a Marketing Plan for the balance of calendar year 2004 and for calendar year 2005. On or before sixty (60) days prior to the end of calendar year 2005 and the end of each calendar year thereafter, the Marketing Committee shall approve a Marketing Plan for the next calendar year.

- (b) At least once per calendar year, the Marketing Committee shall consider features, terms, conditions and other aspects of other private label credit card programs in order to identify marketplace developments for possible inclusion in the Program to ensure that the Program remains competitive with other private label credit card programs. If the Marketing Committee determines that a change to the Program may be required, Bank shall develop a plan with respect to implementation of such change, including the impact the proposed change would have, if any, on the revenue share, and shall present such plan to the Marketing Committee for its review and decision. The Marketing Committee shall decide whether to test or launch any such Program changes for Cardholders or potential Cardholders.
- (c) Each Marketing Plan shall outline all programs, to the extent established and mutually agreed upon by Dillard's and Bank, and shall include at least the following information for each program:
 - (i) description of offer(s);
 - (ii) description of target audience;
 - (iii) planned budget, specifying Bank's share and Dillard's share, if any; and
 - (iv) target implementation date (e.g., mailing dates, calling dates, delivery dates).
- (d) Each Marketing Plan shall address development of Solicitation Materials and Credit Card Documentation; new account acquisition strategies, including direct mailing and "take-one" acquisitions; preparation of unique collateral materials for Dillard's employees; activation, retention and usage; statement design and messaging; advertising of the Program; and such other marketing matters as the parties shall agree to.
- (e) Each Marketing Plan shall specify which party is responsible for each Marketing Plan item and shall contain a budget specifying the parties' financial responsibilities during the applicable calendar year.
- (f) Any Marketing Plan may be modified or supplemented by the parties from time to time upon mutual agreement, provided such modifications or supplements, as the case may be, are approved by the Marketing Committee.

- (g) All marketing initiatives developed under this Agreement shall contain unique marketing source codes to facilitate post-marketing research and analysis.

4.8 Communications with Cardholders.

- (a) Dillard's Inserts. Dillard's shall have the exclusive right to communicate with Cardholders, except for any message required by Applicable Law or communications approved by the Marketing Committee, through use of inserts, fillers and bangtails (collectively, "Inserts"), including Inserts selectively targeted for particular classes of Cardholders, in any and all Billing Statements, subject to such production requirements as contained in the Operating Procedures and Applicable Law. Dillard's shall be responsible for the content of, and the cost of preparing and printing, any Inserts not required by Applicable Law or approved by the Marketing Committee. All Inserts shall conform to Bank's customary production standards and requirements, including size and weight requirements. If the insertion of Inserts in particular Billing Statements would increase the postage costs for such Billing Statement, Dillard's agrees to either pay for the incremental postage cost or prioritize the use of Inserts to avoid postage cost over-runs. Notwithstanding the foregoing, (i) any message required by Applicable Law, and (ii) collection messages letters for Cardholders who are 60 days or more delinquent shall take precedence over any Dillard's Inserts.
- (b) Billing Statement Messages. Dillard's shall have the exclusive right to use Billing Statement messages and Billing Statement envelope messages in each Billing Cycle to communicate with Cardholders, except for any message required by Applicable Law or communications approved by the Marketing Committee, subject to such production requirements as contained in the Operating Procedures and Applicable Law. Dillard's shall be responsible for the content of any such messages not required by Applicable Law or approved by the Marketing Committee. Notwithstanding the foregoing, (i) any message required by Applicable Law, and (ii) collection and/or customer service messages letters, shall take precedence over any Dillard's messages.
- (c) Bank Promotions. Bank may promote the Program to Qualified Dillard's Customers using such Dillard's customer mailings as the Marketing Committee agrees to in advance, subject to such production requirements as contained in the Operating Procedures and Applicable Law. Bank shall be responsible for the content of, and the cost of preparing and printing, any such promotions. If the insertion of such promotions in Dillard's customer mailings would increase the postage costs for such mailings, Bank agrees to either pay for the

incremental postage cost or prioritize the use of promotions to avoid postage cost over-runs.

4.9 Customer Information.

- (a) All sharing, use and disclosure of information regarding Cardholders, Qualified Dillard's Customers and Dillard's Shoppers shall be subject to the provisions of Sections 4.9, 4.10, 4.11 and 4.12. The parties acknowledge that the same or

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similar information may be contained in Cardholder Data, the Qualified Dillard's Customer List and Dillard's Shopper Data, and that each such pool of data will therefore be considered separate information subject to the specific provisions applicable to that data hereunder. By way of example and not limitation: (i) if a Qualified Dillard's Customer receives a Private Label Credit Card, the Bank may use and disclose the Cardholder Data for all purposes permitted with respect to Cardholder Data hereunder, notwithstanding that the Cardholder originated as a Qualified Dillard's Customer; and (ii) if a Cardholder makes a purchase of Goods and/or Services with a Private Label Credit Card, Dillard's may use and disclose the Dillard's Shopper Data relating to that purchase for all purposes permitted with respect to Dillard's Shopper Data hereunder, notwithstanding that such information may also constitute Cardholder Data.

- (b) Dillard's and Bank will each establish and maintain appropriate administrative, technical and physical safeguards to protect the security, confidentiality and integrity of the Cardholder Data, the Qualified Dillard's Customer List and Dillard's Shopper Data. These safeguards will be designed to protect the security, confidentiality and integrity of the Cardholder Data, the Qualified Dillard's Customer List and Dillard's Shopper Data, ensure against any anticipated threats or hazards to its security and integrity, and protect against unauthorized access to or use of such information or associated records which could result in substantial harm or inconvenience to any Cardholder or applicant. Dillard's and Bank will each ensure that any third party to whom it transfers or discloses Cardholder Data, the Qualified Dillard's Customer List or Dillard's Shopper Data signs a written contract with the transferor in which such third party agrees to substantively the same privacy and security provisions as those in this Agreement. Information transferred by one party on behalf or at the direction of the other will be considered information transferred by the party requesting or directing the transfer. Each party shall use the same degree of care in protecting Cardholder Data, the Qualified Dillard's Customer List and Dillard's Shopper Data against unauthorized disclosure as it accords to its own confidential customer information, but in no

event less than a reasonable standard of care.

4.10 Qualified Dillard's Customer List.

- (a) Subject to compliance with Applicable Law, Dillard's privacy policy, the Marketing Plan and such criteria (including format) as may be mutually agreed from time to time, Dillard's shall make available to Bank, free of any charge, the Qualified Dillard's Customer List in electronic form. As between Dillard's and Bank, the Qualified Dillard's Customer List will be owned exclusively by Dillard's. Bank acknowledges and agrees that it has no proprietary interest in the Qualified Dillard's Customer List.
- (b) Bank shall not use, or permit to be used, directly or indirectly, the Qualified Dillard's Customer List, except as provided in this Section 4.10. Bank may use the Qualified Dillard's Customer List in compliance with Applicable Law solely for purposes of soliciting customers listed in the Qualified Dillard's Customer

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List for Private Label Credit Cards, as required by Applicable Law or as otherwise agreed by the Marketing Committee in writing.

- (c) Bank shall not disclose, or permit to be disclosed, the Qualified Dillard's Customer List, except as provided in this Section 4.10. Bank may disclose the Qualified Dillard's Customer List in compliance with Applicable Law solely:
 - (i) to its subcontractors in connection with a permitted use of such Qualified Dillard's Customer List under this Section 4.10, provided that each such subcontractor agrees to be bound by this Section 4.10, or a comparable contractual commitment with the same effect;
 - (ii) to its Affiliates and its Affiliates' employees, agents, attorneys and accountants with a need to know such Qualified Dillard's Customer List in connection with a permitted use of such Qualified Dillard's Customer List under this Section; provided that (A) any such Person is bound by terms substantially similar to this Section as a condition of employment, of access to Qualified Dillard's Customer List or by professional obligations imposing comparable terms; and (B) Bank shall be responsible for the compliance of each such Person with the terms of this Section; or
 - (iii) to any Governmental Authority with authority over Bank (A) in connection with an examination of Bank; or (B) pursuant to a specific requirement to provide such Qualified Dillard's Customer List by such Governmental Authority or pursuant to

compulsory legal process; provided that Bank seeks the full protection of confidential treatment for any disclosed Qualified Dillard's Customer List to the extent available under Applicable Law governing such disclosure, and with respect to clause (B), to the extent permitted by Applicable Law, Bank (1) provides at least ten (10) Business Days' prior notice of such proposed disclosure to Dillard's if reasonably possible under the circumstances, and (2) seeks to redact Qualified Dillard's Customer List to the fullest extent possible under Applicable Law governing such disclosure.

- (d) Upon the termination of this Agreement, Bank's rights to use and disclose the Qualified Dillard's Customer List shall terminate. Promptly following such termination, Bank shall return or destroy all Qualified Dillard's Customer Lists and shall certify such return or destruction to Dillard's upon request.

4.11 Cardholder Data.

- (a) As between Bank and Dillard's, Cardholder Data shall be the property of and exclusively owned by Bank. Dillard's acknowledges and agrees that it has no proprietary interest in the Cardholder Data.
- (b) Bank's privacy policy applicable to the Cardholder Data is the Program Privacy Policy. Any modifications to the Program Privacy Policy shall be approved by

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the Marketing Committee, provided that the Program Privacy Policy shall comply with Applicable Law at all times.

- (c) Bank shall not use, or permit to be used, Cardholder Data, except as provided in this Section 4.11. Bank may use the Cardholder Data in compliance with Applicable Law and the Program Privacy Policy solely (i) for purposes of soliciting customers listed in the Cardholder Data for Private Label Credit Cards, Enhancement Products listed in Schedule 4.11, and any other products and services approved by the Marketing Committee, (ii) as otherwise necessary to carry out its obligations or exercise its rights hereunder, or (iii) as required by Applicable Law. Bank has no rights to use the Cardholder Data for marketing purposes except as expressly provided herein.
- (d) Bank shall not disclose, or permit to be disclosed, the Cardholder Data, except as provided in this Section 4.11. Bank shall not, directly or indirectly, sell or otherwise transfer any right in or to the Cardholder Data. Bank may disclose the Cardholder Data in compliance with Applicable Law and the Program Privacy Policy solely:

- (i) to its subcontractors in connection with a permitted use of such Cardholder Data under this Section 4.11, provided that each such subcontractor agrees to be bound by this Section 4.11, or a comparable contractual commitment with the same effect;
 - (ii) to its Affiliates and its Affiliates' employees, agents, attorneys and accountants with a need to know such Cardholder Data in connection with a permitted use of such Cardholder Data under this Section; provided that (A) any such Person is bound by terms substantially similar to this Section as a condition of employment or of access to Cardholder Data or by professional obligations imposing comparable terms; and (B) Bank shall be responsible for the compliance of each such Person with the terms of this Section; or
 - (iii) to any Governmental Authority with authority over Bank (A) in connection with an examination of Bank; or (B) pursuant to a specific requirement to provide such Cardholder Data by such Governmental Authority or pursuant to compulsory legal process; provided that Bank seeks the full protection of confidential treatment for any disclosed Cardholder Data to the extent available under Applicable Law governing such disclosure, and with respect to clause (B), to the extent permitted by Applicable Law, Bank (1) provides at least 10 Business Days' prior notice of such proposed disclosure to Dillard's if reasonably possible under the circumstances and (2) seeks to redact Cardholder Data to the fullest extent possible under Applicable Law governing such disclosure.
- (e) Subject to Applicable Law and the Program Privacy Policy, Bank shall report to Dillard's on a weekly basis, in a format agreed to by the parties in advance,

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- (i) for any customer who has applied for a Credit Card, had the opportunity to make an opt out choice, was not approved for a Credit Card and did not opt out, regardless of the marketing channel of such application, the customer's name, address, email address, telephone number, social security number and all other commercially reasonable information supplied on the application or prescreened response submitted by the customer.
- (ii) for any Cardholder, (1) the Cardholder's name, address, email address, telephone number, social security number and Account number; (2) any reported change to any of the foregoing information; (3) Cardholder transaction and experience data; and (4) any such other Cardholder Data as Dillard's may reasonably request.

- (iii) the Cardholder's name and account number for any Account that is 60 days or more delinquent.
- (iv) the Cardholder's name and account number for any Account that has been closed.
- (f) Bank shall cooperate with Dillard's to provide Dillard's the maximum ability permissible under Applicable Law to use and disclose Cardholder Data, including, as necessary or appropriate, through use of consents, opt-in provisions or opt-out provisions, to the extent requested by Dillard's.
- (g) Dillard's shall not use, or permit to be used, Cardholder Data, except as provided in this Section 4.11. Dillard's may use the Cardholder Data in compliance with Applicable Law and the Program Privacy Policy solely (i) for purposes of promoting the Program or promoting products and services available for purchase on an Account at or through any Dillard's Channel, (ii) as otherwise necessary to carry out its obligations under this Agreement, and (iii) as required by Applicable Law.
- (h) Dillard's shall not disclose, or permit to be disclosed, the Cardholder Data, except as provided in this Section 4.11. Dillard's may disclose the Cardholder Data in compliance with Applicable Law and the Program Privacy Policy solely:
 - (i) to its subcontractors in connection with a permitted use of such Cardholder Data under this Section 4.11, provided that each such subcontractor agrees to be bound by this Section 4.11, or a comparable contractual commitment with the same effect;
 - (ii) to its Affiliates and its Affiliates' employees, agents, attorneys and accountants with a need to know such Cardholder Data in connection with a permitted use of such Cardholder Data under this Section; provided that (A) any such Person is bound by terms substantially similar to this Section as a condition of employment or of access to Cardholder Data or by professional obligations imposing comparable terms; and (B) Dillard's

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shall be responsible for the compliance of each such Person with the terms of this Section; or

- (iii) to any Governmental Authority with authority over Dillard's (A) in connection with an examination of Dillard's; or (B) pursuant to a specific requirement to provide for such

Cardholder Data by such Governmental Authority or pursuant to compulsory legal process; provided that Dillard's seeks the full protection of confidential treatment for any disclosed Cardholder Data to the extent available under Applicable Law governing such disclosure, and with respect to clause (B), to the extent permitted by Applicable Law, Dillard's (1) provides at least 10 Business Days' prior notice of such proposed disclosure to Bank if reasonably possible under the circumstances and (2) seeks to redact Cardholder Data to the fullest extent possible under Applicable Law governing such disclosure.

- (i) With respect to use and disclosure of Cardholder Data following the termination of this Agreement:
 - (i) The rights and obligations of the parties under this Section 4.11 shall continue through any Termination Period.
 - (ii) If Dillard's exercises its rights under Section 14.2, Bank shall transfer its right, title and interest in the Cardholder Data to Dillard's or its Nominated Purchaser as part of such transaction, and Bank's right to use and disclose the Cardholder Data shall terminate upon the termination of the Termination Period.
 - (iii) If Dillard's provides notice that it will not exercise its rights under Section 14.2, upon termination of the Termination Period, Dillard's right to use and disclose the Cardholder Data shall terminate upon the termination of the Termination Period.

4.12 Dillard's Shopper Data.

- (a) Bank acknowledges that Dillard's gathers information about purchasers of Goods and/or Services and that Dillard's has rights to use and disclose such information independent of whether such information also constitutes Cardholder Data. Bank shall cooperate in Dillard's maintenance of such Dillard's Shopper Data, including by incorporating in the Credit Card Application and Cardholder Agreement mutually agreed provisions pursuant to which applicants and Cardholders will agree that they are providing their identifying information (including name, address, telephone number, email address and social security number) and all updates thereto to both Bank and Dillard's. To the extent Bank is the direct recipient of such data, Bank shall provide such data to Dillard's in such format and at such times as shall be agreed by the Marketing Committee. As between Dillard's and Bank, all Dillard's Shopper Data will be owned exclusively

by Dillard's. Bank acknowledges and agrees that it has no proprietary interest in the Dillard's Shopper Data.

- (b) Bank shall not use, or permit to be used, directly or indirectly, the Dillard's Shopper Data except to transfer such data to Dillard's to the extent it is received by Bank.
- (c) Bank shall not disclose, or permit to be disclosed, the Dillard's Shopper Data, except as provided in this Section 4.12. Bank may disclose the Dillard's Shopper Data in compliance with Applicable Law solely:
 - (i) to its subcontractors in connection with a permitted use of such Dillard's Shopper Data under this Section 4.12, provided that each such subcontractor agrees to be bound by this Section 4.12, or a comparable contractual commitment with the same effect;
 - (ii) to its Affiliates and its Affiliates' employees, agents, attorneys and accountants with a need to know such Dillard's Shopper Data in connection with a permitted use of such Dillard's Shopper Data under this Section; provided that (A) any such Person is bound by terms substantially similar to this Section as a condition of employment, of access to Dillard's Shopper Data or by professional obligations imposing comparable terms; and (B) Bank shall be responsible for the compliance of each such Person with the terms of this Section; or
 - (iii) to any Governmental Authority with authority over Bank (A) in connection with an examination of Bank; or (B) pursuant to a specific requirement to provide such Dillard's Shopper Data by such Governmental Authority or pursuant to compulsory legal process; provided that Bank seeks the full protection of confidential treatment for any disclosed Dillard's Shopper Data to the extent available under Applicable Law governing such disclosure, and with respect to clause (B), to the extent permitted by Applicable Law, Bank (1) provides at least ten (10) Business Days' prior notice of such proposed disclosure to Dillard's if reasonably possible under the circumstances, and (2) seeks to redact Dillard's Shopper Data to the fullest extent possible under Applicable Law governing such disclosure.
- (d) Upon the termination of this Agreement, Bank's rights to use and disclose the Dillard's Shopper Data shall terminate. Promptly following such termination, Bank shall return or destroy all Dillard's Shopper Data and shall certify such return or destruction to Dillard's upon request.

4.13 Liability for Materials Developed and Used in Connection with the Program.

Bank shall be responsible for ensuring that all Solicitation Materials, Account Documentation and Credit Card designs comply with Applicable Law and the Operating Procedures, provided that Bank has produced or approved such materials, documents or designs.

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Notwithstanding the foregoing, each party shall be solely responsible for ensuring that its respective Inserts and statement messages comply with Applicable Law.

4.14 Access to Bank Mailing Lists.

Upon Dillard's reasonable request and subject to Applicable Law and any contractual constraints, Bank shall (a) conduct marketing research, mailing and other related marketing efforts on behalf of Dillard's, which may include marketing materials related to Dillard's, the Goods and/or Services, or the Private Label Credit Cards, at Dillard's option, based upon the customer data bases and customer data base analysis tools maintained by Bank and its Affiliates, including nonpersonally identifiable transaction and experience data across Bank's credit card portfolios, and (b) provide use of its data bases, analytic tools and support services at no charge to Dillard's. Dillard's shall be responsible for all out-of-pocket expenses, including the costs of all marketing materials and mailing services at cost.

4.15 Bank Internal Marketing Commitment.

Each Program Year during the Term, Bank shall spend the amount specified in Schedule 4.15 on the resources specified therein.

ARTICLE 5

OPERATING STANDARDS

5.1 Reports.

Within thirty (30) days after the end of each calendar month to begin after the Effective Date, Bank shall provide to the Marketing Committee the reports specified in Schedule 5.1A, and to Dillard's the reports specified in Schedule 5.1B, and such other reports as are mutually agreed to by the parties from time to time.

5.2 Servicing.

Bank shall service all Accounts under the Program in accordance with the terms and conditions of this Agreement, including the service level standards set forth in Schedule 5.2, as they may be amended from time to time by the Marketing Committee. Without limiting the generality of the foregoing, Bank

shall be solely responsible for Credit Card Application processing, customer service, statementing, payment processing, transaction authorization and processing, Value Proposition administration, collections and risk management. To the extent not otherwise provided in this Agreement or the Operating Procedures, including the Service Level Standards at Schedule 5.2, Bank shall service the Accounts under the Program in the manner in which Bank, in the aggregate, services its other Comparable Private Label Credit Card Programs.

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5.3 Customer Service.

- (a) Bank shall be solely responsible for customer service for the Program in accordance with this Agreement, including the service level standards set forth in Schedule 5.2 as attached hereto, including, but not limited to, with respect to processing Cardholder telephone and mail inquiries and disputes.
- (b) As of the Effective Date, Bank shall establish a separate toll-free customer service telephone number for the Program at Bank's expense, which toll-free number shall be provided by and remain the property of Dillard's. Any publication of the toll-free number shall be approved by the Marketing Committee.
- (c) Customer service shall be provided by a dedicated group with overflow calls going to the Bank's regular customer service unit. If the overflow calls for any two (2) consecutive months exceed ten percent (10%) of total calls for the month, Bank shall increase the number of the dedicated group. The foregoing notwithstanding, to the extent such group is not fully utilized for activities related to the Program, Bank may utilize the dedicated group in connection with other activities for its customers that are not retail department stores for up to two percent (2%) of average monthly customer service calls handled by the dedicated group.
- (d) All customer service policies, scripts and form correspondence shall be approved by the Marketing Committee, provided that Bank may include items or make changes required by Applicable Law.
- (e) As of the Effective Date, Bank shall provide live telephonic customer service, in English and Spanish, 365 days per year 24 hours per day.
- (f) Customer service shall be Dillard's branded to the extent legally permissible. Notwithstanding the foregoing, Bank shall have the right in its sole discretion to take whatever steps and make such disclosures it believes are necessary to ensure that at all times the Bank is considered the creditor on the Accounts.
- (g) If Bank receives a Cardholder complaint regarding the quality or

delivery of Goods and/or Services, Bank shall refer such complaint to Dillard's in accordance with the Operating Procedures.

5.4 Customer Service Standards.

- (a) Beginning with the first full calendar month following the Effective Date and each calendar month thereafter, Bank's performance of its obligations for customer service shall be monitored by the Marketing Committee in accordance with the service level standards set forth in Schedule 5.2.
- (b) The Marketing Committee shall implement a joint customer service monitoring program, which shall include the jointly developed scoring procedure and model attached hereto as Schedule 5.3.

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- (c) Subject to the following sentence, Dillard's and Bank (or their respective subcontractors, as applicable), will jointly observe and score inbound/outbound telephone customer contacts that Bank has with Cardholders. A Bank representative may, but will not be required to, accompany the Dillard's representative during the observations. Dillard's will, however, conduct and score observations alone if a representative of Bank does not join in the observation.
- (d) Notwithstanding 5.4(c), Bank will make arrangements to allow Dillard's to monitor customer service telephone calls remotely at any time and without prior notice.
- (e) Customer service observations may be conducted by Dillard's on any day and at any time during the day or night, provided that such observations shall not unreasonably interfere with Bank's normal business operations.

5.5 Non-Performance of Service Level Standards.

- (a) Bank shall report to Dillard's monthly, in a mutually agreed format, Bank's performance under each of the SLAs set forth at Schedule 5.2. If Bank fails to meet any SLA, Bank shall (i) immediately report to Dillard's the reasons for the SLA failure(s); and (ii) promptly take any action necessary to correct and prevent recurrence of such failure(s).
- (b) With respect to any SLA starred on Schedule 5.2 hereof ("Starred SLA"), the provisions set forth in Schedule 5.5(b) shall apply.
- (c) The provisions of this Section 5.5 shall apply beginning ninety (90) days after the Effective Date with respect to operations assumed by Bank as of the Effective Date, and ninety (90) days after the

5.6 Access.

In addition to access as provided in Section 5.4(c), each party will permit the other party to visit its facilities related to the Program during normal business hours with reasonable advance notice. Each party will also permit the other party to review and obtain copies of the books and records relating to the Program. Dillard's authorizes Bank to monitor the administration and promotion of the Program through mystery shopping and by other reasonable means and the results of such monitoring shall be reviewed with the Marketing Committee.

5.7 Disaster Recovery.

Bank will maintain in effect during the Term a disaster recovery and business continuity plan that complies with Applicable Law and that is designed to ensure that no outage of services hereunder will continue for more than thirty (30) minutes. Bank will provide Dillard's access to review such plan upon request. Bank will test such plan annually and will promptly implement

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such plan upon the occurrence of a disaster or business interruption, giving the Program high priority in its recovery efforts.

ARTICLE 6

MERCHANT SERVICES

6.1 Transmittal and Authorization of Charge Transaction Data.

- (a) Dillard's will accept the Private Label Credit Cards for Transactions. Dillard's will transmit Charge Transaction Data for authorization of Transactions to Bank as provided in the Operating Procedures. If Dillard's is unable to communicate with Bank for any reason, Dillard's may complete Transactions without receipt of further authorization as provided in the Operating Procedures.
- (b) Bank shall authorize or decline Transactions on a real time basis as provided in the Operating Procedures, including transactions involving split-tender (i.e., a portion of the total transaction amount is billed to a Private Label Credit Card and the remainder is paid through one or more other forms of payment) or down-payments on Goods and/or Services for later delivery.

6.2 POS Terminals.

Dillard's shall maintain POS terminals capable of processing (a) bankcard

transactions and (b) Private Label Credit Card transactions as handled as of the Effective Date. To the extent that Bank requires other equipment or hardware changes to such terminals for transmission of Charge Transaction Data under this Agreement, Bank shall provide, or pay for the purchase, installation and maintenance of, such other equipment or required hardware changes to Dillard's POS credit card terminals.

6.3 In-Store Payments.

Dillard's may accept In-Store Payments from Cardholders on their Accounts in accordance with the Operating Procedures. Dillard's shall, as necessary, provide proper endorsements on such items. Bank grants to Dillard's a limited power of attorney (coupled with an interest) to sign and endorse Bank's name upon any form of payment that may have been issued in Bank's name in respect of any Account. Dillard's and Bank shall jointly develop procedures in the Operating Procedures with respect to the manner in which such In-Store Payments shall be processed. Dillard's shall notify Bank upon receipt of In-Store Payments and Bank shall include the Charge Transaction Data related to such In-Store Payments in the net settlement in respect of the day immediately following such receipt on the same basis as other Charge Transaction Data. Dillard's shall issue receipts for such payments in compliance with Applicable Law.

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6.4 Settlement Procedures.

- (a) Dillard's will transmit Charge Transaction Data (including Charge Transaction Data arising in connection with sales by Licensees) to Bank in accordance with the Operating Procedures. If Charge Transaction Data is received by Bank's processing center before 6:00 am (EST) on any Business Day, Bank will process the Charge Transaction Data for payment on the same Business Day, and will issue instructions for wire transfer of funds to Dillard's designated settlement account with respect thereto by noon of the same Business Day. If the Charge Transaction Data is received after 6:00 am (EST) on any Business Day, or at any time on a day other than a Business Day, Bank will process the Charge Transaction Data for payment on the following Business Day.
- (b) Bank will remit to Dillard's, for itself and any Licensees, an amount equal to: the sum of the total of charges identified in such Charge Transaction Data, in each case adjusted for the reconciliation of recent Charge Transaction Data, less the sum of (i) the total amount of any credits included in such Charge Transaction Data, (ii) the total amount of In-Store Payments (if any), and (iii) any amounts charged back to Dillard's pursuant to Section 6.5. Dillard's shall be responsible for allocating such remittances among all Dillard's Channels as appropriate and Bank shall have no responsibility or liability in connection therewith.

(it being agreed that Bank has no obligation to accept Charge Transaction Data directly from, or make remittances to, any person other than Dillard's).

6.5 Bank Right to Charge Back.

Bank shall have the right to charge back to Dillard's the amount of any Cardholder Indebtedness, including Cardholder Indebtedness incurred prior to the Effective Date with respect to Purchased Accounts, relating to Charge Transaction Data only to the extent provided in Schedule 6.5.

6.6 Exercise of Chargeback.

If Bank exercises its right of chargeback, Bank may set off all amounts charged back against any sums due Dillard's under this Agreement, or Bank may demand payment from Dillard's for the full amount of such chargeback. In the event of a chargeback pursuant to this Article 6, upon payment in full of the related amount by Dillard's, Bank shall immediately assign to Dillard's, without any representation, warranty or recourse, (i) all right to payments of amounts charged back in connection with such Cardholder charge, and (ii) any security interest granted by Dillard's under Section 16.1. Bank shall fully cooperate in any effort by Dillard's to collect the chargeback amount, including by executing and delivering any document necessary or useful to such collection efforts.

6.7 Covenants of Dillard's.

Dillard's makes the following covenants to Bank, each and all of which shall survive the execution and delivery of this Agreement.

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- (a) Forms and Materials. Dillard's shall use only forms and materials, including in electronic format, provided or approved by Bank (including through the Marketing Committee) when taking any action with regard to the Program.
- (b) Special Agreements or Conditions. Dillard's will not charge any credit card surcharge, application, processing or other Program related fee to Cardholders.

ARTICLE 7

COSTS AND EXPENSES

7.1 Bank Responsibility for Program Operation.

Except as otherwise specified in any annual Marketing Plan or any other provision of this Agreement, Bank shall be responsible for the costs of operating the Program including, without limitation, the costs of marketing,

systems operations and customer services.

7.2 Monthly Statement to Dillard's.

Within five (5) Business Days after the end of each calendar month, Bank shall deliver to Dillard's, in a mutually agreed format, a statement setting forth the information specified in Schedule 7.2. Each such statement, including supporting documentation, shall be known as a "Monthly Settlement Sheet."

7.3 Compensation.

The Bank shall pay Dillard's on a monthly basis the compensation set forth in Schedule 7.3.

7.4 Resolution.

Any disputes regarding the amounts owed under this Agreement shall be resolved in accordance with Section 10.2.

ARTICLE 8

LICENSING OF TRADEMARKS; INTELLECTUAL PROPERTY

8.1 The Dillard's Licensed Marks.

- (a) Grant of License to Use the Dillard's Licensed Marks. Dillard's hereby grants to Bank a non-exclusive, royalty-free, non-transferable right and license to use the Dillard's Licensed Marks in the United States in connection with the creation, establishment, marketing and administration of, and the provision of services related to, the Program, all pursuant to, and in accordance with, this Agreement

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and any applicable Trademark Style Guide. Those services shall include, without limitation, the solicitation of Cardholders and potential Cardholders, acceptance of Credit Card Applications, the issuance and reissuance of Credit Cards, the provision of accounting services to Cardholders, the provision of Billing Statements and other correspondence relating to Accounts to Cardholders, the extension of credit to Cardholders, and the advertisement or promotion of the Program. All use of the Dillard's Licensed Marks shall be approved by the Marketing Committee. The license hereby granted is solely for the use of Bank and may be used as necessary to permit the exercise by Bank of any of its rights under this Agreement to (i) delegate its obligations to Affiliate(s) and/or third party subcontractors, and (ii) sell the Accounts and

Cardholder Indebtedness to third parties for liquidation. The licenses granted hereby may not be sublicensed in connection with the sale of Goods and/or Services without the prior written approval of Dillard's. Any subcontractor or third party shall agree to comply with all of the standards specified herein and the limitations on the use of the Dillard's Licensed Marks contained in this Section.

- (b) New Marks. If Dillard's adopts a trademark, trade name, service mark, logo or other proprietary mark which is used by Dillard's in connection with the Program but which is not listed on Schedule A hereto (a "New Mark"), Bank may request that Dillard's add such New Mark to Schedule A hereto and license its use hereunder, Dillard's shall not unreasonably fail to do so, and such New Mark shall be added to Schedule A by amendment of this Agreement.
- (c) Termination of License. Except to the extent otherwise provided in Section 14.4, the license granted in this section shall terminate six (6) months from the Program Purchase Date or six (6) months after termination of this Agreement under Section 14.4 as applicable. Upon such termination of this license, as provided in this subsection (c) and Section 14.4, all rights in the Dillard's Licensed Marks shall revert to Dillard's, the goodwill connected therewith shall remain the property of Dillard's, and Bank shall:
 - (i) discontinue immediately all use of the Dillard's Licensed Marks, or any of them, and any colorable imitation thereof; and (ii) at Bank's option, delete the Dillard's Licensed Marks from or destroy all unused Credit Cards, Credit Card Applications, Account Documentation, periodic statements, materials, displays, advertising and sales literature and any other items bearing any of the Dillard's Licensed Marks.
- (d) Ownership of the Dillard's Licensed Marks. Bank acknowledges that
 - (i) the Dillard's Licensed Marks, all rights therein, and the goodwill associated therewith, are, and shall remain, the exclusive property of Dillard's, (ii) it shall take no action which will adversely affect Dillard's exclusive ownership of the Dillard's Licensed Marks, or the goodwill associated with the Dillard's Licensed Marks (it being understood that the collection of Accounts, adverse action letters, and changes in terms of Accounts do not adversely affect goodwill, if done in accordance with the terms of this Agreement), and (iii) any and all goodwill arising from use of the Dillard's Licensed Marks by Bank shall inure to the benefit of Dillard's. Nothing herein shall give Bank any proprietary interest in or

to the Dillard's Licensed Marks, except the right to use the Dillard's Licensed Marks in accordance with this Agreement, and Bank shall not contest Dillard's title in and to the Dillard's Licensed

Marks.

- (e) Infringement by Third Parties. Bank shall use reasonable efforts to notify Dillard's, in writing, in the event that it has Knowledge of any infringing use of any of the Dillard's Licensed Marks by any third party. If any of the Dillard's Licensed Marks is infringed, Dillard's alone has the right, in its sole discretion, to take whatever action it deems necessary to prevent such infringing use; provided, however, that if Dillard's fails to take reasonable steps to prevent infringement of the Dillard's Licensed Marks by any department store retailer and such infringement has an adverse effect upon the Program or the rights of Bank hereunder, Bank may request that Dillard's take action necessary to alleviate such adverse impact. Bank shall reasonably cooperate with and assist Dillard's, at Dillard's expense, in the prosecution of those actions that Dillard's determines, in its sole discretion, are necessary or desirable to prevent the infringing use of any of the Dillard's Licensed Marks.

8.2 The Bank Licensed Marks.

- (a) Grant of License to Use the Bank Licensed Marks. Bank hereby grants to Dillard's a non-exclusive, royalty-free, non-transferable right and license to use the Bank Licensed Marks in the United States in connection with the creation, establishment, marketing and administration of, and the provision of services related to, the Program, all pursuant to, and in accordance with, this Agreement and any applicable Trademark Style Guide. Those services shall include, without limitation, the solicitation of Cardholders and the advertisement or promotion of the Program. All use of the Bank Licensed Marks shall be approved by the Marketing Committee. The license hereby granted is solely for the use of Dillard's and may be used as necessary to permit the exercise by Dillard's of any of its rights under this Agreement to delegate obligations to Affiliate(s) and/or third party contractors. The license granted hereby may not be sublicensed in connection with the sale of Goods and/or Services without the prior written approval of Bank. Any subcontractor or third party shall agree to comply with all of the standards specified herein and the limitations on the use of the Bank Licensed Marks contained in this Section.
- (b) New Marks. If Bank adopts a trademark, trade name, service mark logo or other proprietary mark which is used by Bank in connection with its extension of bank card credit to customers but which is not listed on Schedule B hereto (a "New Mark"), Dillard's may request that Bank add such New Mark to Schedule B hereto and license its use hereunder, Bank shall not unreasonably fail to do so, and such New Mark shall be added to Schedule B by amendment of this Agreement. The foregoing notwithstanding, it is understood and agreed that Bank shall not be required to add a New Mark to Schedule B if such New Mark was developed by Bank primarily for another charge, credit or

- (c) Termination of License. The license granted in this Section shall terminate six (6) months after the Program Purchase Date or six (6) months after termination after this Agreement under Section 14.4 as applicable. Upon such termination of this license, as provided in this subsection (c), all rights in the Bank Licensed Marks shall revert to Bank, the goodwill connected therewith shall remain the property of Bank, and Dillard's shall: (i) discontinue immediately all use of the Bank Licensed Marks, or any of them, and any colorable imitation thereof; and (ii) at Dillard's option, delete the Bank Licensed Marks from or destroy all unused Credit Card Applications, Account Documentation, periodic statements, materials, displays, advertising and sales literature and any other items bearing any of the Bank Licensed Marks.
- (d) Ownership of the Bank Licensed Marks. Dillard's acknowledges that (i) the Bank Licensed Marks, all rights therein, and the goodwill associated therewith, are, and shall remain, the exclusive property of Bank, (ii) it shall take no action which will adversely affect Bank's exclusive ownership of the Bank Licensed Marks or the goodwill associated with the Bank Licensed Marks, and (iii) any and all goodwill arising from use of the Bank Licensed Marks by Dillard's shall inure to the benefit of Bank. Nothing herein shall give Dillard's any proprietary interest in or to the Bank Licensed Marks, except the right to use the Bank Licensed Marks in accordance with this Agreement, and Dillard's shall not contest Bank's title in and to the Bank Licensed Marks.
- (e) Infringement by Third Parties. Dillard's shall use reasonable efforts to notify Bank, in writing, in the event that it has knowledge of any infringing use of any of the Bank Licensed Marks by any third party. If any of the Bank Licensed Marks is infringed, Bank alone has the right, in its sole discretion, to take whatever action it deems necessary to prevent such infringing use; provided, however, that if Bank fails to take reasonable steps to prevent infringement of the Bank Licensed Marks by any credit provider and such infringement has an adverse effect upon the Program or the rights of Dillard's hereunder, Dillard's may request that Bank take action necessary to alleviate such adverse impact. Dillard's shall reasonably cooperate with and assist Bank, at Bank's expense, in the prosecution of those actions that Bank determines, in its sole discretion, are necessary or desirable to prevent the infringing use of any of the Bank Licensed Marks.

8.3 Ownership of Intellectual Property.

- (a) Ownership of Intellectual Property. Each party shall continue to own

all of its Intellectual Property that existed as of the Effective Date. Each party also shall own all right, title and interest in the Intellectual Property it develops independently of the other party during the Term.

- (b) Joint Intellectual Property. Any Intellectual Property developed through the combined efforts of the parties during the Term of this Agreement shall be owned jointly by the parties. Each party shall have the right to use, license and otherwise

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exploit jointly owned Intellectual Property without any restriction or obligation to account to the other party. Patents and inventions shall be deemed to be developed jointly only if employees or contractors of each party who have assigned all such patent rights to such party are deemed co-inventors under the patent law. Software and other works of authorship and associated copyrights shall be deemed to be jointly developed only if the parties are deemed co-authors of such software or other work of authorship under the copyright law or otherwise deemed co-owners of such copyright. Otherwise, all patents, patentable inventions, software, other works of authorship and related copyrights shall be deemed to be developed solely by one party. Thus, to the extent that a work created by one party is based on or incorporates Intellectual Property of the other party but the parties are not joint inventors or joint authors under the patent or copyright law, respectively, then one party shall be the sole owner of the Intellectual Property in the underlying work and the other party shall be the sole owner of the Intellectual Property in the new work.

ARTICLE 9

REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 General Representations and Warranties of Dillard's.

To induce Bank to establish and administer the Program, Dillard's makes the following representations and warranties to Bank, each and all of which shall survive the execution and delivery of this Agreement, and each and all of which shall be deemed to be restated and remade with the same force and effect on each day of the Term.

- (a) Corporate Existence. Dillard's (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of its incorporation; (ii) is duly licensed or qualified to do business as a corporation and is in good standing as a foreign corporation in all jurisdictions in which the nature of the activities conducted or proposed to be conducted by it or the character of the assets owned or leased by it makes such licensing or qualification necessary to

perform its obligations required hereunder except to the extent that its non-compliance would not have a material and adverse effect on Dillard's ability to perform its obligations hereunder; and (iii) has all necessary licenses, permits, consents or approvals from or by, and has made all necessary notices to, all governmental authorities having jurisdiction, to the extent required for Dillard's current ownership, lease or conduct and operation, except to the extent that the failure to obtain such licenses, permits, consents or approvals or to provide such notices would not have a material and adverse effect on Dillard's ability to perform its obligations required hereunder.

- (b) Capacity; Authorization; Validity. Dillard's has all necessary corporate power and authority to (i) execute and enter into this Agreement, and (ii) perform the obligations required of Dillard's hereunder and the other documents, instruments

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and agreements relating to the Program and this Agreement executed by Dillard's pursuant hereto. The execution and delivery by Dillard's of this Agreement and all documents, instruments and agreements executed and delivered by Dillard's pursuant hereto, and the consummation by Dillard's of the transactions specified herein have been duly and validly authorized and approved by all necessary corporate action of Dillard's. This Agreement (i) has been duly executed and delivered by Dillard's, (ii) constitutes the valid and legally binding obligation of Dillard's, and (iii) is enforceable in accordance with its terms (subject to applicable bankruptcy, insolvency, reorganization, receivership or other laws affecting the rights of creditors generally and by general equity principles including, without limitation, those respecting the availability of specific performance).

- (c) Conflicts; Defaults; Etc. The execution, delivery and performance of this Agreement by Dillard's, its compliance with the terms hereof, and its consummation of the transactions specified herein will not (i) conflict with, violate, result in the breach of, constitute an event which would, or with the lapse of time or action by a third party or both would, result in a default under, or accelerate the performance required by, the terms of any material contract, instrument or agreement to which Dillard's is a party or by which it is bound, or by which Dillard's assets are bound, except for conflicts, breaches and defaults which would not have a material and adverse effect upon Dillard's ability to perform its obligations under this Agreement; (ii) conflict with or violate the articles of incorporation or by-laws, or any other equivalent organizational document(s), of Dillard's; (iii) violate any Applicable Law or conflict with, or require any consent or approval under any judgment, order, writ, decree, permit or license, to which Dillard's

is a party or by which it is bound or affected, except to the extent that such violation or the failure to obtain such consent or approval would not have a material and adverse effect upon Dillard's ability to perform its obligations under this Agreement; (iv) require the consent or approval of any other party to any contract, instrument or commitment to which Dillard's is a party or by which it is bound; or (v) require any filing with, notice to, consent or approval of, or any other action to be taken with respect to, any regulatory authority.

- (d) Solvency. Dillard's is solvent.
- (e) No Default. Neither Dillard's nor, to the best of its Knowledge, its Affiliates are in default with respect to any contract, agreement, lease, or other instrument to which it is a party or by which it is bound, except for defaults which would not have a material and adverse effect upon Dillard's ability to perform its obligations under this Agreement, nor has Dillard's received any notice of default under any contract, agreement, lease or other instrument which default or notice of default would materially and adversely affect the performance by Dillard's of its obligations under this Agreement. No Dillard's Event of Default has occurred and is continuing.

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- (f) Books and Records. All of Dillard's and, to the best of its Knowledge, its Affiliates' records, files and books of account relating to the Program, including but not limited to, records provided to the Bank regarding Dillard's Account activities, are in all material respects complete and correct and are maintained in accordance with Applicable Law.
- (g) No Litigation. No action, claim or any litigation, proceeding, arbitration, investigation or controversy is pending or, to the best of Dillard's Knowledge, threatened against Dillard's or its Affiliates other than Dillard National Bank, at law, in equity or otherwise, before any court, board, commission, agency or instrumentality of any federal, state, or local government or of any agency or subdivision thereof or before any arbitrator or panel of arbitrators, to which Dillard's is a party, which, if adversely determined, would have a material and adverse effect on Dillard's ability to perform its obligations under this Agreement nor, to the best of Dillard's Knowledge, do facts exist which might give rise to any such proceedings with respect to Dillard's or its Affiliates other than Dillard National Bank. Except as otherwise disclosed in the Purchase Agreement, Dillard's, further, is not the subject of (i) any action by a regulatory authority, or (ii) any agreement, orders or directives with any regulatory authority with respect to its operations that would have a material and adverse effect on

Dillard's ability to perform its obligations under this Agreement nor, to the best of Dillard's Knowledge, do facts exist which might give rise to any such circumstances.

- (h) Dillard's Licensed Marks. Dillard's is the owner of the Dillard's Licensed Marks and Dillard's has the right, power and authority to license to Bank and authorized designees the use of the Dillard's Licensed Marks in connection with the Program and the use of the Dillard's Licensed Marks by said licensees in a manner approved (or deemed approved) by Dillard's shall not (i) violate any Applicable Law or (ii) infringe upon the right(s) of any third party.

9.2 General Representations and Warranties of Bank.

To induce Dillard's to enter into this Agreement and participate in the Program, Bank makes the following representations and warranties to Dillard's, each and all of which shall survive the execution and delivery of this Agreement, and each and all of which shall be deemed to be restated and remade with the same force and effect on each day of the Term.

- (a) Corporate Existence. Bank (i) is a banking corporation duly organized, validly existing, and in good standing under the laws of the United States with its home office as indicated in the first paragraph of this Agreement; (ii) is duly licensed or qualified to do business as a banking corporation and is in good standing as a foreign corporation in all jurisdictions in which the nature of the activities conducted or proposed to be conducted by it or the character of the assets owned or leased by it makes such licensing or qualification necessary to perform its obligations hereunder except to the extent that its non-compliance would not have a material and adverse effect on Bank, the Program, the Accounts, Cardholder Indebtedness or Bank's ability to perform its obligations hereunder; and has all

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necessary licenses, permits, consents, or approvals from or by, and has made all necessary notices to, all governmental authorities having jurisdiction, to the extent required for Bank's current ownership, lease or conduct and operation, except to the extent that the failure to obtain such licenses, permits, consents, approvals or to provide such notices would not have a material and adverse effect on Bank, the Program, the Accounts, Cardholder Indebtedness or Bank's ability to perform its obligations under this Agreement.

- (b) Capacity; Authorization; Validity. Bank has all necessary power and authority to (i) execute and enter into this Agreement, and (ii) perform all of the obligations required of Bank hereunder and the other documents, instruments and agreements relating to the Program and this Agreement executed by Bank pursuant hereto. The execution

and delivery by Bank of this Agreement and all documents, instruments and agreements executed and delivered by Bank pursuant hereto, and the consummation by Bank of the transactions specified herein, have been duly and validly authorized and approved by all necessary corporate action of Bank. This Agreement (i) has been duly executed and delivered by Bank, (ii) constitutes the valid and legally binding obligations of Bank, and (iii) is enforceable in accordance with its respective terms (subject to applicable bankruptcy, insolvency, reorganization, receivership or other laws affecting the rights of creditors generally and financial institutions in particular and by general equity principles including, without limitation, those respecting the availability of specific performance).

- (c) Conflicts; Defaults; Etc. The execution, delivery and performance of this Agreement by Bank, its compliance with the terms hereof, and the consummation of the transactions specified herein will not (i) conflict with, violate, result in the breach of, constitute an event which would, or with the lapse of time or action by a third party or both would, result in a default under, or accelerate the performance required by, the terms of any material contract, instrument or agreement to which Bank is a party or by which it is bound, except for conflicts, breaches and defaults which would not have a material and adverse effect upon Bank, the Program, the Accounts, Cardholder Indebtedness or Bank's ability to perform its obligations under this Agreement; (ii) conflict with or violate the articles of incorporation or by-laws, or any other equivalent organizational document(s) of Bank; (iii) violate any Applicable Law or conflict with, or require any consent or approval under any judgment, order, writ, decree, permit or license, to which Bank is a party or by which it is bound or affected, except to the extent that such violation or the failure to obtain such consent or approval would not have a material and adverse effect upon Bank, the Program, the Accounts, the Cardholder Indebtedness or Bank's ability to perform its obligations under this Agreement; (iv) require the consent or approval of any other party to any contract, instrument or commitment to which Bank is a party or by which it is bound; or (v) require any filing with, notice to, consent or approval of, or any other action to be taken with respect to, any regulatory authority.
- (d) Solvency. Bank is solvent.

- (e) No Default. Neither Bank nor, to the best of its Knowledge, its Affiliates are in default with respect to any contract, agreement, lease, or other instrument to which it is a party or by which it is bound, except for defaults which would not have a material and adverse effect upon Bank, the Program, the Accounts, Cardholder Indebtedness or Bank's ability to perform its obligations under this

Agreement, nor has Bank received any notice of default under any such contract, agreement, lease or other instrument which default or notice of default would materially and adversely affect the performance by Bank of its obligations under this Agreement. No Bank Event of Default has occurred and is continuing.

- (f) Books and Records. All of Bank's and, to the best of its Knowledge, its Affiliates' records, files and books of account relating to the Program are in all material respects complete and correct and are maintained in accordance with Applicable Law.
- (g) No Litigation. No action, claim, or any litigation, proceeding, arbitration, investigation or controversy is pending or, to the best of Bank's Knowledge, threatened against Bank or its Affiliates, at law, in equity or otherwise, before any court, board, commission, agency or instrumentality of any federal, state, or local government or of any agency or subdivision thereof or before any arbitrator or panel of arbitrators, to which Bank is a party, which, if adversely determined, would have a material and adverse effect on Bank, the Program, the Accounts, Cardholder Indebtedness or Bank's ability to perform its obligations under this Agreement, nor, to the best of Bank's Knowledge, do facts exist which might give rise to any such proceedings. Bank, further, is not the subject of (i) any action by a regulatory authority, or (ii) any agreement, orders or directives with any regulatory authority with respect to its operations affecting the Accounts, Cardholder Indebtedness and the Program, any other aspect of Bank's business that relates to the Program or the ability of Bank to consummate the transactions specified herein, which, in either case, if adversely determined or enforced, would have a material and adverse effect on Bank, the Program, the Accounts, Cardholder Indebtedness or Bank's ability to perform its obligations under this Agreement, nor, to the best of Bank's Knowledge, do facts exist which might give rise to any such circumstances.
- (h) FDIC Insurance. Bank is FDIC-insured, and to the best of Bank's Knowledge, no proceeding is contemplated to revoke such insurance.
- (i) The Bank Licensed Marks. Bank is the owner of the Bank Licensed Marks and has the right, power and authority to license to Dillard's the use of the Bank Licensed Marks in connection with the Program and the use of the Bank Licensed Marks by Dillard's in a manner approved (or deemed approved) by Bank shall not (i) violate any Applicable Law or (ii) infringe upon the right(s) of any third party.

9.3 General Covenants of Dillard's.

Dillard's makes the following covenants to Bank, each and all of which shall survive the execution and delivery of this Agreement:

- (a) Maintenance of Existence and Conduct of Business. Dillard's shall preserve and keep in full force and effect its corporate existence and remain primarily in the retail business, other than in the event of a Change in Control, merger or consolidation in which Dillard's is not the surviving entity.
- (b) Litigation. Dillard's promptly shall notify Bank in writing if it receives written notice of any litigation that, if adversely determined, would have a material and adverse effect on the Program, the Accounts in the aggregate or Dillard's ability to perform its obligations hereunder.
- (c) Enforcement of Rights. Except as otherwise specified herein, Dillard's shall enforce its rights against third parties to the extent that a failure to enforce such rights could reasonably be expected to materially and adversely affect the Program, Accounts in the aggregate or Dillard's ability to perform its obligations hereunder. Dillard's shall not enter into any agreement which, at the time such agreement is executed, could reasonably be expected to have a material and adverse effect on the Program, the Accounts in the aggregate or Dillard's ability to perform its obligations hereunder.
- (d) Reports and Notices. Dillard's will provide Bank with a telephonic or telefacsimile notice specifying the nature of any Event of Default where Dillard's is the defaulting party or Dillard's Event of Default, or any event which, with the giving of notice or passage of time or both, would constitute a Dillard's Event of Default or any Event of Default where Dillard's is the defaulting party or any development or other information which is likely to have a material and adverse effect on the Program, the Accounts in the aggregate or Dillard's ability to perform its obligations pursuant to this Agreement. Notices pursuant to this Section 9.3(d) relating to Dillard's Events of Default or any Event of Default where Dillard's is the defaulting party shall be provided within two (2) Business Days after Dillard's has Knowledge of the existence of such default. Notices relating to all other events or developments described in this Section 9.3(d) shall be provided (i) within two (2) Business Days after Dillard's becomes aware of the existence of such event or development if such event or development has already occurred, and (ii) with respect to events or developments that have yet to occur, as early as reasonably practicable under the circumstances. Any notice provided under this section shall be confirmed in writing to Dillard's within five (5) Business Days after the transmission of the initial notice.
- (e) Applicable Law/Operating Procedures. Dillard's shall at all times during the Term of this Agreement comply in all material respects

with Applicable Law affecting obligations under this Agreement and the Operating Procedures.

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- (f) Disputes with Cardholders. Dillard's shall cooperate with Bank in a timely manner (but in no event less promptly than required by Applicable Law) to resolve all disputes with Cardholders.
- (g) Books and Records. Dillard's shall keep adequate records and books of account supporting Charge Transaction Data and reflecting all of Dillard's other financial transactions relating to the Program.

9.4 General Covenants of Bank.

Bank makes the following covenants to Dillard's, each and all of which shall survive the execution and delivery of this Agreement:

- (a) Maintenance of Existence and Conduct of Business. Bank shall preserve and keep in full force and effect its corporate existence and remain primarily in substantially the same line(s) of business (i.e., banking) in which it was engaged on the Effective Date, other than in the event of a Change in Control, merger or consolidation in which Bank is not the surviving entity.
- (b) Litigation. Bank promptly shall notify Dillard's in writing if it receives written notice of any litigation that, if adversely determined, would have a material and adverse effect on the Program, the Accounts in the aggregate or Bank's ability to perform its obligations hereunder.
- (c) Enforcement of Rights. Except as otherwise specified herein, Bank shall enforce its rights against third parties to the extent that a failure to enforce such rights could reasonably be expected to materially and adversely affect the Program, Dillard's or Bank's ability to perform its obligations hereunder. Bank shall not enter into any agreement which, at the time such agreement is executed, could reasonably be expected to have a material and adverse effect on Dillard's, the Program or Bank's ability to perform its obligations hereunder.
- (d) Reports and Notices. Bank will provide Dillard's with a telephonic or telefacsimile notice specifying the nature of any Event or Default where Bank is defaulting party or any Bank Event of Default, or any event which, with the giving of notice or passage of time or both, would constitute a Bank Event of Default or any Event of Default where Bank is the defaulting party, or any development or other information which is likely to have a material and adverse effect on the Program, the Accounts in the aggregate or Bank's ability to perform its obligations pursuant to this Agreement.

Notice pursuant to this Section 9.4(d) relating to Bank Events of Default or any Event of Default where Bank is the defaulting party shall be provided within two (2) Business Days after Bank becomes aware of the existence of such default. Notices relating to all other events or developments described in this Section 9.4(d) shall be provided (i) within two (2) Business Days after Bank becomes aware of the existence of such event or development if such event or development has already occurred, and (ii) with respect to events or developments that have yet to occur, as early as

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reasonably practicable under the circumstances. Any notice produced under this section shall be confirmed in writing to Bank within five (5) Business Days after transmission of the initial notice.

- (e) Applicable Law/Operating Procedures. Bank shall at all times during the Term comply in all material respects with Applicable Law and the Operating Procedures. Bank shall at all times during the Term maintain its bank charter and FDIC insurance.
- (f) Books and Records. Bank shall keep adequate records and books of account with respect to the Accounts and Cardholder Indebtedness in which proper entries, reflecting all of Bank's financial transactions relating to the Program, are made in accordance with GAAP. Bank shall keep adequate records and books of account with respect to its activities, in which proper entries reflecting all of Bank's financial transactions are made in accordance with GAAP. All of Bank's records, files and books of account shall be in all material respects complete and correct and shall be maintained in accordance with good business practice and Applicable Law.

9.5 Financial Covenants; Financial Statements.

- (a) If General Electric Capital Corporation does not have at least an A rating from two nationally recognized statistical rating organizations, Bank shall promptly notify Dillard's. If Dillard's does not receive reasonable financial assurances in Dillard's reasonable judgment from General Electric Capital Corporation or Bank of the ability of Bank to perform its obligations under this Agreement, Dillard's may terminate this Agreement, in which event the parties shall have the rights set forth in Article 14 and, if Dillard's determines to purchase the Program Assets, the purchase price shall be as stated in Section 14.2(d)(i).
- (b) If at any time during the term of this Agreement Dillard's or General Electric Company does not file periodic reports on a timely basis with the Securities and Exchange Commission ("SEC"):
 - (i) Dillard's or Bank (as appropriate based on the party not

filing) will provide to the other (i) its audited annual financial statements within 90 days of the end of the fiscal year, and (ii) its unaudited quarterly financial statements within 60 days of the end of the fiscal quarter. Such statements shall include the consolidated balance sheet, income statement and statement of cash flows and financial position, accompanied by the certification on behalf of such entity by its chief financial officer that such financial statements were prepared in accordance with GAAP applied on a consistent basis (except for normal year end adjustments and the absence of footnotes on the quarterly statements) and present fairly the consolidated financial position of such entity as of the end of such calendar period and the results of its operations.

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- (ii) Dillard's or Bank (as appropriate based on the party not filing) shall make its chief financial officer, or a knowledgeable designee, available to discuss such party's financial results with a representative of the other party. Such party shall provide the other party copies of all compliance certificates delivered to its lenders under its credit facilities, if any.

ARTICLE 10

AUDIT/ACCESS

10.1 Audit/Access Rights.

Twice per year or at any time that a party disputes the amount of any monies owed by either party to the other hereunder, such party, at its sole cost and expense and upon two (2) days' prior notice to the other party, may conduct an audit of those of the other party's financial and operational records that are under the control and/or direction of the other party and relate to the Program or can be reasonably segregated. Such audit shall be conducted during normal business hours in accordance with generally accepted auditing standards and the auditing party shall employ such reasonable procedures and methods as necessary and appropriate in the circumstances, minimizing interference with the audited party's normal business operations. The audited party shall use reasonable commercial efforts to facilitate the auditing party's review, including making reasonably available such personnel of the audited party to assist the auditing party as reasonably requested. The audited party shall deliver any document or instrument necessary for the auditing party to obtain such records from any Person maintaining records for the audited party and shall maintain records pursuant to its regular record retention policies. For purposes of this provision, the audited party also shall be required to provide records relating to the Program held by Persons performing services in connection with the Program at the auditing party's request. Notwithstanding the generality of the foregoing, however, a party

shall not be required to provide access to records to the extent that (a) such access is prohibited by Applicable Law, (b) such records are legally privileged, (c) such records are company planning documents of such party or any of its Affiliates, operating budgets, management reviews or employee records, and (d) such records relate to other customers or operations of such party other than the Program or to personnel records not normally disclosed in connection with audits.

10.2 Dispute Resolution.

The parties agree to attempt in good faith to resolve any disputes arising in connection with the payments made or demanded by the parties under this Agreement excluding Article 14 hereof. In the event the parties are unable to resolve any such dispute, either party may request a nationally recognized firm of independent accountants mutually agreeable to the parties (the "Accountants") to reconcile any amounts in dispute. Any such request shall be in writing and shall specify with particularity the disputed amounts being submitted for determination. Each party agrees to promptly and in good faith take all necessary action to designate the Accountants no later than ten (10) Business Days after a request that such a designation be made. The parties shall cooperate fully in assisting the Accountants in their review, including, without limitation, by providing the Accountants full access to all files, books and records relevant thereto and

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providing such other information as the Accountants may reasonably request in connection with any such review. In the event the determination made by the Accountants requires either party to make payment to the other of any additional amount, such party shall (i) make such payment no later than five (5) Business Days following receipt from the Accountants of written notice to both parties of such determination plus interest at the Federal Funds Rate on any amount due computed from and including the date such amount should have been paid through and excluding the date of payment; and (ii) shall pay (A) the fees and disbursements of such Accountants arising out of such reviews, and (B) the prevailing party's audit expenses, if any. The determination of the Accountants shall be final and binding on the parties subject to the correction of obvious errors.

ARTICLE 11

CONFIDENTIALITY

11.1 General Confidentiality.

- (a) For purposes of this Agreement, "Confidential Information" means any and all of the following: (i) information that is provided by or on behalf of either Dillard's or Bank to the other party or its agents in connection with the Program; (ii) information about Dillard's or Bank or their Affiliates, or their respective businesses or

employees, that is otherwise obtained by the other party in connection with the Program, in each case including, without limitation: (A) information concerning marketing plans, objectives and financial results; (B) information regarding business systems, methods, processes, financing data, programs and products; (C) information unrelated to the Program obtained by Dillard's or Bank in connection with this Agreement, including, without limitation, by accessing or being present at the business location of the other party; and (D) proprietary technical information, including source codes; (iii) the terms and conditions of this Agreement; or (iv) the Marketing Plan. Confidential Information shall not include Cardholder Data, the Qualified Dillard's Customer List or Dillard's Shopper Data.

- (b) The restrictions on disclosure of Confidential Information under this Article 11 shall not apply to, with respect to Dillard's or Bank, information that: (i) is already rightfully known to such party at the time it obtains Confidential Information from the other party; (ii) is or becomes generally available to the public other than as a result of disclosure in breach of this Agreement or any other confidentiality obligations; (iii) is lawfully received on a non-confidential basis from a third party authorized to disclose such information without restriction and without breach of this Agreement; (iv) is contained in, or is capable of being discovered through examination of publicly available records or products; (v) is required to be disclosed by Applicable Law (provided that the party subject to such Applicable Law shall notify the other party of any such use or requirement prior to disclosure of any Confidential Information obtained from the other party in order to afford such other party an opportunity to seek a protective order to

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prevent or limit disclosure of the Confidential Information to third parties and shall disclose Confidential Information of the other party only to the extent required by such Applicable Law); or (vi) is developed by Dillard's or Bank without the use of any proprietary, non-public information provided by the other party under this Agreement. Nothing herein shall be construed to permit the Receiving Party (as defined below) to disclose to any third party any Confidential Information that the Receiving Party is required to keep confidential under Applicable Law.

- (c) The terms and conditions of this Agreement shall be the Confidential Information of both Dillard's and Bank. The Marketing Plan shall be the Confidential Information of both Dillard's and Bank.
- (d) If Dillard's or Bank receive Confidential Information of the other Party ("Receiving Party"), the Receiving Party shall do the following with respect to the Confidential Information of the other

party ("Disclosing Party"): (i) keep the Confidential Information of the Disclosing Party secure and confidential; (ii) treat all Confidential Information of the Disclosing Party with the same degree of care as it accords its own Confidential Information, but in no event less than a reasonable degree of care; and (iii) implement and maintain commercially reasonable physical, electronic, administrative and procedural security measures, including commercially reasonable authentication, access controls, virus protection and intrusion detection practices and procedures. For purposes of this subsection, both parties shall be considered the Receiving Party of Confidential Information comprised of the terms and/or conditions of this Agreement and the Marketing Plan.

- (e) Upon reasonable request, Dillard's and Bank each shall have the right to review the other party's information security standards and shall notify the other party prior to materially modifying such procedures.

11.2 Use and Disclosure of Confidential Information

- (a) Each Receiving Party shall use and disclose the Confidential Information of the Disclosing Party only for the purpose of performing its obligations or enforcing its rights with respect to the Program or as otherwise expressly permitted by this Agreement, and shall not accumulate in any way or make use of such Confidential Information for any other purpose.
- (b) Each Receiving Party shall: (i) limit access to the Disclosing Party's Confidential Information to those employees, authorized agents, vendors, consultants, service providers and subcontractors who have a reasonable need to access such Confidential Information in connection with the Program; and (ii) ensure that any Person with access to the Disclosing Party's Confidential Information agrees to be bound by the provisions of this Article 11 and maintains the existence of this Agreement and the nature of their obligations hereunder strictly confidential.

11.3 Unauthorized Use or Disclosure of Confidential Information

Each Receiving Party agrees that any unauthorized use or disclosure of Confidential Information of the Disclosing Party might cause immediate and irreparable harm to the Disclosing Party for which money damages might not constitute an adequate remedy. In that event, the Receiving Party agrees that injunctive relief may be warranted in addition to any other remedies the Disclosing Party may have. In addition, the Receiving Party agrees promptly to advise the Disclosing Party by telephone and in writing via facsimile of any security breach that may have compromised any Confidential Information, of any unauthorized misappropriation, disclosure or use by any person of the

Confidential Information of the Disclosing Party which may come to its attention and to take all steps at its own expense reasonably requested by the Disclosing Party to limit, stop or otherwise remedy such misappropriation, disclosure or use.

11.4 Return or Destruction of Confidential Information

Upon the termination or expiration of this Agreement, the Receiving Party shall comply with the Disclosing Party's reasonable instructions regarding the disposition of the Disclosing Party's Confidential Information, which may include return of any and all of the Disclosing Party's Confidential Information (including any electronic or paper copies, reproductions, extracts or summaries thereof); provided, however: the Receiving Party in possession of tangible property containing the Disclosing Party's Confidential Information may retain one archived copy of such material, subject to the terms of this Agreement, which may be used solely for regulatory purposes and may not be used for any other purpose. Such compliance shall be certified in writing, including a statement that no copies of Confidential Information have been kept, except as necessary for regulatory purposes.

ARTICLE 12

EVENTS OF DEFAULT; RIGHTS AND REMEDIES

12.1 Events of Default.

The occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an Event of Default hereunder:

- (a) A party shall fail to make a payment of any material amount due and payable pursuant to this Agreement and such failure shall remain unremedied for a period of five (5) Business Days after the non-defaulting party shall have given written notice thereof, unless such failure to pay is the subject of a dispute resolution under Section 10.2, in which case, the five (5) Business Day period shall commence upon receipt of the written notice from the Accountants.
- (b) A party shall fail to perform, satisfy or comply with any obligation, condition, covenant or other provision contained in this Agreement (other than failure to comply with any service level standard set forth in Schedule 5.2), and (i) such failure shall remain unremedied for a period of thirty (30) days after the other party shall have given written notice thereof or, if the same cannot be cured in a

commercially reasonable manner within such time, the same shall not constitute an Event of Default if the party shall have initiated and diligently pursued a cure within such time and such cure is

completed within ninety (90) days from the date of written notice regarding such failure, and (ii) such failure shall either have a material and adverse effect on the Program or the Bank's or Dillard's Licensed Marks, or materially diminish the economic value of the Program to the other party.

- (c) Any representation or warranty contained in this Agreement shall not be true and correct in any respect as of the date when made or reaffirmed, and (i) the party making such representation or warranty shall fail to cure the event giving rise to such breach within thirty (30) days after the other party shall have given written notice thereof or, if the same cannot be cured in a commercially reasonable manner within such time, the same shall not constitute an Event of Default if the party shall have initiated a cure within such time and such cure shall be completed within ninety (90) days from the date of written notice regarding such breach, and (ii) such failure shall either have a material and adverse effect on the Program or materially diminish the economic value of the Program to the other party.

12.2 Defaults by Bank.

The occurrence of any one or more of the following events (regardless of the reason therefore) shall constitute an event of default by Bank hereunder:

- (a) Bank fails to settle Charge Transaction Data in full when due and the failure continues for two (2) Business Days after receipt of notice by Bank from Dillard's (which notice may be by fax with a confirmation call) that such settlement payment was not received.
- (b) Bank shall no longer be solvent or shall fail generally to pay its debts as they become due or there shall be a substantial cessation of Bank's regular course of business.
- (c) The Federal Deposit Insurance Corporation or any other regulatory authority having jurisdiction over Bank shall order the appointment of a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) of Bank or of any substantial part of its properties, or order the winding-up or liquidation of the affairs of Bank, and such order shall not be vacated, discharged, stayed or bonded within sixty (60) days from the date of entry thereof.
- (d) Bank shall (i) consent to the institution of proceedings specified in paragraph (c) above or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) of Bank of any substantial part of its properties, or (ii) take corporate action in furtherance of any such action.
- (e) Bank shall fail to meet one or more SLAs expressly giving rise to

12.3 Defaults by Dillard's.

The occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an event of default by Dillard's hereunder:

- (a) Dillard's fails to report In-Store Payments within two (2) Business Days after receipt thereof and the failure continues for two (2) Business Days after receipt of notice by Dillard's from Bank (which notice may be by fax with a confirmation call) that such report was not received.
- (b) Dillard's shall no longer be solvent or shall fail generally to pay its debts as such debts become due or there shall be a substantial cessation of Dillard's regular course of business.
- (c) A petition under the U.S. Bankruptcy Code or similar law shall be filed against Dillard's or any of its Affiliates and not be dismissed within sixty (60) days.
- (d) A decree or order by a court having jurisdiction (i) for relief in respect of Dillard's pursuant to the Bankruptcy Code or any other applicable bankruptcy or other similar law, (ii) for appointment of a custodian, receiver, liquidator, assignee, trustee, or sequestrator (or similar official) of Dillard's or of any substantial part of its properties, or (iii) ordering the winding-up or liquidation of the affairs of Dillard's shall be entered, and shall not be vacated, discharged, stayed or bonded within sixty (60) days from the date of entry thereof.
- (e) Dillard's shall (i) file a petition seeking relief pursuant to the Bankruptcy Code or any other applicable bankruptcy or other similar law, (ii) consent to the institution of proceedings pursuant thereto or to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) of Dillard's or any substantial part of its properties, or (iii) take corporate action in furtherance of any such action.

12.4 Remedies for Events of Default.

In addition to any other rights or remedies available to the parties at law or in equity, the following remedies shall be available:

- (a) Upon the occurrence of an Event of Default pursuant to Section 12.1,

the non-defaulting party shall be entitled, in addition to its remedies under Sections 12.4(b) and (c) (as appropriate), to collect any amount indisputably in default plus interest based on the Federal Funds Rate and calculated on a three hundred and sixty (360) day year basis.

- (b) Within one hundred and eighty (180) days after the occurrence of an Event of Default where Bank is a defaulting party or a Bank Event of Default, Dillard's may terminate this Agreement upon written notice in accordance with Article 13 hereof.

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- (c) Within one hundred and eighty (180) days after the occurrence of an Event of Default where Dillard's is the defaulting party or of a Dillard's Event of Default, Bank may, at Bank's option, terminate this Agreement upon written notice to Dillard's in accordance with Article 13 hereof, and recover the unamortized portion of the premium paid pursuant to the Purchase Agreement.

ARTICLE 13

TERM/TERMINATION

13.1 Term.

This Agreement shall continue in full force and effect for ten (10) years from the Effective Date (the "Initial Term"). The Agreement shall renew automatically without further action of the parties for successive one (1) year terms (each a "Renewal Term") unless either party provides written notice of termination at least six (6) months prior to the expiration of the Initial Term or current Renewal Term, as the case may be.

13.2 Termination by Dillard's Prior to the End of the Initial Term or a Renewal Term.

Dillard's may terminate this Agreement upon written notice prior to the end of the Initial Term or any Renewal Term:

- (a) within one hundred and eighty (180) days after the occurrence of a Bank Event of Default or any other Event of Default where Bank is the defaulting party.
- (b) upon thirty (30) days written notice if there is (i) a Change in Control of Bank, (ii) a merger or consolidation of Bank, and Bank or an Affiliate of Bank is not the surviving entity, or (iii) a sale of all or substantially all of the assets of Bank to any entity other than an Affiliate of Bank.
- (c) upon thirty (30) days written notice if any of the events in

13.3 Termination by Bank Prior to the End of the Initial Term or Renewal Term.

Bank may terminate this Agreement prior to the end of the Initial Term or any Renewal Term within one hundred and eighty (180) days after the occurrence of a Dillard's Event of Default or any other Event of Default where Dillard's is the defaulting party.

ARTICLE 14

EFFECTS OF TERMINATION

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14.1 General Effects.

- (a) All solicitations, marketing and advertising of the Program, other than acceptance of applications through Dillard's Channels in the ordinary course of business consistent with past practice, shall cease upon notice of termination of this Agreement by either party, except as the parties may mutually agree, provided that the parties will continue to operate the Program and service the Accounts in good faith and in the ordinary course of their respective businesses, subject to the terms of this Agreement, until the provisions of Sections 14.2, 14.3 and 14.4 are satisfied. Parties will cooperate to ensure the orderly wind-down or transfer of the Program.
- (b) Upon any termination of this Agreement, the parties shall have any rights or remedies available to such party under this Agreement or in law or at equity. Upon the satisfaction of the provisions of Section 14.2, 14.3 and 14.4, all obligations of the parties under this Agreement shall cease, except that the provisions specified in Section 16.23 shall survive.

14.2 Dillard's Option to Purchase the Program Assets.

- (a) If this Agreement expires or is terminated by either party for whatever reason, Dillard's has the option to purchase from, or arrange the purchase by a third party nominated by Dillard's or otherwise selected in accordance with Section 14.3 hereof (a "Nominated Purchaser") from, Bank the Program Assets (including all relevant Account Documentation, account information and history and other data reasonably necessary to enable continuing operation and management of the Accounts) on such terms and conditions reasonably acceptable to Dillard's (or a Nominated Purchaser) and Bank, including commercially reasonable representations and warranties.
- (b) The purchase option given by Section 14.2(a) is exercisable by

Dillard's or the Nominated Purchaser serving notice on Bank within sixty (60) days after receipt of the master file to be provided pursuant to Section 14.2(e).

- (c) If such purchase option is exercised, Dillard's or the Nominated Purchaser must complete the purchase of the Program Assets within one hundred eighty (180) days after the notice has been given pursuant to Section 14.2(b); provided, however, that such times may be extended for required regulatory approvals, rating agency consents, and to complete any interim servicing obligation agreed to by Dillard's and the Bank. The date of such completion shall be the "Program Purchase Date."
- (d) The purchase price for the Program Assets shall be as set forth in Schedule 14.2(d)-2.
- (e) The Parties will use reasonable commercial efforts to minimize transaction costs and Bank will provide Dillard's and its Nominated Purchasers reasonable access to the records and accounts relating to the Program Assets for the purpose of

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conducting due diligence investigations to determine whether they wish to purchase the Program Assets and shall provide a master file of the Accounts; provided, however, that Bank will be entitled to require Dillard's and any Nominated Purchaser to enter into confidentiality arrangements reasonably acceptable to the Bank before providing them with such access, and such access will be on terms reasonably specified by Bank.

14.3 Determination of Fair Market Value.

In the event that this Agreement terminates and, if Dillard's notifies Bank that it shall purchase the Program Assets, Bank and Dillard's (or its Nominated Purchaser) shall attempt to mutually determine the fair market value of the Program Assets, based on the assumption that Dillard's (or its successor) will continue to be a going concern as a retailer and will continue to provide support for the Program ("Fair Market Value"). If the parties cannot reach such agreement, each party shall nominate an investment banker who together shall select a third investment banker to value the Program Assets. In such case, the Fair Market Value shall be the average of the two closest valuations provided by the investment bankers; provided, however, if the median valuation is within plus or minus twenty (20) percent of the mean of the three valuations, the Fair Market Value shall be the mean. Dillard's may in its sole discretion select any purchaser to purchase the Program Assets, provided that the Bank shall receive an amount equal to the purchase price as determined above.

14.4 Rights of Bank if Purchase Option not Exercised.

- (a) If this Agreement is terminated and Dillard's does not give written notice that it will exercise its option referred to in Section 14.2, Dillard's shall have no further rights whatsoever in the Program Assets, provided that Bank shall have given Dillard's ten (10) days advance written notice of the expiration of the repurchase option period. Bank has the right at its sole discretion on or after the termination of the Agreement to:
- (i) issue to Cardholders that Bank considers creditworthy a replacement or substitute credit card (which card must not bear any Dillard's Licensed Mark) with such characteristics as the Bank considers appropriate (the cost of card re-design and re-issue being borne by Bank). Dillard's shall be permitted to add an enclosure to the last two billing statements stating that the Program has been terminated;
 - (ii) subject to Applicable Law and to the terms of the relevant Credit Agreement, notify Cardholders that Bank will cease providing credit under the Accounts and to require repayment of all amounts outstanding on all Accounts until all associated receivables have been repaid;
 - (iii) sell the Accounts and associated receivables to a third party purchaser selected by Bank at a price agreed between Bank and the purchaser; or
 - (iv) any combination of (i), (ii) and (iii).

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- (b) Within ninety (90) days after Dillard's has given notice that it will not exercise its option to purchase or the period in which it may exercise its option has expired, Bank shall no longer utilize any of Dillard's Licensed Marks and must rebrand the Private Label Credit Cards. The foregoing notwithstanding, Bank may use the Dillard's Licensed Marks to communicate with Cardholders in connection with the billing and collection of Accounts and as otherwise required by Applicable Law for up to 180 days thereafter.
- (c) Dillard's and Bank shall reasonably agree upon a termination letter to be sent to Cardholders if Dillard's shall not exercise its purchase option.

ARTICLE 15

INDEMNIFICATION

15.1 Dillard's Indemnification of Bank.

From and after the Effective Date, Dillard's shall indemnify and hold harmless Bank, its Affiliates, their respective officers, directors, employees, agents and representatives and any Person claiming by or through any of them from and against and in respect of any and all losses, liabilities, damages, costs and expenses of whatever nature, including reasonable attorneys' fees and expenses, which are caused or incurred by, result from, arise out of or relate to:

- (a) the gross negligence, recklessness or willful misconduct (including acts and omissions) of any Dillard's Channel relating to the Program;
- (b) any breach by any Dillard's Channel or any of its Affiliates, employees or agents of any of the terms, covenants, representations, warranties or other provisions contained in this Agreement or of the obligations of any Dillard's Channel or its Affiliates under any Credit Card Agreement, if any;
- (c) the failure of any Dillard's Channel to satisfy any of its obligations or liabilities to third parties in connection with the Program, including its obligations to Cardholders in respect of the purchase of Goods and/or Services;
- (d) any actions or omissions by Bank taken or not taken at Dillard's written request or direction pursuant to this Agreement except where Bank would have been otherwise required to take such action (or refrain from acting) absent the request or direction of Dillard's;
- (e) dishonest or fraudulent acts by any Dillard's Channel or its Affiliates, employees or agents in connection with the Program;
- (f) any Solicitation Materials distributed by any Dillard's Channel and not approved by the Marketing Committee or provided by the Bank;

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- (g) any claim, suit or proceedings by any third party arising out of the failure of Dillard's Channel to comply with Applicable Law in connection with the Program or the Operating Procedures unless such failure was the result of any action taken or not taken by such Dillard's Channel at the specific written request or direction of Bank;
- (h) Dillard's Inserts or Billing Statement messages; and
- (i) allegations by a third party that the use of the Dillard's Licensed Marks or any materials or documents provided by any Dillard's Channel in connection with the Program constitutes: (i) libel, slander, and/or defamation; (ii) infringement of intellectual

property, including trademark infringement or dilution, or copyright infringement; (iii) unfair competition or misappropriation of another's ideas or trade secret; (iv) invasion of rights of privacy or rights of publicity; or (v) breach of contract or tortious interference.

15.2 Bank's Indemnification of Dillard's.

From and after the Effective Date, Bank shall indemnify and hold harmless Dillard's, its Affiliates, their respective officers, directors, employees, agents and representatives and any Person claiming by or through any of them from and against and in respect of any and all losses, liabilities, damages, costs and expenses of whatever nature, including reasonable attorneys' fees and expenses, which are caused or incurred by, result from, arise out of or relate to:

- (a) Bank's gross negligence, recklessness or willful misconduct (including acts and omissions) relating to the Program;
- (b) any breach by Bank or any of its Affiliates, employees or agents of any of the terms, covenants, representations, warranties or other provisions contained in this Agreement, or any Credit Card Agreement;
- (c) Bank's failure to satisfy any of its material obligations or liabilities to third parties in connection with the Program, including Cardholders;
- (d) any actions or omissions by Dillard's taken or not taken at Bank's written request or direction pursuant to this Agreement, except where Dillard's would have been otherwise required to take such action (or refrain from acting) absent the request or direction of Bank;
- (e) dishonest or fraudulent acts by Bank, its Affiliates, agents or employees in connection with the Program;
- (f) any Account Documentation approved by the Marketing Committee and used by Dillard's in that form and in accordance with Bank's instructions and the Operating Procedures that fails to comply with Applicable Law or regulation unless such failure to comply is as a result of modification to such Account Documentation by Dillard's;

- (g) any claim, suit or proceedings by any third party arising out of the failure of Bank to comply with Applicable Law in connection with the Program or the Operating Procedures unless such failure was the result of any action taken or not taken by Bank at the specific written request or direction of Dillard's;

- (h) the Bank's Inserts or Billing Statement messages; and
- (i) allegations by a third party that the use of the Bank Licensed Marks or any materials or documents provided by Bank in connection with the Program constitutes: (i) libel, slander, and/or defamation; (ii) infringement of intellectual property, including but not limited to trademark infringement or dilution, or copyright infringement, (iii) unfair competition or misappropriation of another's ideas or trade secret; (iv) invasion of rights of privacy or rights of publicity; or (v) breach of contract or tortious interference.

15.3 Procedures.

- (a) In case any claim is made, or any suit or action is commenced, against either party (the "Indemnified Party") in respect of which indemnification may be sought by it under this Article 15, the Indemnified Party shall promptly give the other party (the "Indemnifying Party") notice thereof and the Indemnifying Party shall be entitled to participate in the defense thereof and, with prior written notice to the Indemnified Party given not later than twenty (20) days after the delivery of the applicable notice, to assume, at the Indemnifying Party's expense, the defense thereof, with counsel reasonably satisfactory to such Indemnified Party. After notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party will not be liable to such Indemnified Party under this Section for any attorneys' fees or other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof other than reasonable costs of investigation.
- (b) The Indemnified Party shall have the right to employ its own counsel if the Indemnifying Party elects to assume such defense, but the fees and expenses of such counsel shall be at the Indemnified Party's expense, unless (i) the employment of such counsel has been authorized in writing by the Indemnifying Party, (ii) the Indemnifying Party has not employed counsel to take charge of the defense within twenty (20) days after delivery of the applicable notice or, having elected to assume such defense, thereafter ceases its defense of such action, or (iii) the Indemnified Party has reasonably concluded that there may be defenses available to it which are different from or additional to those available to the Indemnifying Party (in which case the Indemnifying Party shall not have the right to direct the defense of such action on behalf of the Indemnified Party), in any of which event attorneys' fees and expenses shall be borne by the Indemnifying Party.

- (c) The Indemnifying Party shall promptly notify the Indemnified Party

if the Indemnifying Party desires not to assume, or participate in the defense of, any such claim, suit or action.

- (d) The Indemnified Party or Indemnifying Party may at any time notify the other of its intention to settle or compromise any claim, suit or action against the Indemnified Party in respect of which payments may be sought by the Indemnified Party hereunder, and (i) the Indemnifying Party may settle or compromise any such claim, suit or action solely for the payment of money damages, but shall not agree to any other settlement or compromise without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld (it being agreed that any failure of an Indemnified Party to consent to any settlement or compromise involving relief other than monetary damages shall not be deemed to be unreasonably withheld), and (ii) the Indemnified Party may settle or compromise any such claim, suit or action solely for an amount not exceeding One Thousand Dollars (\$1,000), but shall not settle or compromise any other matter without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

15.4 Notice and Additional Rights and Limitations.

- (a) If an Indemnified Party fails to give prompt notice of any claim being made or any suit or action being commenced in respect of which indemnification under this Article 15 may be sought, such failure shall not limit the liability of the Indemnifying Party; provided, however, that this provision shall not be deemed to limit the Indemnifying Party's rights to recover for any loss, cost or expense which it can establish resulted from such failure to give prompt notice.
- (b) This Article 15 shall govern the obligations of the parties with respect to the subject matter hereof but shall not be deemed to limit the rights which any party might otherwise have at law or in equity.
- (c) Notwithstanding anything to the contrary in this Agreement, no party shall be liable to the other for any indirect, consequential, punitive or exemplary damages relating to or arising out of this Agreement or the Program; provided, that the damages limitation set forth in this Section 15.4(c) shall not apply to any damages which result from an obligation of Bank or Dillard's to pay any third party damages claims to the extent such third party claims otherwise fall under Bank's or Dillard's respective indemnity obligations hereunder.

ARTICLE 16

MISCELLANEOUS

16.1 Precautionary Security Interest.

Dillard's and Bank agree that this Agreement contemplates the extension of credit by Bank to Cardholders. However, as a precaution in the unlikely event that any person asserts that Article 9 of the UCC applies or may apply to the transactions contemplated hereby, and to secure Dillard's payment of and performance of all obligations of Dillard's to Bank, Dillard's hereby grants to Bank a first priority present and continuing security interest in and to the following, whether now existing or hereafter created or acquired: (i) all Accounts, Cardholder Indebtedness, Account Documentation and Charge Transaction Data, (ii) all deposits, credit balances and reserves on Bank's books relating to the Program, and (iii) all proceeds of the Cardholder Indebtedness. In addition, Dillard's agrees to take any reasonable action requested by Bank, at Bank's expense, to establish the first lien and perfected status of such security interest; and appoints Bank as Dillard's attorney-in-fact to take any such action on Dillard's behalf.

16.2 Securitization; Participation.

- (a) Bank shall have the right to securitize the Cardholder Indebtedness or any part thereof by itself or as part of a larger offering at any time. Such securitization shall not affect Dillard's rights or Bank's obligations hereunder, including with respect to customer service, payment processing or collections. Bank shall not securitize the Cardholder Indebtedness in any manner that may encumber the right of Dillard's, or its Nominated Purchaser, to purchase any of the Program Assets upon termination of this Agreement. To the extent any of Dillard's Licensed Marks are used in any securitization documents, such marks will not be used in a way that adversely affects Dillard's or the Dillard's Licensed Marks.
- (b) In the event Dillard's elects to purchase the Program Assets pursuant to Section 14.2(a) and any securitization(s) originally closed by Dillard's or its Affiliates shall remain outstanding, Dillard's or its Nominated Purchaser shall acquire the Program Assets subject to such securitization(s) and shall assume all obligations of the Bank and its Affiliates with respect thereto, including servicing, repurchase and indemnification obligations pursuant to instruments in form and substance satisfactory to the parties, as soon as reasonably possible consistent with Section 14.2 and any necessary consents or approvals. Dillard's (or its Nominated Purchaser) and Bank shall cooperate to obtain any consent, approval, rating affirmation or other requirements applicable to such purchase and assumption. The purchase price set forth in Section 14.2(d) shall be reduced by the outstanding principal balance of the obligations of the Dillard's Credit Card Master Trust on the Program Purchase Date. Compliance by Dillard's with this Section 16.2 shall

be a condition precedent to the obligation of the Bank to sell the Program Assets to Dillard's pursuant to Section 14.2 hereof.

- (c) With respect to any matters herein relating to the Dillard's Credit Card Master Trust, in the event of any conflict between this Agreement and the terms of any Securitization Documents (as defined in the Purchase Agreement), the Securitization Documents shall govern.

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16.3 Assignment.

Except as provided in this Section 16.3, neither party shall assign this Agreement or any of its rights hereunder without the prior written consent of the other party; provided, however, that either party may, without the consent of the other party, assign this Agreement in whole or in part to an Affiliate of such party or as part of a transfer of all or substantially all of the assets of such party to another Person, if such Affiliate or Person expressly assumes, in a form reasonably satisfactory to the non-assigning party, all of the obligations of the assigning party.

16.4 Sale or Transfer of Accounts.

Except as otherwise provided herein, the Bank shall not sell or transfer in whole or in part any Accounts other than Accounts and/or Cardholder Indebtedness that have been written off by Bank in accordance with its write-off policies. Proceeds of any such sale or transfer shall be treated as a recovery on Cardholder Indebtedness.

16.5 Subcontracting.

It is understood and agreed that, in fulfilling its obligations under this Agreement, either party may utilize its Affiliates or other Persons to perform functions. The party shall be responsible for functions performed by such Affiliates or other Persons to the same extent the party would be responsible if it performed such functions itself.

16.6 Amendment.

Except as provided herein, this Agreement may not be amended except by a written instrument signed by Bank and Dillard's.

16.7 Non-Waiver.

No delay by a party hereto in exercising any of its rights hereunder, or partial or single exercise of such rights, shall operate as a waiver of that or any other right. The exercise of one or more of a party's rights hereunder shall not be a waiver of, or preclude the exercise of, any rights or remedies available to such party under this Agreement or in law or at equity.

1600 Cantrell Road
Little Rock, Arkansas 72201
Fax: 501-376-5917

With a copy to: Dillard's, Inc.
Attention: General Counsel
1600 Cantrell Road
Little Rock, Arkansas 72201
Fax: 501-376-5031

If to Bank: GE CAPITAL CONSUMER CARD CO., FSB
Attention: President
5300 Kings Island Drive
Mason, Ohio 45040
Fax: 678-518-3134

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With a copy to: General Counsel
GE Consumer Finance - Americas
1600 Summer Street
Stamford, Connecticut 06927
Fax: 203-585-6297

16.13 Further Assurances.

Dillard's and Bank agree to produce or execute such other documents or agreements as may be necessary or desirable for the execution and implementation of this Agreement and the consummation of the transactions specified herein and to take all such further action as the other party may reasonably request in order to give evidence to the consummation of the transactions specified herein.

16.14 No Joint Venture.

Nothing contained in this Agreement shall be deemed or construed by the parties or any third party to create the relationship of principal and agent, partnership, joint venture or of any association between Dillard's and Bank, and no act of either party shall be deemed to create any such relationship. Dillard's and Bank each agree to such further actions as the other may request to evidence and affirm the non-existence of any such relationship.

16.15 Press Releases.

Dillard's and Bank each shall obtain the prior written approval of the other party with regard to the substance and timing of any press releases

which announce the execution of this Agreement or the transactions specified herein, which prior approval shall not unreasonably be withheld. At all times thereafter, Dillard's and Bank, prior to issuing any press releases concerning this Agreement or the transactions specified herein, shall consult with each other concerning the proposed substance and timing of such releases and give due consideration to the comments of the other party relating thereto. The foregoing notwithstanding, it is understood that neither party shall be required to consult with the other party with regard to (a) press releases and other announcements as may be required by Applicable Law or the applicable rules and regulations of any governmental agency or stock exchange and (b) publications prepared solely by and for employees of Dillard's or Bank, or their respective Affiliates, all of which may be issued without prior consultation with, or the prior written consent of, the other party.

16.16 Set-Off.

Dillard's and Bank agree that each party has the right to set-off, combine, consolidate or otherwise appropriate and apply (i) any assets of the other party held by the party or (ii) any indebtedness or other liabilities at any time owing by the party to the other party, as the case may

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be, against or on account of any undisputed amounts owed by the other party under this Agreement, except as expressly set forth herein.

16.17 Conflict of Interest.

Each party hereto, in performing its obligations hereunder, shall establish and maintain appropriate business standards, procedures and controls. Each party shall review such standards, procedures and controls with reasonable frequency during the Term of this Agreement including, without limitation, those related to the activities of its employees and agents in their relations with the employees, agents and representatives of the other parties hereto and with other third parties.

16.18 Third Parties.

There are no third-party beneficiaries to this Agreement. The parties do not intend: (i) the benefits of this Agreement to inure to any third party; or (ii) any rights, claims or causes of action against a party to be created in favor of any person or entity other than the other party.

16.19 Force Majeure.

If performance of any service or obligation under this Agreement, including the service level standards at Schedule 5.2, is prevented, restricted, delayed or interfered with by reason of labor disputes, strikes, acts of God, floods, lightning, severe weather, shortages of materials, rationing, utility or communication failures, earthquakes, war, revolution,

civil commotion, acts of public enemies, blockade, embargo or any law, order, proclamation, regulation, ordinance, demand or requirement having legal effect of any government or any judicial authority or representative of any such government, or any other act whatsoever, whether similar or dissimilar to those referred to in this clause, which are beyond the reasonable control of a party and could not have been prevented by reasonable precautions, then such party shall be excused from such performance to the extent of and during the period of such prevention, restriction, delay or interference. A party excused from performance pursuant to this Section shall exercise all reasonable efforts to continue to perform its obligations hereunder, including by implementing its disaster recovery and business continuity plan as provided in Section 5.7, and shall thereafter continue with reasonable due diligence and good faith to remedy its inability to so perform except that nothing herein shall obligate either party to settle a strike or other labor dispute when it does not wish to do so.

16.20 Entire Agreement.

This Agreement, together with the Schedules hereto which are expressly incorporated herein by reference, supersedes any other agreement, whether written or oral, that may have been made or entered into by Dillard's and Bank (or by any officer or employee of either of such parties) relating to the matters specified herein, and constitutes the entire agreement by the parties related to the matters specified herein or therein.

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16.21 Binding Effect; Effectiveness.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement is the product of negotiation by the parties having the assistance of counsel and other advisers. It is the intention of the parties that this Agreement not be construed more strictly with regard to one party than with regard to the other.

16.22 Counterparts/Facsimiles.

This Agreement may be executed in any number of counterparts, all of which together shall constitute one and the same instrument, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Any telefacsimile of an executed counterpart shall be deemed an original.

16.23 Survival.

Upon the termination of this Agreement, the parties shall have the rights and remedies described herein. Upon such termination, all obligations of the parties under this Agreement shall cease, except that the obligations of the parties pursuant to Sections 4.9 (Customer Information), 6.5 (Chargebacks),

6.6 (Chargeback Procedures), 8.1 (The Dillard's Licensed Marks), 8.2 (The Bank Licensed Marks), 10.1 (Audit), 10.2 (Dispute Resolution), 14 (Effects of Termination), 15 (Indemnification), 11 (Confidentiality), 16.1 (UCC), 16.9 (Waiver of Jury Trial and Venue) and 16.10 (Governing Law) shall survive the expiration or termination of this Agreement. In furtherance and not in limitation of the foregoing, Bank shall be entitled to collect Accounts in any lawful manner.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be duly executed as of the date first above written.

DILLARD'S, INC.

By: /s/ James I. Freeman

Title: Senior Vice President

GE CAPITAL CONSUMER CARD CO.

By: /s/ Donald R. Ramon

Title: Chief Operating Officer

Dillard's, Inc. Announces Definitive Agreement to Sell Assets of
Dillard National Bank

LITTLE ROCK, Ark. -- (BUSINESS WIRE) -- August 8, 2004 -- Dillard's Inc. (NYSE: DDS) ("Dillard's" or the "Company") today announced it has entered into a definitive agreement to sell substantially all the assets of Dillard National Bank, the Company's private label credit card subsidiary, to GE Consumer Finance for approximately \$1.25 billion, which includes the assumption of \$400 million of securitization liabilities, the purchase of owned accounts receivable and an undisclosed premium. As part of the transaction, Dillard's and GE Consumer Finance will also enter into a long-term marketing and servicing alliance with an initial term of 10 years. The transaction has been approved by both companies and is expected to close by the end of the current fiscal year, subject to customary regulatory review and closing conditions.

Dillard's expects to use net proceeds to reduce debt outstanding, repurchase its common stock and for general corporate purposes. Dillard's expects the transaction to be accretive to fiscal 2005 earnings per share.

STRATEGIC ALLIANCE

As part of the long-term marketing and servicing alliance, the two companies signed a 10-year agreement for GE Consumer Finance to provide a range of services, including marketing support and customer care, to Dillard's proprietary cardholders. Dillard's and GE Consumer Finance will share in the income generated by the long-term marketing and servicing alliance. Depending upon the performance of the alliance, Dillard's anticipates that income generated could be comparable to the earnings currently generated by Dillard National Bank.

Upon completion of the transaction, substantially all of the approximately 500 employees of Dillard National Bank will become employees of GE Consumer Finance.

Dillard's Chief Executive Officer William Dillard, II, stated, "We are pleased to announce this agreement with GE Consumer Finance today. Our new alliance with GE Consumer Finance will provide Dillard's shoppers expanded financing options supported by consistent, customer-friendly account servicing. Our commitment to provide our customers with exciting fashion apparel and home furnishing choices at Dillard's, complemented by excellence in customer service, is further strengthened by this alliance. We are particularly excited by the marketing expertise that GE Consumer Finance will make available to us. We are proud to be associated with GE Consumer Finance, a solid, established leader in consumer finance, and look forward to many years of mutually beneficial operations."

"We're absolutely thrilled to be partnering with a retailer as well known and respected as Dillard's," said Mark W. Begor, President and Chief Executive Officer, GE Consumer Finance-Americas. "This new partnership opens up great opportunities to offer more products, benefits and value to Dillard's customers and to help drive Dillard's sales growth."

Morgan Stanley served as financial advisor to Dillard's on this transaction. Dillard's legal advisors in the transaction were Simpson Thacher & Bartlett, LLP and Sidley Austin Brown & Wood, LLP.

ABOUT DILLARD'S

Dillard's, Inc. is one of the nation's largest fashion apparel and home furnishing retailers with annual revenues exceeding \$7.8 billion. The Company's 329 stores operate with one name, Dillard's, and span 29 states. Dillard's stores offer a broad selection of merchandise, including products sourced and marketed under Dillard's exclusive brand names.

ABOUT GE CONSUMER FINANCE

GE Consumer Finance, a unit of General Electric Company, with \$117 billion in assets, is a leading provider of credit services to consumers, retailers and auto dealers in 40 countries. GE Consumer Finance, based in Stamford, Conn., offers a range of financial products, including private label credit cards, personal loans, bank cards, auto loans and leases, mortgages, corporate travel and purchasing cards, debt consolidation and home equity loans and credit insurance. More information about GE Consumer Finance can be found at www.geconsumerfinance.com.

FORWARD-LOOKING INFORMATION

The foregoing contains certain "forward-looking statements" within the definition of federal securities laws. Statements made in this release regarding the Company's definitive agreement and intention to sell substantially all the assets of Dillard National Bank, to enter into a long term marketing and servicing alliance, expectations regarding use of such sale proceeds, expectations regarding the accretive nature of the transaction and subsequent resulting income generation are forward-looking statements. The Company cautions that forward-looking statements, as such term is defined in the Private Securities Litigation Reform Act of 1995, contained in this report are based on estimates, projections, beliefs and assumptions of management at the time of such statements and are not guarantees of future performance. The Company disclaims any obligation to update or revise any forward-looking statements based on the occurrence of future events, the receipt of new information, or otherwise. Forward-looking statements of the Company involve risks and uncertainties and are subject to change based on various important factors. Actual future performance, outcomes and results may differ materially from those expressed in forward-looking statements made by the Company and its

management as a result of a number of risks, uncertainties and assumptions. Representative examples of those factors (without limitation) include the Company's success in gaining regulatory review and approval of the transaction; general retail industry conditions and macro-economic conditions; economic and weather conditions for regions in which the Company's stores are located and the effect of these factors on the buying patterns of the Company's customers; the impact of competitive pressures in the department store industry and other retail channels including specialty, off-price, discount, internet, and mail-order retailers; potential disruption from terrorist activity; world conflict and the possible impact on consumer spending patterns and other economic and demographic changes of similar or dissimilar nature. Dillard's expects to use net proceeds to reduce debt outstanding, repurchase its common stock and for general corporate purposes. Dillard's expects the transaction to be accretive to fiscal 2005 earnings per share.